

We Shall Never Sell

Frank Fools Crow
—Lakota Chief



Frank Kills Enemy
—Lakota Headman

Our Sacred Black Hills

JOINT STATEMENT OF CHIEF FRANK FOOLS CROW AND FRANK KILLS ENEMY ON BEHALF OF THE TRADITIONAL LAKOTA TREATY COUNCIL BEFORE HONORABLE LLOYD MEADS SUB-COMMITTEE ON INTERIOR AND INSULAR AFFAIRS. (September 10, 1976)

Kola (friends). I am Frank Fools Crow, Chief of the Lakota and I am here today with Frank Kills Enemy, one of the most respected headmen and also an expert on Indian treaty rights. Before we begin, I would like to ask you why when we speak you do not listen, and when you listen, you do not hear, and when you hear us, you do not choose to understand what we say. This is one time that I ask you to listen carefully and understand what we have to say.

We have come here from Pine Ridge today to discuss this house bill (H.R.14629) which permits the tribal councils and the people they represent to get interest on the \$17,500,000 award given by the Indian Claims Commission. That interest, I believe, amounts to \$85,000,000. Our people have been holding meetings on this Black Hills Claim for many years and we have just held such a meeting at Porcupine on September 8 and 9, 1976. At this meeting, the people authorized us to come to this hearing today and speak for them. The people unanimously reaffirmed our long-standing position that the Black Hills are not for sale under any circumstances. We are therefore standing behind the resolution we passed at Ft. Yates in February of this year. That resolution, my friends, reads:

RESOLUTION ON 1868 TREATY

WHEREAS, a meeting of all Sioux Tribes concerned with the 1868 Treaty was called by the Standing Rock Sioux and all elected and traditional leaders were invited and,

WHEREAS, during this meeting, presentations regarding the Black Hills were made by Larry Leventhal, Attorney, traditional people and elected leaders and it being the consensus of all present, the traditional people held a meeting and delegates of eight (8) Sioux Reservations were present,

BE IT RESOLVED, the delegates of the eight (8) Sioux Reservations have unanimously agreed that all land

involved in the 1868 Treaty is not for sale, and all monies appropriated for such sale will not be accepted by members of the Traditional people of each reservation, and

BE IT FURTHER RESOLVED, that the judgement of this Black Hills case immediately implements the overall and complete jurisdiction and sovereignty of and by Indian people the Sioux Nation.

Many people cannot and refuse to understand why the Lakota people do not want to sell the Black Hills and have taken this position. I am therefore going to explain our reasons, because the discussions surrounding this claim and the acceptance of it will have very far-reaching effects. I do not want our people, many years from now, to think that we have sold out. We will never sell out. I am 87 years of age and Mr. Kills Enemy is 82. Our only concern here today is for the best interests and welfare of our people and future generations of our people.

I have some comments I would like to make on what will be going on here today.

TRIBAL COUNCILS UNDER I.R.A.

On all our reservations today, there are tribal councils operating under the 1934 Indian Reorganization Act. These councils were placed on the reservations by the United States Government to replace our traditional councils. These puppet governments are often times the most corrupt governments around and bring out the very worse in the whiteman system of governments. Councilmen on these puppet governments always represent the view of the whiteman because they are indoctrinated by the whiteman to act like this. These type of people are on the council because very few of our traditional people vote in these whiteman elections. I am told that only 30 percent of our people vote. These councilmen do not represent the majority of the people on the reservation. Naturally, many of them are here today to urge the acceptance of this bill, as they have been brainwashed to do by the whiteman.

I want to repeat that there can never be an acceptance of this bill or the total Black Hills Claim under any circumstances. This is the wish of the people. We have a treaty and it requires 3/4 of all adult male members to sign before our land can be sold. I believe that this provision was stuck in the treaty by the whiteman because Lakota do not sell their land. The whiteman

claims that he is not bound by the 3/4 provision of the treaty. This Lonewolf v. Hitchcock case has been explained to me and I have to laugh at the whiteman and his views. This case says only that the whiteman can break treaties with Indian any time he wants to. Let me tell you my friends, that Mr. Kills Enemy has a book which tells that the United States Commissioners who signed the 1868 Treaty were in Chicago two or three days before they signed it, and they were passing resolutions which were designed to break it. After these resolutions were passed, the Commissioners signed it. The treaty was broken by the whiteman before it was even signed by him. But we Lakota are more honorable men. We have signed the treaty and we will try to live by it and respect it. Even though this treaty may not be binding on the whiteman, it is binding on us until we vote it out. It says that 3/4 of the Lakota adult male members must sign before land can be sold and the Lakota people can never accept any payment until this provision is fully complied with.

NONACCEPTANCE OF THE BLACK HILLS CLAIM

The Black Hills are sacred to the Lakota people. Both the sacred pipe and the Black Hills go hand and hand in our religion. The Black Hills is our church, the place where we worship. The Black Hills is our burial grounds. The Bones of our grandfathers lie buried in those hills. How can you expect us to sell our church and our cemeteries for a few token whiteman dollars. We will never sell.

We know the underlying policy behind the Claims Commission Act and we are not fooled. The government intends to clear title to the land illegally taken, to clear their own conscience, then terminate us. I see this come out in the testimony of government witnesses in past hearings. For example, on page 13 of the Senate Subcommittee hearings on S. 2780 held on August 13, 1976, the witness answered Senator Abourezk's statement on how acceptance of the bill would be a disservice to the Indian people. The witness said:

MR. MILLEUR. By constantly bringing up the ancient wrongs which were supposed to have been settled once and for all by the Indian Claims Commission Act and having them litigated over and over

(Continued on page 2)

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(Continued from page 1)

again rather than forgetting the ancient wrongs and let the very salutary effect of the doctrine of res judicata take its effect as it does normally in any judicial proceedings in the country.

These wrongs only happened yesterday and are not ancient wrongs. And I wonder where the whiteman ever got the idea that these wrongs had to be settled in his courts by his rules. Anyone can win a ball game if he makes up his own rules. This res judicata business is one of these rules. But whatever the rules are, and whatever the Claims Commission awards for the Black Hills, please remember that we will never sell.

There can only be one settlement for the Black Hills. The Black Hills must be immediately returned to the rightful owners, the Lakota people. After that, we can talk about compensation for damages done to the fruits taken from the land. We should be paid for everything taken from the land at the value they are worth today, since the land is still rightfully ours today. But our people are a generous people and our people are willing to accept one-half the value of everything taken at the value they are worth today.

The Claims Commission, an agency of the United States Government, has stated that the taking of the Black Hills was illegal, and the Commission claimed also that it could have been taken by Eminent Domain. We also understand that under the whiteman laws, the rules of the game that have been imposed in this claim, that land can be acquired in only three methods: (1) by discovery, (2) by extinguishment of title, and (3) by sale. There certainly has never been any discovery of our land by the whiteman. We discovered it first, because we have always been here. The whiteman recognized this right, that is why they had to enter into these treaties with us. These treaties recognized our title to the Black Hills and other land and acknowledged our right to exist as a nation without being terminated and placed under state jurisdiction. I believe the whiteman constitution also recognizes this right. Also, there has never been any conquest of the Sioux Nation by the United States. It was the United States that came to us and asked for peace after we continually

defeated them in over twenty three years of war. With the exception of the Blue Water Creek and Wounded Knee massacres and maybe one small battle called the Box Wagon Fight in Montana, we defeated the United States in every encounter. We have not been conquered by friends and instead lived in peace with the United States in accordance with the treaty as equals. And also, there has never been a sale of the Black Hills, because there has never been an acceptance of the governments offer to buy. What the decision of the Claims Commission amounts to is an offer, although they do not wish to call it that. By deceit, they are trying to get us to accept this offer by telling us that we have no choice but to accept the judgement award. And until we accept this offer, the United States can never have clear and legal title to the Black Hills. And the white people living in the Black Hills have a cloudy title on their land because their titles are only as good as their government's. I would like to tell our IRA council friends that this is the only reasons that the United States is so anxious to get the Indian people to accept the award. They only want to clear their own illegal title in an underhanded method. We do not believe the United States government has the power to eminent domain over us, anymore than we have the power to eminent domain over them. This is because we are equal nations living side by side. We are citizens of our own nations. But even if the government has this power, as the claims commission stated, and could have taken the Black Hills by eminent domain, the fact remains that it did not do so. Therefore, the Black Hills were taken by an illegal act and the government does not have any legal title whatsoever on our sacred hills.

We understand that over 80 percent of the Black Hills is still under the control of the United States. This must be immediately returned to the Lakota people and negotiations must begin for the remainder in individual ownership. We know the white people living in the hills now love it. We love it for many of the same reasons and more importantly because they are our sacred grounds. So these white people should understand why we will not sell. The Oglala Lakota have always been the caretakers of the Black Hills and it is appropriate that I have been allowed to talk here today defending the sale of these hills for my people and other

Lakota people from our other Lakota tribes.

ATTORNEYS REPRESENTING THE TRIBAL COUNCILS

Before I close, I have one statement to make about the attorneys representing the tribal councils. Naturally, at this stage of the game, they would rather get 10 percent of \$102,000,000 rather than 10 percent of \$17,500,000. But they are the only ones that stand to gain from these claims. They testify only for their own self interests.

Many of these attorneys have worked hard for the puppet tribal governments that they represent. They do not represent us and the majority of the people on the reservations who reject the claims. They have never consulted us, the silent majority, to get our views on the sale. If they would have, they would have seen that the majority of us are against the sale of the Black Hills.

These tribal attorneys, many of them are of the Jewish people. They should look at their own history and hold their heads in shame for what they are trying to talk us into doing here. They lost their lands for almost 2,000 years and have just got them returned. They lost many of their people throughout the years fighting for their homeland, but not as many people as we lost fighting for ours. Yet they stand here very eagerly trying to talk us into selling our land when they know the United States does not have good legal title. It is understandable that they do this because they too are whitemen. We wonder if they will be willing to sell Israel to the Arabs for \$17,500,000 plus interest.

Also, we have been told that the passage of this bill today is 20 to 1 against passage. These odds are not good. I say this because I do not want to hear the attorneys blaming us for the rejection of this bill after today. It is easy to use us as their scapegoats when they have to tell their puppet governments that the bill was defeated. I wish to emphasis again that our only concern here today is to restate our position that the Black Hills cannot and will not be sold under any circumstances and we are here today to protect our people.

Before I go, I would like to attach to our statement a statement from the Standing Rock Lakota people. They have not been allowed to talk today and I think what they have to say should be heard. Hau. He cetu yelo.