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April 13, 1999

Topic: Origins of the Keweenaw Bay Tribal Court System

Questions (Q) are being asked by Debra Williams, answers (A) are provided by Judge Garfield Hood.

Q Judge Hood, what is your birth date?

A June 29, 1945 (inaudible)

Q What was your relationship with the Tribe?

A From January of 1972 for approximately 18 years, I served as the Tribal Attorney for the Tribe. The first, I believe the first two and one-half years it was on a full-time basis and after that, I opened a private practice and they were one of my on-going clients.

Q I am curious as to how the Tribal Court System was created.

A Twenty-five years ago thereabouts now, do you recall the date when the Tribal Code was enacted or when the Tribal Court first began operations? That would help me put things in a time frame.

Q I don't have any of that.

A All right. Then what I am going to be giving you are approximations.

Q And I can look that up.

A All right. I originally was hired by the Tribe with funds that were supplied by the Campaign for Human Development of the United States Catholic Conference. I moved up with my wife after I graduated from law school at Wayne State University to take that job. And, essentially, at that



point in time, again, around January of 1972, the Campaign for Human Development of the United States Catholic Conference was supplying funds to different segments of society in an effort to help those communities develop their government and assist them in general development. For example, they were providing grants to provide legal services for Hispanic migrants. What they were looking for were innovative programs that would have a real impact on a community on a local basis. The Tribe had applied for and received a grant. They were looking for an attorney at that point in time, not just someone to act as an attorney for the Tribe itself, but also, and perhaps even more importantly at that point in time, to assist the tribal government to develop itself as a government. At that point, the tribal government was extremely disorganized and virtually non-existent. Anybody who looked at the Tribe today and the tribal government today, and looked at what existed back at that point in time would be absolutely amazed. To say that there would be a night and day difference, is certainly no exaggeration.

Q This was about the late 70's?

A No, the early 70's.

Q Early 70's.

A Yes, around 1972. For example, when I came up here, the Tribal Council ran their entire economic system out of a personal checkbook. I don't know, are you from the local

tribe?

Q I'm a member of the Keweenaw Bay.

A Alright, I don't know if you know Helene Welsh?

Q Yes, I do.

A Helene, a delightful lady, was the Tribal Treasurer for years and she had a checkbook, just like a personal checkbook that you have from one of the local banks, and that was what they paid their expenses with. The Tribal Council got together once a month or once every couple of months, found it difficult to find a place to even meet. There really was very little in terms of organized governmental activities that existed at that point. You haven't asked me the question, but in terms of reasons for that, the Michigan Tribes were really second class citizens insofar as the Bureau of Indian Affairs was concerned. The area office of the Bureau was in Minneapolis and consequently, the Minneapolis tribes got much more in terms of economic support and governmental development assistance than the Michigan tribes. The Michigan tribes had an agency office over in the Soo (Sault Ste. Marie), and I believe it still exists over in the Soo, but in that point of time, the Michigan agency office was essentially one person and a secretary that somehow got exiled to Michigan. You know, "if you misbehave, we are going to send to over to direct the Michigan agency office".

Q Ok.

A The Michigan tribes, Keweenaw Bay included, simply got next to nothing in terms of legal support, economic support or anything else. The Michigan tribes generally were different in some other respects from the Minnesota tribes and to a degree, from the Wisconsin tribes. Although they were certainly Federal Indian Reservations, they were reservations much different than the Minnesota reservations, such as Red Lake, as an example, where Indian people were really all together in a sense. There wasn't a great deal of intermixtures at Red Lake.

Q Their land basis.

A Right.

Q You could pretty much tell where the non-natives are.

A Exactly. And when I say Indian, I know that Native American is a phrase is that probably more acceptable today, but when I came up here, the people said "we are Indians". Because that is what they preferred to use, I guess I still hold over to that. So if it is offensive to someone, I don't mean it to be. That's what the people thought of themselves as and that's how they described themselves.

Q Ok.

A So, because they were more tightly knit groups over there, as opposed to Michigan tribes which generally had as many non-Indian people, sometimes more non-Indian people on the reservation, or living within the boundaries of the reservation, there was more assimilation in Michigan among



the various tribes than there were in Minnesota tribes, or even some of the western tribes. And because of that intermixture and assimilation, there was, I don't want to say less of an identity, but less of a cohesiveness that existed over here, and consequently, that's another reason why the Michigan tribes were sort of bastard step-children insofar as the BIA and Minneapolis office were concerned. In the early 70's, late 60's early 70's, there was a resurgence of a desire on the part of the people in many tribes, but particularly Keweenaw Bay, which at that time, was without question leading the pack in terms of desire to reassert tribal rights, in terms of Michigan tribes, there was a desire to begin to assume responsibility for what the people of the Tribe understood they had a right to assume responsibility and develop themselves. And so consequently, this comes back to my earlier comment that what my job really was more than being a lawyer and court for the Tribe, was to assist the tribal government in terms of organizing itself. The tribal government, which I described as a Tribal Council from an economic aspects of the Tribe earlier, the Tribe had been given the old orphanage at Assinins, and when I arrived, there were two people in that Tribal Center Building. One was Fred Dakota, who was Tribal Chairman, and the other was Georgeann Emery, who was his secretary. At a later time, not too many months after I arrived, there was another position that was somehow funded

or staffed. But there we were, about four of us in that great big old building, listing to the wind blow and the floors creak. I viewed my job as one that I really should work myself out of. My responsibility, as I viewed it, was not to be there to run the government for the Tribe, but to rather assist the folks who were very capable, very intelligent people, but simply had not had the opportunity to participate in a government before. To help those folks develop their talents and their abilities so that they could assume the responsibility to run their government and their reservation. So I looked at it as something that I hoped I would work myself out of a job in a two to three year period. Now I am not so sure what everybody else's perspective of my role was, but that was the way I viewed it. It was very apparent from the outset that the things that I described about the Michigan tribes sorta being bastard stepchildren, it was very apparent that that was the case, and it was also very apparent that over the years, because of a lack of support from the BIA, a Federal Indian Reservation, had in fact, totally lost the powers that it was supposed to have, and traditionally it did have. For example, there was no concept on the part of County officials or State officials that the boundaries of the reservation meant something.

Q Still in dispute.

A Yeh. There was no understanding that in fact the State



could not exercise criminal jurisdiction over members of the Tribe with respect to offenses that were committed on the reservation, and there were tribal members that were in prison. The local District Court regularly, local prosecuting attorney regularly prosecuted tribal members for incidents that occurred on the reservation. They were, on a regular basis, processed through the District Court and the Circuit Court. There was essentially no recognition of the unique attributes that flow from a Federal Indian Reservation. So one of the first things that the Tribal Council wanted to do was to begin to re-establish that understanding. It took a lot of education on my part because I didn't, by a long shot, understand the nuances of a Federal Indian Reservation and what it meant. But it was important from the standpoint of the tribal government to begin to re-establish insofar as the non-Indian community, the non-Indian governments were concerned, that it in fact, was a government that had powers that we could exercise. So, on the one hand, we began to try to educate the non-Indian community as to those unique attributes. There were many areas of the country at that time where there was a very confrontive relationship between the emerging tribal governments and non-Indian people. There was a bit of that at Keweenaw Bay, but not a lot. It was more of an education process. Whether that was a product of the way in which people in the Tribal Council chose to proceed, whether it



was attributable in part to my personality and the way that I thought was most effective to proceed, whether it was attributable to the fact that many tribal members were in fact married to non-Indian people, I don't know. But it was a more educational process than a confrontive process. At the same time, it was recognized that "hey, if we don't want State laws to be applied to tribal members on the reservation, then we have to have our own laws. If we don't want the State court system to be prosecuting tribal members for events that took place on the reservation, than we have to have our own Tribal Code system. And, if we don't want to have the State Police or Sheriff's Department arresting our members for offenses committed on the reservation, then we have to have our tribal police force". It was a long and intensive process to convince the BIA that they had some obligations to provide law enforcement, But over the course of time, we did. At first there was one officer assigned and then, ultimately, a second officer was assigned. At the same time, Fred Dakota and Fred Gauthier, of course everybody in that area pronounced it Fred Goke, and I took a tour of some reservations where they did have in place a Tribal Codes, Tribal Court Systems, Tribal Law Enforcement. We went up to Red Lake and actually, the most productive stop of our journey, there were some other places as well, was the Turtle Mountain Chippewa Reservation in North Dakota. Because they had in place, they had gone through

the process that Keweenaw Bay was about to go through, and they had in place a working Law Enforcement System. So, I collected tribal codes from various reservations and ultimately, ended up drafting the Tribal Code of the Keweenaw Bay Indian Community. Now, the first version and some time later, several other versions, but what I tried to do was do something very basic, very clear. Now we didn't need at that time, at that place, we didn't need a 28 book code of Federal Regulations. We needed something simple that was understandable and dealt with the areas that were of most concern to the people of the Tribe. Numerous meetings with committees of the Tribal Council, with the Tribal Council itself, taking Turtle Mountain's code, Red Lake's code, a number of codes and blending them. We ultimately came up with a Tribal Code that was approved by the Tribal Council and ultimately, by the Feds. At about the same time, maybe later, maybe before, but about the same time, and this was in 1974 I should mention, in the period 73-74, we got a couple of Tribal Police Officers that were funded by the BIA. We also created the Tribal Judicial System and the Judge was elected. The first Tribal Judge was Ted Holappa. And Ted, I have to say, was the perfect person for that position at that time. Ted is very bright. But, in addition to being bright and being cosmopolitan in terms of the ways of the world, he also had a very strong bonding to the community and the people of the community,



and a very strong interest and belief that traditional Indian ways should be a part of any Tribal Court, Code, Police Force. Because if they weren't, there was no reason to not simply say, "alright, we'll just enact the State laws as our laws, and we'll contract with the District Court to handle our defendants". Somehow, all of that came together and at the same time our educational process was going on so that one day, there wasn't just a Tribal Police car that was driving around the community. It took a great deal of effort, locally, and on the state basis, but ultimately it came to be recognized that yes indeed, within the boundaries of the reservation, the Tribal Code applied to tribal members and the Tribal Police had jurisdiction over tribal members, and the Tribal Police had jurisdiction. Now, that is not to say that there weren't a whole lot of other things that came to be concerned, as you mentioned. Even today there are still disputes that exist with respect to the range of Tribal Code. But that was the single biggest victory because before that there was nothing, after that there was something. Certainly it has grown in sophistication, there are more laws, there are more police, there are more judges, more of everything. But that was the genesis of everything that has come since.

Q It is incredible, to see how it has grown, to here the origins and to see how far they have come.

A You know, now there have, while I was representing the Tribe

I think in the 80's, the later part of mid-80's, there was the federal litigation that ultimately established that the Tribe had jurisdiction within the exterior boundaries. The state had said "alright, on the reservation, you have jurisdiction, we won't argue that anymore. However, this 48th parcel here is owned by a non-Indian, so you don't have jurisdiction there, even though you have jurisdiction next door on this 40-acre parcel that is owned by Tribal Members. So where US 41 runs over land that is owned by the Tribe, for example, we won't bust your people for drunk driving, you can do that. But once it passes off that 40-acre parcel, we are going to." Well, that litigation finally resolved and that issue, to the extent that there is not a checkerboard reservation for jurisdictional purposes, it is within the exterior lines.

Q Do you have a copy of that case?

A No. There were other things. Back in the 80's a number of parcels of land were removed from the tax rolls as a result of the tax .... Now, this is different from what is going on now and what happened in the 90's. That is an extension of what happened back in the 80's when we first were able to first convince taxing authorities that if you were a tribal member, and you owned a house that is in Baraga, which is on the reservation, then you are not obligated to pay state tax. The 94' litigation and what is happening now, are an outgrowth from what happened back in the 80's. So there are



lots of speed bumps and fine tuning that have gone on since 74', 75'. Things evolve, things change, but that is where it began.

Q How was it funded, was it funded through the Bureau?

A Yes. Initially it was funded through the Bureau. I don't know how it is all funded today. I know that the Tribe has assumed a greater responsibility, but initially it was Bureau funded.

Q Ok. So basically, before the Tribe created their own court system, Michigan State took on policing the reservation and...?

A Yeh. There just was never any issue. There was never any question. It's just the State always exercised jurisdiction.

Q And there was never any dispute over that?

A No. Again, because the tribal government had, see there are elders who will disagree with me on this because when I say it, it offends them. But it is a fact, that the Tribe for years was essentially sort of a club. You know, like the Masons?

Q Yeh.

A Or the Knights of Columbus.

Q Or just an organized business, their own little...

A You know, it was just. Any rights associated with any tribal member on a reservation had long since been lost and as I said in the beginning, I think they only got together

about once every month or every three months, have a meeting and decide when the harvest feast was going to be. And that was the major decision for the month or for the quarter. So there was just never any question. People might grumble about it, "you know, those State Police shouldn't be picking up Johnny for breaking into the grocery store". But there wasn't any body else to pick up Johnny, who busted into the grocery store. There wasn't the slightest recognition on the part of state authorities, and probably most tribal people, well may be a slight recognition of the part of tribal people, thats something that they were told by their grandfather.

Q But they didn't know how to enforce it?

A Right, right. It was like they were no more able to do that then they were to fly to the moon, it was so far out of reach. And in terms of state and county authorities, you could have asked a 100 people in Baraga or L'Anse if they recognized that the State Police didn't have jurisdiction over the tribal people on the reservation by law, and they would say "oh, it's not true". There was not recognition, none.

Q So when it started, I am assuming there were a lot of challenges in court then, over jurisdiction to begin with.

A More in the hunting and fishing area than in terms, I'm sorry, I should have asked, is this ok Debbie?

Q Oh, I'm ok, it's a nice big room (permission for Judge Hood



to smoke, I think).

A More in the hunting and fishing area than in the other areas because, as I mentioned, we did not take a confrontation approach. There were some parts of the country where the cops and the tribal people were out banging each other with billy clubs and you know, fighting, take overs out west, people shooting at federal authorities. And that is not the type of Tribal Council that we had and that is not the type, that is not my style. So it was much more of an educational process. Interviews in the newspaper, TV6 did a number of pieces on it and it was more of a gradual convincing. So there wasn't that much litigation that was involved because it was pretty much, "look, this is the way that it is, here, here's the book, here's the law". "Oh, yeh, we're going to contact the Attorney General". And so they contacted the Attorney General and somebody researches it and says "yeh, I guess they are right".

Q So it didn't happen all at once, it was over...

A It didn't explode, it grew.

Q It grew, the Tribe took the patience and the guidance to do it in a peaceful fashion.

A Yeh, and I don't want to, ya know, I don't want to sound as though I am taking credit for it.

Q No, I'm giving you credit for it.

A We had some real good Tribal Council members.

Q That could see.

A Yeh, good people. And when half of them are married to non-Indians, or their kids are married to non-Indians, or they live next door and are best friends with a non-Indian, there is much less impetus to be confrontational. You know, you are talking about neighbors, you're talking about family. There was a point, and this was before my time, so I would guess that it was in the summer of 1970 or 1971, when a group came in from AIM and there was some sort of Fourth of July parade, or Bishop Baraga Parade..

Q It was a pageant.

A Pageant or something, and all of a sudden everybody is out there beating heads. It wasn't the local people that any interest in that occurring, that was a bunch of people who came in from AIM, ya know, and you can liken it to some of the struggles of black people. You know, somebody comes in from the Republican of New Africa and starts a bloody riot. It's not the people that are living there whose homes get burned down who want to riot, its some yahoos that come in from the outside. That happened, but that is the only confrontational incident that I am aware of that occurred around here.

Q My grandma was Alice Shelafoe, she very angry and every time we talked about what happened at the pageant, she would let us (end of tape side 1)

A (start of tape, side 2)... true embarrassment to most tribal members. You know, because these people go to church

together, their kids play football or basketball together, and all of a sudden you have an outbreak of violence. And that is one of the reasons, I think, why things developed the way they did, growing rather than exploding. Because there is so much intermarriage, so much rather than tribal people living in this particular settlement and all non-tribal people living over here. You know, people live next door to one another on Baraga Avenue in Baraga. And that produces a totally different kind of atmosphere and desire about you know, "we want to achieve this goal, but we don't want to have a bloody riot to achieve the goal".

Q That sounds like my people.

A Yeh.

Q Except for the problems in recent years, but we won't get into that.

A There were clusters of Indian people for example, who lived along the Mission Road. You know that traditionally was an area where Indian people had lived back to Bishop Baraga days. But it wasn't until all of the tribal housing was built that tribal people tended to concentrate themselves there. I guess I just can't explain any better than I already have. That you would have Joe Italian-person and then you would have Martha Indian-person, and then you would have Freddy French-person who would all be living on the same road. The biggest area of dispute is somewhat of a reflection on the area where we live, and that was over



hunting and fishing. You know that's where things were more explosive.

Q William Jondreau case was real important to the Tribe.

A Uh, ah.

Q And for hunting and fishing in Michigan and all over, actually.

A That is absolutely correct. But people would get more excited over whether one person took three fish, as opposed to the one fish that they could take, than they would over where somebody would get prosecuted for a criminal offense. But that is a reflection on Yoopers.

Q I am just wondering about the Judges, too. You had Ted Holappa, and do you remember how long he was in?

A No.

Q A couple of terms?

A A couple of terms, I really don't specifically recall.

Q And then it was, wasn't it William Jondreau's daughter?

A Yeh, I think she came back here from California. Ted was an exceptional Judge. Now, see, I don't know where you are politically, and I don't care where you are politically insofar, as what is going on.

Q I went to school with Ted, I went to school with him up at Bay Mills Community College.

A With who?

Q With Ted. I went to school with him up at Bay Mills Community College.

A Who?

Q Ted Holappa.

A Oh, ok. In terms of the recent disturbances, and take over, I don't know where you are, it doesn't matter to me. But after Ted, then Jondreau's daughter, I guess came in. And my mom always told me that if you can't say something good about somebody, don't say anything at all, so I will not comment on her term. And then I am trying to think of, who, did.

Q Did Brad get in right after?

A Who?

Q Brad.

A I think it was Brad.

Q So there has been just the three judges.

A Yeh, ok, then it was Brad who was next. I was very sorry to see Ted go, I spoke highly of him earlier. He was just the perfect person at the time. I also think, and again, I don't know where you are politically, so you may throw rotten tomatoes and cabbages at me, but I also think that Brad has done an exceptional job for the period of time that he has been there. Because, as the court has evolved, the way the judges have had to function and all has also evolved. And I think he is a very bright fella. I know there are people who hold him accountable for a lot of what has occurred over the last few years, but my contact with him has always lead me to believe that he is an extremely

fair-minded individual in addition to being bright. So I think that you can't...., a majority of the tribal judges, both Ted and Brad, despite the fact that they didn't have legal training, could have sat as District Judges.

Q Really?

A Anywhere in the state. And again, I don't know where you are politically, but the greatest reason for the success of the Tribe in terms of moving into the 20th century, is Fred Dakota. Absolutely, without question. You know, he was the one who always was willing to take the chance. He would never ask someone else to do something that he wouldn't do. He was smart. He always took care of everybody else before he was taken care of. If there weren't enough turkeys to go around, then his people got the turkeys and he did without a turkey. So, the success that the Tribe has enjoyed would probably be 10 years behind where it is now, and not as successful, had it not been for Fred. Like all of us, he is not perfect and there are some things that he did that he should not have done.

Q But that doesn't take away from his earlier years. And I think many people will agree.

A Yes. It doesn't at all take away from the dedication, the hours that he worked and again, there were many other people that were just, in different ways, brought different things to the Tribal Council and the tribal government. I have the greatest respect for Helene. She was steady, she was smart,



she always brought her own particular view to things and we liked each other a lot. But boy, did she dump on me and tell some things. And I'd say "Helene, why are you doing this to me". She'd say "you've got broad shoulders, you can take it". But then, and there were other people who made contributions. Kelly Perrault made contributions, there are so many people. By mentioning names I'm leaving out the names that I don't mean to do, of people who over the years who just made tremendous contributions to the Tribe, so.

Q Clearly also the Council members through those years, every council member?

A Without question. Without question. I mean, there were some duds, there are some duds in the Michigan Legislature, you know. There are some duds on the County Boards of Commissioners. But by and large, they were just a real capable, forward thinking, dedicated group of people.

Q I think basically that pretty much covers it. Because I was going to ask you about the problems, and you covered that. Growing pains, they've had that and are still having those.

A Lord knows that.

Q There are a lot of challenges.

A This may be a bit simplistic, but I've always viewed this like a pie, a power pie. There is only so much pie, and there is only so much power. You can't create more power. So if the State of Michigan starts off having that whole pie, then that means that if the Tribes going to get any

pie, they have to take some slices out, take it away from the State. And it is always a difficult process when one entity or person is exercising power and another entity or person is attempting to take some of that power away, even if they are entitled to it. And that is really what the process has been through all of these years.

Q And still continues to be.

A And still continues to be.

Q The issues over the taxes right now, that is exactly what is happening?

A Oh sure.

Q The Tribe has exercised the power, and now the State is trying to take that back, and it's just another time of growing for all of us, but it's got every body paying attention again.

A Well, I don't care whether you are a Native American or from China or from Mozambique, money is money is money. People always get excited about monetary issues. Some times they are not the most important issues, but unless your ox is getting gored a little bit, as long as things are running along smoothly, people don't get to terribly excited.

Q Is there any final comment about these years?

A I couldn't have had a more interesting legal career. And that's because of having the Tribe as a client and such close association with the Tribe. It brought me in contact with lots of interesting people and ideas and areas of law

that I never would have contact with if I had set a practice in Rapid River as opposed to Baraga County. I do feel very strongly that the Tribe must re-examine its constitution. See the tribal government, what you are doing is very interesting because everybody has forgotten about how the Tribal Code came about and what the circumstances were, how did we get Tribal Police, how did we get a Tribal Court.

Q How come we are where we are at?

A And that is because tribes, not just here, but everywhere, don't have a bureaucracy, like the State has, or like the Federal government has. You know, the bureaucrats that come to work every day and whether the Republicans are in power or the Democrats are in power, they still come to work at the Drivers License Bureau, you know. They do their jobs and they do it for 30 years, at the State Treasury Department or the County Clerk's Office, or whatever. The Tribe doesn't have that. It depends on whenever there is a shift in power, you know, everybody who knows anything about what happened during that particular era is out the door and you got a new group that comes in and everybody tends to try to reinvent the wheel. This whole constitutional issue was addressed back in, I'm going to be off on this...

Q Mid 70's?

A I was going to say the late 70's.

Q And began again, it was an on-going.

A Yeh, and we had meetings and meetings and meetings about



this and there wasn't a great deal of agreement about anything. But we got to the point where we were going to schedule a Secretary's election, with respect to certain changes that were proposed that would have eliminated all of the problems that took place three or four years ago. But then, the Council decided "well, we don't want to do this". And that is one of the problems of the Tribe, that the Tribal Council is all powerful. You don't have a separation of powers like you do in a Federal or State government where there are checks and balances. Because the Tribal Council can ultimately say "we don't like that person", or "we don't don't like that idea", or "it takes some power from us". "You know, if we've got a court that has authority to tell us that we are doing something illegal, then by God, we don't want that, because we are the Tribal Council". That is a source of many problems that the Tribe has. Where there isn't a clear separation of power between the executive branch, the legislative branch and a judicial branch, and there is not a bureaucracy that is there to carry on when the politics shift and when one group of people gets booted out and another group comes in. If I were a tribal member, and I was interested in trying to better my tribal government, those are the areas that I would try to work on. Because as soon as Tribal Chairperson A gets booted out, then his or her best buddy, who runs the commodities program, gets booted out, or whatever, and...

Q Which isn't a good thing.

A Yeh, and somebody who is a friend or brother-in-law of the new Tribal Chairperson gets the job. So, those things, to the extent that anybody cares about my recommendations, clear delineation and separation of powers between the branches, a revision of the Tribal Constitution and try to establish more of a bureaucracy, which is there regardless of who happens to be in power. You know, another thing that I used to explain to the council, that again offended some of the elders particularly, I still remember Helene (inaudible) about this, because one of her relatives was on the Tribal Council back when the constitution was enacted, but what it was that...

Q It was her father?

A Was it her father?

Q Yes, her father.

A Ok, that council, didn't develop that tribal constitution. "They did too, I remember my dad told me about how they did this, and they did that, and they had meetings with feds, and they told the feds 'no we don't want to do that, we want to change it and do this'". But if you look at tribal constitutions that were enacted in that general time frame, the late 30's, whether you are in Wisconsin, Minnesota or Michigan, they all look awfully strangely alike. You know, one of them might have seven council members, another might have nine, and one might say that half are elected from this

side of the tracks and the other half from that side, and the other one has actual districts, but they all pretty much look alike. They were developed by the Bureau of Indian Affairs. You know, her dad, for example, may have been a very bright, great human being, but he weren't no match for a bunch of Bureau of Indian Affairs attorneys. How often had he participated in developing a tribal constitution in the past as opposed to these guys back then? These guys would go from reservation to reservation during that period of time and have their framework and just fill in some different names and places. That tribal constitution is an anachronism that must be revised.

Q I hate to get into this but, the membership clause in itself defines, you know, they never followed it.

A I know they didn't.

Q So they didn't know exactly what they were voting on, I think in those days. That is my guess.

A They did.

Q They did know that they were voting on?

A Yeh, they did. Because I can't tell you how many times I answered that same question. In council meetings, in community meetings, you don't have to be some sort of a legal genius to read that language and figure out what it means.

Q So they understood what the meaning of the membership clause was and chose not to follow it?



A Absolutely. Absolutely.

Q And its ok for...

A Of course, oh yeh, of course. That has, it has never been a secret. We went through it council meeting after council meeting, administration after administration. But you have to look at things in historical perspective. Back then, and maybe even still today, the number of heads that you could count as being tribal members, each accounted for more money from BIA.

Q Right.

A Alright, so at that point in time, the council's view was "look, if we've got 2000 members, we're going to get twice as much money as we're going to get if we've got 1000 members. Yeh, but this person was born at the Baraga County Memorial Hospital. The Baraga County Memorial Hospital is not within the confines of the reservation. You know, therefore, this person" and I'm using a simplistic example, "does not qualify to be a member of the tribal council, or to be a member of the Tribe. Yeh, but wait a minute, that person for years has been a loyal supporter of the Tribe and has participated in all of our activities and that person is a Tribal Council member. What do you mean they don't qualify to be a tribal member? You show me where they don't qualify. Well, we don't care." Then, they fooled with the voting districts and enabled people to vote that shouldn't have been voting under the Tribal Council.

Q Including all of L'Anse and...

A Yeh.

Q Ok. They expanded the districts and went beyond the reservation boundaries.

A Exactly. There was a council member, and I can't recall at the moment who it was...

Q I have the resolution.

A Barbara Mantila.

Q Ok.

A Barbara Mantilla lived out in Pelkie, she was a council member. She wasn't qualified to be a council member. "Yeh, but Barbara is a good council member and we certainly not going to kick her off the council". When Myrtle Tolonen was the enrollment clerk, you know, everybody knew that she was enrolling people left and right. It wasn't that the council said to her "bad Myrtle, bad Myrtle", and "you can't do this". The idea was, if we got 2000 people, instead of 1000 people, particularly if this person has dark skin and we have always recognized the whole Jondreau family being Indian people, we are going to make all these Jondreau's... and I please, for whom ever might read this or listen to it in the future, that was the first Tribal name that came to mind.

Q Just an example.

A As an example. You could say, the first...

Q Because we know they are well established.

A Yeh. But the first, we know all of the Gauthiers, they have always been here, we don't care if their kids were born in Chicago, another example. We don't care if their kids were all born in Chicago and that they had lived away from the reservation for 15 years, they are good people. That is seven more tribal members if we enroll them, and that is \$7,000 more aid that we are going to get. So, historically, you've got that operating. We want as many tribal members as we can get. In order to get housing money, to build tribal housing, we have to demonstrate that we have a need, an "X" number of members.

Q Oh.

A Ok. And this goes for road money, this goes for health money, it goes for everything. So, we want to get, we are going to drag these people, even if they are kicking and screaming, we want them to be members of the Tribe. The Tribe at that point, didn't have a hell of a lot to offer. But then, then, things start getting better economically. The money begins to flow and jobs are here, working on tribal housing for the Tribal Construction Company. There is medical money that comes in so that people can get free medical care. And all of a sudden, more people want to be tribal members because there is an economic benefit. And then pretty soon you've got the casinos operating and the casinos are generating a tremendous amount of money. And one view, of course, is that this Tribe takes is that we



should use that money to fund services for the people. But it is also a common view that we should give a per-capita distribution to all tribal members. So then, all of a sudden things change. We've got too many people that want to be tribal members, and these people are coming in and they are going to try and change the composition of the council so that the council is going to vote for per-capita distributions. You know, and then all of these people who have got through being an Indian in Baraga County are going to be taking our money away. See, so that is a critical shift that took place and then, all of a sudden, everybody wants to look at the Tribal Constitution and then they start pointing as people and saying "well you don't qualify for this reason, and you don't qualify for that reason". When you look at that whole thing and have some knowledge about the background of the Tribe, where things came from, where they went to and what was going on, a great deal of that was motivated strictly by money.

Q So it wasn't looking out for the welfare of the people, or...

A You ask folks about that and that is what they'll say, about money.

Q But as a result, we had the problems a couple of years ago, all about money?

A Now, there are those who will say "not me, money had nothing to do with, I'm just concerned about what's right". And

maybe there were some folks like that, but the impetus...

Q And that could be to.

A Yeh, and the impetus was money. Because after years of enrolling everybody, "well, he's not 1/4 blood, but he's just about 1/4 blood and we want to build up our membership base so we're going to make that person a member". "Well, they were born in Chicago, but you know, that family, they've always been supporters of the Tribe, so we're going to make that person a member". After years of trying to build up the base when there was nothing to gain by being a tribal member, nothing of any significance, then you get to a point where there is a shift and all of a sudden there is lots of money out there. You start looking at folks who are going to share in that money or maybe take over the Tribal Council and vote for per-capital distributions. And then all these people out there who, you know, "well wait a minute, if that person gets a share, then my share is going to be smaller", and then you start looking at the membership records again. But anybody who tells you that the Tribe did not understand what the membership requirements were, and that people were being enrolled who did not qualify under the constitution, is.... to you.

Q We've got a long ways to go to straighten these things out and with money issue there, they may never (inaudible).

A Another thing that operates, I don't care whether it is a tribal community or whether its a farming community or

whether it is a bunch of hippies living out in the Colorado mountains, when you have a small group of people, as opposed to all of the people in the City of Marquette, the smaller your group of people, the more little things that happen over the course of time build up and cause rifts. The community at Keweenaw Bay is really not that large.

Q No, its not.

A You're not talking about that many actual tribal members who live...

Q Probably less than 1000.

A Yeh, who actually live on the reservation. You've got families that you know, got back to the time that the Methodists landed in Pequaming and Bishop Baraga, you know, landed in Assinins. There are family feuds that go back that far because some of one family was converted by the Methodists and one family was converted by the Catholics. It is certainly different now than it was when I came up here, but there was a genuine division between people who lived on the L'Anse side and people who lived on the Baraga side. A new apartment opens up on the Baraga side, somebody in L'Anse desperately needs it, but by God, they ain't going to move to the Baraga side. So, you've got feuds and perceived slaps in the face that happened 40 years or 80 years ago. You know "those people just any damn good". It goes back that far. And so, consequently, within this small group of people, you just have some friction that has no



rational basis, but that forms the basis for sometimes things that happen in council meetings you know, 50 years later.

Q So, that's going to be a difficult one to over come too.

A Oh yes, yeh. And things change, and its changed even in the last 25 years, you know. But there is a small group of people... (end of tape, side 2)

:ccl

CERTIFICATE

I, Cecelia C. Lasich, Legal Secretary and Notary Public for the State of Michigan, do hereby certify that I personally transcribed, as faithfully as I could, the foregoing 32 pages on Wednesday, May 26, 1999, from a cassette tape delivered to me by Debra Williamson, purporting to be the recorded voice of Judge Garfield W. Hood, from an interview with him on April 13, 1999.

6/3/99

Cecelia C. Lasich

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Subscribed and sworn to before me  
on this 3rd day of  
June, 1999.

[Signature]

Steven L. Pence, Notary Public

Marquette County, Michigan  
My Commission Expires: 03/02/00