

# Carolina Indian Voice

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"Building communicative bridges in a tri-racial setting"

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## Indian Unity Conference

United Tribes of North Carolina has announced that the 1993 North Carolina Indian Unity Conference will be held in Fayetteville, North Carolina, March 18th-20th.

The site of this year's event will be the Bourdeaux Convention Center Holiday Inn near the Cape Fear Valley Medical Center on Owens Drive.

The 1993 Unity Conference theme will be "North Carolina Indians Riding the Winds of Change in Unity" and will feature seminars and general assemblies on Federal Recognition, Indian Education, Economic Development Strategies for Indian Communities in North Carolina.

Congressional Leaders and state elected officials have been invited to attend and Governor James Hunt is expected to speak at one of the general sessions.

County and City leaders in Indian Communities are expected to attend and Senator Daniel Inouye, Chairman of the Select Committee on Indian Affairs in Washington, DC has been invited to attend.

The conference will also feature an Awards and Scholarship Banquet at which outstanding Indian leaders state wide will be recognized in education, business, and special community service.

Scholarships will also be presented to several outstanding Indian youths in their time of need to help with college expenses.

Another highlight of the conference will be an exposition of American Indian Talent focusing on Traditional Indian art forms. Also planned is a statewide Miss Indian North Carolina Pageant.

The event will also feature a powwow and will make available to the public through Indian traders authentic American Indian crafts to sell.

The cost to attend the three day event is \$75.00 for registration. Banquet tickets will be on sale to the public who will be attending the banquet only for \$30 per person. Banquet tickets cannot be purchased after Thursday at 5 p.m. Local Indian Center directors can be contacted for ticket purchases to the banquet.

An adult, and separate youth dance, will be held after the banquet Friday night and admission will be charged at the door.

This 1993 N.C. Indian Unity Conference is open to the public, but attendees must register to attend the seminars and general assemblies. The

\$75 registration to the conference includes cost for the Banquet and Saturday morning breakfast. Senior citizens and youth will be charged \$45 for registration.

For more information about the conference contact the nearest local tribal office or urban Indian center. Deadline to avoid late registration fees is March 1, 1993.



Lowry (right) shown with Chancellor Joseph Ozendine



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### A Contribution And Farewell To A Lumbee Elder: Mr. Claude Lowry

During our life, there are many people we get acquainted with and admire. But seldom is there one who we can label as a spiritual warrior and champion of the faith. The reason is that there are not many people who achieve this honor. However, one such person, Claude Lowry, can be given this commendation. As a husband, father, teacher, and Christian, he was a beacon to the Lumbee community.

Never tiring for knowledge, he drank constantly from the word of God and American Indian history. Many hours were devoted to reading and dedicating. Both increased his wisdom. Daily he struggled with the pain of being a widower. He lived alone. But the Lord came and took him to glory on Jan. 7, 1993. Now he is at home with his wife and other saints.

Being 93 years old what contributions can our community offer to Mr. Claude Lowry? There are eleven. C- He was a challenger. Many times as he taught the Sunday School adult class he challenged their wisdom of the world with the scriptures. He motivated people to think. L- Recognized as a leader, he was sought out by others to hear him reveal the history of the American Indian. He was honored by the community and received the Henry Berry Lowrie award.

A- His ability to challenge and lead was a hallmark of courage and bravery. He had the keen insight to share his knowledge and wisdom with others.

U- Having a broad range in knowledge, he was universal. He was whole and holistic.

D- A man of dedication he was. As a man of God, his dedication was focused on living a godly life. He loved God, his church, and others.

E- He was an educator. Seeing the need to push his pupils (school and church) to new horizons, he was

sparked with a desire to educate others. His sharp wisdom and quick knowledge was recognized by all. He was blessed with extraordinary talents. He could hold his own in any subject matter.

L- A loyal elder with a loving heart, mind, soul, and body. He knew these traits were the key to a long, noteworthy, and fruitful life.

O. As a young man he was taught the importance of being obedient. This stayed fresh in his mind as he obeyed the will of God.

W- He campaigned as a warrior. Full of wit, he had a zeal to share it with those he met. He felt that education was the route to a successful life.

R- His dedication to God taught him the importance of living a righteous life. As a rule of thumb he took his children to church every Sunday. A man who chose to travel the straight and narrow path. Often he asked others to join him on that spiritual journey. He spoke out for the rights of American Indians.

Y- Even though he was an old man, he still had a youthful mind. He was eager to learn more each day. Many hours were spent in keeping his mind busy as he read and studied each day. Mr. Claude Lowry left our community much as an elder. We have been blessed to have such a leader. We mourn at his death but must carry his legacy on into the future. A mighty spiritual warrior and champion of the faith are traits he left us. But his spirit still dwells among us.

by Milford Ozendine, Jr.



## Federal Recognition: What It Really Means

by Cynthia L. Hunt, Indian Law Unit, Lumbee River Legal Services

On January 5, 1993 Congressman Charlie Rose introduced a bill, H.R. 334, in the House of Representatives to extend federal recognition to the Lumbee Indian Tribe. This article is the first in a series of articles that will discuss issues regarding federal recognition. The purpose of this article is to describe the general aspects of federal recognition, and state the consequences for the Lumbee, if this bill is passed. Federal recognition means something different to each tribe, and each tribe has a great deal to say in defining exactly what it means. The legal significance of federal recognition of an Indian tribe can be discussed broadly under three main topics: (1) Tribal Sovereignty (authority or rule), (2) Federal Trust Responsibilities, and (3) Eligibility for Federal Benefits and Services. Tribal sovereignty will be the focus of this article.

### TRIBAL SOVEREIGNTY (AUTHORITY OR RULE)

Federal recognition means that the federal government acknowledges the quasi-sovereignty of an Indian nation, entitled to deal with the federal government and other governments on a government to government basis. As a sovereign nation, Lumbee will have the power and authority to establish and maintain its own government. Federal law acknowledges that tribes can adopt whatever form of government meets their needs. Tribes are not required to adopt forms of government patterned after the United States government. They also have the authority to determine the membership of its people, to carry on relations with other governments, and to pass and carry out laws affecting its people and others who come within the territorial operations of its laws.

### TRIBAL CONSTITUTION

In determining the form of its government, the newly recognized tribe would have to have a tribal constitution. The tribe's constitution represents the document creating the tribal government and the grant of power by tribal members to their government. Generally speaking, American Indian tribes have adopted a republican form of government, with an elected tribal council acting as the legislative, judicial, and executive branches of the government, and with a council chairman elected either by tribal members or by vote of the council. Although each tribal constitution is unique, constitutions usually contain the following provisions: the preamble, a definition of the tribal territory, a statement defining tribal membership, an enumeration of the powers granted to the tribal government, provisions that establish the tribal form of government, a bill of rights protecting tribal members from abuses by the tribal government, and a statement of the tribe's cultural values and benefits.

In 1984, under a tribal referendum conducted by LRDA, less than ten percent of the enrolled membership of the tribe voted to empower the LRDA Board of Directors to represent them for the purpose of federal acknowledgment until such time as a Tribal Council was elected. This means that the enrolled members of the Lumbee Tribe may form and elect a tribal council at any time. It does not mean that the tribe must wait until it becomes federally recognized to elect a tribal council. Under H.R. 334, the Lumbee tribe is required by law to adopt a constitution and by-laws. Tribal members will play an important role in determining how its tribal constitution is structured. They will participate in the drafting of a tribal constitution, and be given the opportunity to vote on the adoption of the constitution. This allows tribal members to decide how its government will function and operate. Tribal members will be the ones to decide how much authority will be transferred to the tribal government. The Secretary of the Department of the Interior will assist the tribe in the drafting of the constitution and by-laws. Any constitution adopted by the tribe will also have to be approved by the Secretary.

### Tribal Membership

Indian tribes have an inherent right to determine their own membership. The Lumbee adopted an enrollment criteria in the 1980's. This criteria requires an application showing descent from base rolls dating from the turn of the century and maintenance of tribal relations (for example, continuous social

and other contact with the home base of the tribe). According to the current bill, until the Lumbee adopt a constitution, the membership of the tribe will consist of every individual who is named in the tribal membership roll that is in effect on the date the bill is passed. A review of the roll will be limited to verification of compliance with the adopted membership criteria of the tribe.

The bill also contains a provision which gives any individual enrolled in another Indian group or tribe in Robeson or adjoining counties the opportunity to enroll with the Lumbee tribe. The constitution for this purpose. However, the individual must be eligible for enrollment in the Lumbee, and the individual has to have abandoned membership in any other Indian group or tribe.

It is important to note that H.R. 334 includes a provision that allows any group of Indians in Robeson or adjoining counties under the federal acknowledgment process (25 CFR Part 83) for acknowledgment of tribal existence.

### Jurisdiction

Jurisdiction is the power to make and apply laws. It is one of the inherent attributes of tribal sovereignty. While the extent of a tribe's jurisdiction depends somewhat on the manner in which the tribe came to be recognized by the federal government, there are three basic limits on tribal jurisdiction:

- Territorial
- Subject-matter, and
- Tribal Affiliation.

### Jurisdiction-Territorial Limits

Tribal criminal law is limited in application by federal law to "Indian Country," which is defined in title 18 of the United States Code, section 1151, as "(A) all land within the limits of any reservation..., (B) all dependent Indian communities..., and (C) all Indian allotments. Tribal civil law is generally limited to this same area of operation, except that matters relating solely to status of people as members or to matters of tribal property depending on tribal membership need not be limited in this way.

### Jurisdiction-Subject-Matter Limits

Subject-matter limits refer to what kinds of law the tribe is not allowed to apply. The main subject-matter limits affecting American Indian tribes are in the area of criminal law. The Major Crimes Act, for instance, provides that the federal courts, not tribal courts, have jurisdiction in criminal cases involving any of 14 serious crimes. The tribal government has no jurisdiction to make law concerning these crimes. Public Law 280 is another limit on tribal jurisdiction: If the tribe has consented and if the state in which the tribe is located elects to do so, the state is permitted by Public Law 280 to assert full criminal and civil jurisdiction within the territory of the tribe.

### Jurisdiction-Tribal Affiliation Limits

This limit, principally derived from the Indian Country Crimes Act, means that (except for certain serious federal crimes), the tribal courts have jurisdiction to make and enforce criminal laws against Indians committing violations of the tribal crimes within the tribal territory against another Indian or against a non-Indian, but the state has jurisdiction to apply its laws in its courts when an Indian commits a violation of state law off the reservation against anyone. The United States Supreme Court in 1978 ruled that tribal courts do not have jurisdiction to punish non-Indian violating tribal laws.

In civil matters, when both parties are tribal members, tribal courts have exclusive jurisdiction. The tribal court also has jurisdiction when a non-Indian sues an Indian member about a matter arising in Indian Country. But when an Indian sues a non-Indian about any matter, it seems that both the tribal court and that state court have jurisdiction, and one or the other will be responsible for the case depending on which court acts first.

Tribal courts lack jurisdiction over matters that involve only non-Indians. As to tribal jurisdiction over members outside the territory of the tribe, the tribal court will usually have jurisdiction over such internal affairs as tribal membership, elections, referenda, property distributions, and other such affairs. State courts, however, may also have jurisdiction over some of these matters. One exception to this general rule is found in the Indian Child Welfare Act, the basic purpose of which is to grant the tribe greater control over the disposition of member children. The Act also provides that state courts are to defer to tribal courts in certain child custody cases even though the problems arise beyond the territory of the tribe.

In respect to the Lumbee, under H.R. 334 the State of North Carolina is permitted to retain criminal and civil jurisdiction until such time as the tribe request such jurisdiction back. The bill includes a provision that allows the tribe to request such jurisdiction back from the state. For example, if at some point, the tribe were to establish a tribal court, and adopt laws to govern tribal members, the Lumbee could request that they be given jurisdiction regarding

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