

VETO—S. 2342

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

RETURNING

WITHOUT MY APPROVAL S. 2342, A BILL WHICH WOULD WAIVE THE SIX-YEAR STATUTE OF LIMITATIONS ALLOWING THREE SIOUX INDIAN TRIBES TO BRING AN OTHERWISE TIME-BARRED CHALLENGE TO THE 1972 MISSISSIPPI SIOUX INDIAN JUDGMENT FUND ACT



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To the Senate of the United States:

I am returning herewith without my approval S. 2342. This bill would waive the 6-year statute of limitations, allowing three Sioux Indian tribes—the Sisseton-Wahpeton Sioux Tribe, the Devils Lake Sioux Tribe, and the Sisseton-Wahpeton Council of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation—to bring an otherwise time-barred challenge to the 1972 Mississippi Sioux Indian Judgment Fund Act.

The 1972 Act apportioned to each of the three Tribes, and to a then-undetermined class of Sioux Indians who are not members of those Tribes, a percentage share of the proceeds from a 1967 judgment against the United States. The judgment rested on a finding that the United States had not paid adequate compensation to the Tribes in the 1860's for lands ceded to the United States. The non-member Indians are persons who are not now eligible for membership in any of the three Tribes, but who can trace their lineal ancestry to someone who was once a tribal member.

The Tribes were active participants in the administrative and legislative process leading to the 1972 Act, and they endorsed the Act and its distribution of the judgment. Nonetheless, in 1987, 15 years after enactment and 9 years after the statute of limitations had run, the Tribes sued the United States, challenging the Act's distribution to the nonmembers. The U.S. Court of Appeals for the Ninth Circuit affirmed a lower court's decision to dismiss the case, finding no excuse—legal, equitable, or otherwise—for the Tribes' failure to challenge the 1972 Act in a timely fashion, and the U.S. Supreme Court declined to review the Ninth Circuit's decision. *Sisseton-Wahpeton Sioux Tribe, et al. v. United States*, 895 F.2d 588 (9th Cir. 1990), *cert. denied*, U.S. , 11 S. Ct. 75 (1990).

I find no extraordinary circumstances or equities to justify an exception to the long-standing policy of the executive branch, which my Administration fully embraces, against *ad hoc* statute of limitations waivers and similar special relief bills. Also, there must be some definite, limited time during which the Government must be prepared to defend itself, and some finality to the pronouncements of the courts, the Congress, and the agencies.

Moreover, a waiver for the Tribes in this case would mean the waste of the considerable judicial and litigation resources that were expended in bringing the case to final resolution, and would require additional litigation that would otherwise be avoided. Thus, enactment of this bill would be inconsistent with Executive Order No. 12778 of October 23, 1991, which embodies my resolve to eliminate unnecessary, wasteful litigation.

In addition, I am concerned that enactment of this bill would be unfair to other tribes, and would serve as a highly undesirable and potentially expensive precedent. Many other tribes were the recipients of settlement fund distributions, and many distributions, like

the one challenged by the Tribes here, included payments to non-member Indians. Some of those tribes doubtless are dissatisfied with the terms of their distribution, but they are barred from a challenge by the statute of limitations. Numerous other Indian claims, totaling hundreds of millions of dollars, have been dismissed on statute of limitations or other jurisdictional grounds. In both categories of cases, tribes could rightfully claim that for purposes of fair treatment, they, too, should be allowed by the Congress to litigate the merits of their claims.

I note that S. 2342 received little, if any, consideration by the House of Representatives prior to its passage by that body. Instead, the bill was discharged from committee without hearings and brought immediately to the House floor. Had there been a full review of this proposal, I am confident that the outcome would have been different.

For these reasons, I cannot approve S. 2342.

GEORGE BUSH.

THE WHITE HOUSE, *June 16, 1992.*

President of the Senate pro tempore.

One Hundred Second Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Friday, the third day of January,
one thousand nine hundred and ninety-two

An Act

To amend the Act entitled "An Act to provide for the disposition of funds appropriated to pay judgment in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142, 259, 260, 261, 262, and 263, and for other purposes", approved October 25, 1972 (86 Stat. 1168 et seq.).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO ACT OF OCTOBER 25, 1972.


The Act of October 25, 1972 (86 Stat. 1168), is amended by adding at the end thereof the following new sections:

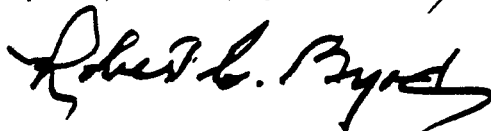
"SEC. 306. AUTHORITY TO BRING ACTION.

"Notwithstanding any other provision of law, any action of the Sisseton-Wahpeton Sioux Tribe of South Dakota, the Devils Lake Sioux Tribe of North Dakota, or the Sisseton-Wahpeton Sioux Council of the Assiniboine and Sioux Tribes of Montana filed in the United States District Court for the District of Montana to contest the constitutionality or validity under law of this Act shall not be barred by any statute of limitations, lapse of time, or bar of laches, if the complaint is filed no later than April 1, 1993. Exclusive original jurisdiction over any such action filed on or before such date is hereby vested in the United States District Court for the District of Montana. Nothing in this section or section 307 shall be construed as an inference of liability on the part of the United States.

"SEC. 307. AUTHORITY TO SETTLE ACTION.

"Notwithstanding any provision of this Act or any other provision of law, the Attorney General is authorized to settle any action that may be brought pursuant to section 306 of this Act."


Speaker of the House of Representatives.



Vice President of the United States and
President of the Senate *pro tempore*.