Public Law 83-280

An Introduction to a Federal Law Enacted in 1953

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Public Law 83-280 is most often referred to as "PL 280." The "83" in Public Law 83-280 denotes that it was the 83rd Congress of the United States [1] who enacted this federal law. The 34th U.S. President, Dwight D. Eisenhower, signed PL 280 into law on August 15, 1953.

Prior to the enactment of PL 280, a few representatives of various Indian tribes and Native American groups were able to speak with the Senate subcommittee who drafted PL 280. These Native American representatives expressed how they generally favored state jurisdiction, "in terms of escaping the 'oversupervision and overregulation' of (the) BIA (Bureau of Indian Affairs)." [2] One individual metaphorically spoke of the "iron rule of the Indian Bureau." [3] Nearly all of these Native American representatives strongly stressed the importance of including tribal consent from individual tribes as a necessary provision before any state jurisdiction should take place. The approval expressed

> *"Historically, Indian territories were generally deemed beyond the legislative and judicial jurisdiction of the state governments … The pre-existing federal restrictions on state jurisdiction over Indian country were largely eliminated, however, in 1953 with Congress' enactment of the Act of Aug. 15, 1953 … which is commonly known as Pub. L. 280. Public Law 280 gave federal consent to the assumption of state civil and criminal jurisdiction over Indian country and provided the procedures by which such an assumption could be made . . . As originally enacted, Pub. L. 280 did not require the States to obtain the consent of affected Indian tribes before assuming jurisdiction over them, but Title IV of the Civil Rights Act of 1968 amended Pub. L. 280 to require that all subsequent assertions of jurisdiction be preceded by tribal consent."*
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> *Three Affiliated Tribes v. Wold Engineering, 476 US 877, 879 (1986)*

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by the tribal representatives of the Senate subcommittee's drafted legislation was therefore contingent upon the inclusion of a requirement of tribal consent prior to the federal government's transfer of jurisdiction to any state. [4]

Although President Eisenhower signed PL 280 into law, he stated that he had "grave doubts as to the wisdom of certain provisions contained" in it. [5] He was not pleased PL 280 did not include "a requirement of full consultation" with the Indians "in order to ascertain" their "wishes and desires." Therefore, he gave the strong recommendation, "at the earliest possible time in the next session of the Congress, the Act be amended to require such consultation with the tribes prior to the enactment of legislation subjecting them to state jurisdiction." [6] We know from history that President Eisenhower's strong recommendation was not adhered to in the next session of Congress. In fact, a requirement of tribal consent was not added to PL 280 until fifteen years later through the 1968 enactment of the Indian Civil Rights Act (ICRA).

After the 1953 enactment of PL 280, tribal leaders criticized the lack of tribal consent included in the federal legislation. Tribal leaders and their communities also strongly criticized the federal government's failure to fund the States who were now given additional jurisdiction. PL 280 was, and continues to be, an unfunded mandate. PL 280 was a legislation designed to ease the financial burden on the shoulders of the federal government. In doing so, it also introduced a heavy weight on several state governments who were suddenly faced with completely new and unique challenges.

"Congress, we are told, passed Pub. L. 280 not as a measure to benefit the States, but to reduce the economic burdens associated with federal jurisdiction on reservations."

Washington v. Confederate Bands and Tribes of the Yakima Indian Nation, 439 US 463, 498 (1979)

From its beginning, PL 280 created a financial burden for several state governments. This, in turn, created tensions between state and tribal governments regarding quantity and quality of services provided. In theory, state-level services were supposed to benefit the tribes, but with no monies designated for these responsibilities, the results were often quite the opposite. Tribal leaders alleged that PL 280 was "deficient in that it failed to fund the States who assumed jurisdiction and as a result vacuums of law enforcement protection … occurred in certain Indian reservations and communities." [7]

Today as we consider PL 280, we generally think of it as a law that has been around for quite some time. Yet, as we look at it compared to the broader history of our Nation's relationship with Indian tribes, PL 280 is relatively a brand new thing. There were only a few select areas prior to PL 280 where the federal government had allowed some state jurisdiction. Up until the enactment of PL 280, the federal government had guarded its exclusive jurisdiction in Indian country as a vigilant sentinel. PL 280 was the "first federal jurisdictional statute of general applicability to Indian reservation lands" authorizing state jurisdiction.[8]

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Requirement of tribal consent added to PL 280

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> *"[S]tate law is not to apply on Indian lands, unless expressly authorized by federal statute."*
>
> *United States v. Burns, 529 F.2d 114 (9th Cir. 1975)*

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The unwavering stance of the federal government had always been that, absent clear congressional consent, the states had no authority on Indian lands. [9] Year after year, the actions of Congress revealed their "assumption that the States have no power to regulate the affairs of Indians on a reservation." [10] An Indian reservation situated within what later became the boundaries of a state, was not under the jurisdictional authority of that state or its laws. The only way a state's laws could apply on a reservation was if Congress enacted a law that told a state, *loud and clear*, that they were allowing such jurisdiction. PL 280 became that clear congressional consent allowing the transfer of specified federal jurisdiction to several of the states. However, it must be noted that PL 280 did *not* divest the Indian tribes of their concurrent jurisdiction.

Endnotes

[1] The 83rd Congress of the United States convened between Jan. 3, 1953 through Jan. 3, 1955

[2] Ackerman, David M., *Background report on Public Law 280* prepared at the request of Henry M. Jackson, chairman, Committee on Interior and Insular Affairs, United States Senate, Committee print, 94th Congress, 1st session, US Government Printing Office 1975, at p. CRS-17

[3] Id.

[4] Id.

[5] Public Papers of the Presidents of the United States: Dwight D. Eisenhower, 1953 (Washington: Office of the Federal Register, National Archives and Records Service, n.d.), pp. 564-566

[6] Id.

[7] Id. at *Memorandum of the Chairman*

[8] *Washington v. Confederated Bands and Tribes of the Yakima Indian Nation*, 439 US 463, 471 (1979)

[9] See *Worcester v. Georgia*, 31 US 515, 557 (1832); "The policy of leaving Indians free from state jurisdiction and control is deeply rooted in the Nation's history." *Rice v. Olson*, 324 US 786, 789 (1945)

[10] *Williams v. Lee*, 358 US 217, 221 (1959)