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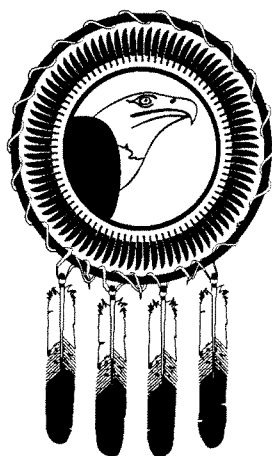
*In Search of Peace and Prosperity:
The Crow Tribal Struggle for Economic Sovereignty
An Address to Harvard University*

by

Richard Real Bird, Chairman, Crow Tribe of Montana

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Harvard Project on
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John F. Kennedy School of Government
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"IN SEARCH OF PEACE AND PROSPERITY:
THE CROW TRIBAL STRUGGLE FOR ECONOMIC SOVEREIGNTY"

PART 1.0

INTRODUCTION

Good afternoon Dean Allison, Professor Joseph Kalt, members of the faculty of the John F. Kennedy School of Government, former Dean Paul Ylvisaker of the Harvard Graduate School of Education, members of the faculties of each of the Colleges of Harvard University, and Harvard students represented here today.

In addition, I'd like to especially welcome Dr. Bette Haskins, the current Director of the Harvard American Indian Program, and Mr. Jim Sam, Director of the Boston Indian Council. Also, I'd like to welcome our Harvard American Indian students, each of whom I'm very proud of.

Finally I'd like to welcome the staff of the Boston Indian Council, members of the press, and all other guests here today.

Ladies and Gentlemen, it is a high honor to have been invited to serve as the featured speaker at the Energy and Environmental Policy Center here at the John F. Kennedy School of Government.

My name is Richard Real Bird, and for the past two years I have served in the capacity of Chairman of The Crow Tribal Council, following my two-year term as Vice-Chairman.

The title of my presentation today is "In Search Of Peace And Prosperity: The Crow Tribal Struggle For Economic Sovereignty". I will discuss the efforts of my Administration to pursue economic development on the Crow Indian Reservation in terms of four basic factors which affect directly our degree of progress in our efforts to obtain an improved quality of life for our Crow people. It is our wish to participate equally with all American citizens as contributors to our national economy. The four factors which I will discuss include the following.

- (1) Crow cultural and linguistic factors;
- (2) Crow tribal management factors;
- (3) Legal factors; and
- (4) Political factors.

First however, I will provide some background information with regard to the Crow Tribe in order that you may have a better understanding of my People, where we come from, and our way of life.

PART 2.0

BACKGROUND

The Crow Tribe has been located in South-Central Montana since time immemorial, according to our Crow Tribal Elders. Before contact with Captain Clark, on his return trip from the Pacific Coast with Mr. Lewis, we were known as Apsaloka, or children of

the large black bird: the children of courage and intelligence. Our tribal name was mistakenly labeled "Crows", and this is the term applied to us ever since in Treaties, Acts of Congress, Executive Orders, and all formal communications with the Federal Government. At the time Captain Clark encountered his first Crow, our Crow Tribal Estate encompassed more than 38.5 million acres of land, located primarily in Montana and Wyoming.

From the first day that my relatives met Captain Clark until today, April 7, 1988, the relationship between the Crow Tribe and the United States has always been characterized as peaceful. The Crow Tribe takes historical pride in the fact that we have never taken up arms against this Great Nation.

From our first Treaty of Friendship in 1825, to our second Treaty of 1851, to our last Treaty of 1868, till today, we have stood and fought, and bled and died, on every major battlefield of every war conducted against the United States of America.

The last traditional Chief of the Crow Tribe was Chief Plenty Coups. He was selected by all of his fellow tribal chiefs to represent all American Indian People at the formal "Dedication Ceremony for the Tomb of the Unknown Soldier" at Arlington Cemetery. On that occasion, Chief Plenty Coups presented President Warren G. Harding with his Eagle-feather bonnet and coup sticks as a gesture of respect for this "unknown warrior

known only but to God". He brought tears to the eyes of President Harding and all present when he stated that the unknown warrior may have been an American Indian fighting for his country - the United States.

Then he pledged again that there would be only peaceful relations between the Crow Tribe and the United States, forever. Both his Eagle-feather bonnet and his coup sticks were encased in glass in the Museum at The Tomb Of The Unknown Soldier, Arlington Cemetery, for all American citizens to see.

Many of you here today may have viewed the sculpture of Chief Plenty Coups located at the downtown Harvard Club on the top floor of The Shamut Bank Building. If not, I hope that you may visit it soon.

Today, the land base of the Crow Tribe has been reduced to approximately 2.5 million acres, 36 million acres less than we owned in 1851, only 137 years ago. Ladies and gentlemen, I submit that the Crow Tribe has contributed greatly to our Great Nation by peacefully giving up 96% of our original land base.

Fortunately, we have indeed been blessed by the Creator, for underlying the remaining 2.5 million acres which comprises our present Crow Tribal Estate, are 406 billion tons of coal and undetermined quantities of oil, natural gas, and other valuable minerals.

On the surface exists one of the largest and most productive farms in the world, and though it runs our sacred Big Horn River and other tributaries to the Yellowstone River, with an average flow of 3.2 million acre/feet of water each year.

However, ladies and gentlemen, not all is well on the Crow Indian Reservation in April, 1988. As I stand here before you, we have 85% unemployment back home. The majority of my People must rely upon General Assistance and Commodities for their very survival. Poverty is the norm among the majority of the 8,169 members of my tribe. Drug and alcohol abuse have become increasingly serious problems. Last week the local Utilities Companies began turning off power to a large number of Crow homes, 500 to be exact, across the Reservation. The absence of funds required to pay their bills is due to the reluctance of the U.S. Department of Health and Human Services to provide an annual "Low Income Energy Assistance Grant" this year, though funds have been allocated for this purpose.

My own Crow Tribal Administration Office has had our power turned off six times in the past year. Now, even my telephone services have been disconnected. My budget in 1988 for the entire year is only \$371,000---while the same budget was \$10,000,000 in 1976.

Now, I will discuss what I see as some of the major issues we are facing in our struggle for "Economic Sovereignty and Justice".

PART 3.0

MAJOR ADDRESS

3.1

Crow Language, Culture And Values Affecting Crow Economic Sovereignty

In April, 1988 nearly 85% of the membership of the Crow Tribe are bilingual. Crow is our first language and English is our second language. Similarly, at least 85% of our 8,169 members are active participants in the culture and traditions of the Apsaloka People. While some may expect that I may identify language and culture as negative factors affecting economic progress, for our Tribe, this has not been the case.

While Crow People share a deep cultural respect for our lands and waters, we know that properly managed, these God-given resources may be utilized to the benefit of our Tribe. For so long, we as American Indians have been characterized or stereotyped as creatures of nature; children of nature living in harmony with nature. But, is poverty "living in harmony with nature"? While drainage of oil resources occurs not 100 yards from our border; while our coal deposits are shipped to the power plants of the mid-West; while our sacred rivers are used to generate hundreds of megawatts of power for the population centers of the West? No. Thus, the Crow Tribal Council has provided authority to me to develop a "Crow Economic Development Plan". During the coming

year, Professor Kalt and his staff here at the Kennedy School of Government will begin assisting us in the development of this Plan. Last year, Professor Kalt and his graduate students helped us complete several critical projects. We are very thankful for your assistance, Dr. Kalt, and that of your fine graduate students, since we would not have been able to complete these projects without your extraordinary efforts!

Upon taking office, my Administration developed a new "Crow Tribal Mission Statement", and "Crow Tribal Goal Statements", which have met with the approval of the Crow Tribal Council. They may be found on the back of our "Crow Tribal Newsletter", which we have given you today.

Throughout the development of our new Mission and Goals, the Crow language was utilized widely, and Crow cultural values were incorporated in the body of each statement. Therefore, I see such factors as Crow language and culture as an asset to our efforts toward "Economic Sovereignty", not as a liability. One prime analogy is Japan. While retaining their culture, they are thriving in the Western, Capitalistic world.

President John F. Kennedy, for whom this fine institution was named, stated that cultural diversity is one of the strengths of Democracy. I assert that our Crow Tribal culture is an important

part of the fabric of the "Quilt of Democracy". My Crow People want to contribute to the culture and economy of our Great Nation! The Crow Way of Life is still an unexplored frontier. We are among the least talked about Indians. Whenever my Crow children are asked to name a famous Indian, they name Sitting Bull or Crazy Horse. They have learned about these past leaders through books. The time has come for the Crow Tribe to step forward, and fill our rightful place in history.

3.2

Crow Tribal Management Factors Affecting Crow Economic Sovereignty

Although the Crow Tribe has a population of 8,169, only 215 Crow Tribal members have graduated from a college or university. Therefore, less than 3% of our People have had the benefit of a higher education. We are proud to report that two of our Tribal members are Harvard graduates: one from the Harvard Graduate School of Education, and one from the Kennedy School of Government.

In addition, two of our Tribal members received Masters Degrees in Linguistics from the Massachusetts Institute of Technology, located down the Charles River here in Cambridge, Massachusetts. We also have one Medical Doctor, one Veterinarian, one Pharmacist, several Nurses, two Economists, one Soil Scientist, one Geologist, four Lawyers and, several Educators in our list of

professional Crow human resources. While Chief Plenty Coups spoke highly of the value of Education to the survival of the Crow People, unfortunately Education has not received the attention it deserved in the past. If I am re-elected Chairman of the Crow Tribe, I intend to make Education my number one priority!

One obvious problem with regard to Management is due to the absence of a sufficient number of professionally-trained Crow Tribal members in either Public Management or Business Management. Furthermore, due to the lack of financial resources, it is extremely difficult as the top Executive Officer of the Crow Tribe to be in a position to offer attractive salaries and benefits to those professional Crow Tribal members who may want to return home to work for Crow Tribal Government.

In addition to the problem of a limited number of professional Crow Tribal members, and the absence of funds to attract them, another problem exists. Non-Indian professional assistance is expensive. In the absence of funds provided by the Federal Government, for instance, by the Bureau of Indian Affairs or other Federal Agencies, we are left in a form of "Economic Limbo". As I stated recently in Congressional testimony to the Chairman of the Subcommittee on Interior Appropriations of the U.S. House of Representatives: "Economic sovereignty has its

price"!

While my mission and goals have been identified, I lack the funds necessary to hire the professionals either Indian or non-Indian, that I needed to draft economic development plans and to implement them.

Again, I am very appreciative of the direct assistance provided my Administration by Professor Joseph Kalt, his staff, and graduate students here at the Kennedy School of Government, which we would not have been able to acquire elsewhere. I would like to expand our relationship with Harvard University to include the Harvard Business School, the Harvard Graduate School of Education, the Harvard Law School, the Harvard School of Design, the Harvard Medical School, and all of the others fine schools which comprise Harvard University.

Recently, your President, Derek Bok made a presentation in which he called for a closer relationship between Government and universities such as Harvard University. I would hope that the relationship would extend to Tribal Government as well as Federal and State Government. Ladies and gentlemen, we desperately need your friendship, your guidance, your expertise, and your help if we are to achieve "Crow Economic Sovereignty".

With regard to the development of our Crow Human Resources, my

goal to have twenty-five Crow Indian Students enrolled at various schools within Harvard University in the next four years! Also, I hope that many of the Professors and Graduate students at Harvard University will be interested in guest speaking engagements, or visiting professorship basis at our two year college, Little Big Horn College, located at Crow Agency, Montana.

3.3

Legal Factors Affecting Crow Economic Sovereignty

One of the most critical factors affecting the efforts of my Administration toward achieving "Crow Economic Sovereignty" is the field of Law. While some here today may be aware of it, you should know that the field of Indian law comprises one of the largest sets of laws in the entire world. All of our Treaties are subject to legal interpretations. In addition, via Federal and State Legislation, Judicial decisions, Federal rules and regulations, every facet of Crow Tribal Government is directly affected by the Law. Title 25 of the code of Federal Regulations entitled, Indians, is but one example of the extent of Federal Indian law and regulations with which Tribal leaders must deal every day. These Laws which have been legislated by the Congress of the United States, interpreted by the Courts of the land, or issued as Rules and Regulations by the Bureau of Indian Affairs,

or Indian Health Service, do NOT ALL promote "Crow Economic Sovereignty".

For instance, although Congress approved Public Law 93-638, the Indian Self-Determination and Educational Assistance Act, for the purpose of allowing Tribal Governments to exercise a degree of "Sovereignty", by contracting Government programs from the various Federal agencies, most are still managed by the Bureau of Indian Affairs and other Agencies. While P.L. 93-638 promised to afford a greater degree of autonomy for Tribal Governments, with regard to many tribes, "638 contracting" has become a hollow policy. Receipt of Federal contracted funds sometimes are more a liability than an asset, since funds provided by the Federal Government are held to the highest degree of accountability - sometimes to our detriment. While accountability is a necessary tool for proper management, it may also be used in an arbitrary and capricious manner as a means of exerting the force of Law against Tribal Governments: One Montana tribe for instance, just last week, saw the felony conviction and sentencing of members of their tribal government for embezzlement, for improper disbursement of General Assistance (G/A) payments to ineligible recipients. In one charge against an Indian defendant, the amount in question was only \$38. While the felony sentences were deferred, the convictions stand, and will be the subject of an appeal by the Indian defendants. However, during the process of

conducting the Federal trial, at a cost to the taxpayers of over \$100,000, the reputation of the entire Tribe has been irreparably damaged.

Another instance where Law impedes progress toward Tribal economic sovereignty regards decisions by the U.S. Supreme Court, which seem to be contradictory to established treaties between the Federal Government and the Tribes. In Montana v. United States, decided by the U.S. Supreme Court in 1981, the decision defied all rules of logic, by ruling that the bed of the Big Horn River, which literally bisects the Crow Reservation, belonged to the State of Montana rather than the Crow Tribe. As stated earlier, the Crow Tribe signed three treaties with the United States, in which the land, water, and resources within our boundaries were reserved by the Crow Tribe for our exclusive use forever. For the Crow People, "Forever Ended" with the "Big Horn River Decision" by the U.S. Supreme Court in 1981.

The negative effect of that decision so demoralized the Crow People that any climate for progress toward "Economic Sovereignty" was thwarted for at least six years. How may the Crow Tribe develop progressive attitudes among our People, at the same time that 35,000 acres of land underlying our most sacred river has been taken away from us in contravention of our sacred treaties, by Law, in the light of day?

A third example of how law itself sometimes becomes a negative factor impeding "Crow Economic Sovereignty" regards the area of Indian taxation. While recent U.S. Supreme Court cases have ruled that Tribes have the power to tax within the exterior boundaries of their Reservations, this right is not recognized by Energy companies, Mining companies, Agricultural Conglomerates, Farmers, Ranchers, nor even Montana Senators and Congressmen.

For instance, when I tried to hold my first public hearing with regard to Crow taxation, a fire-storm of public opposition arose from the Reservation all the way to Capital Hill. Must I be forced, as tribal chairman, to pay all of the costs, in terms of attorney fees, public criticism, and Congressional consternation for only trying to implement the Law of the land? Or should our Trustee, the Bureau of Indian Affairs be instructed to assist the Crow Tribe in developing a responsible and equitable Crow Tax Code, which will provide needed funds to operate Crow Tribal Government, without having to rely exclusively on the Federal Government? The Crow Tribe would like to pay its own way for a change!

Sometimes U.S. Supreme Court decisions, the Law of the land, do not result in immediate remedies when Indian tribes win. Several weeks ago on January 11, 1988 in a case entitled Crow Tribe of

Indians v. the State of Montana, known also as the Crow Severance Tax Case, the Crow Tribe was awarded approximately \$100,000,000 in past due severance taxes collected on coal mined on the Crow Reservation. Twenty-eight million dollars, which had been held in a separate escrow account, was ruled to immediately belong to the Crow Tribe. It has been nearly three months since the U.S. Supreme Court decision and we still do not have one penny of our own money. Now, the lower Federal District Court which originally ruled against us, has granted a motion for a claim against these monies by the Utility Companies which purchase our coal from the Mining Company. To us this seems to a Gross miscarriage of Justice!

Last, but of critical importance, is the issue of the right of Tribal Governments to "free and independent counsel". Ladies and gentlemen, do you know that the Bureau of Indian Affairs has exclusive authority to approve or disapprove all attorney contracts of any kind? In rare instances where a Tribe may be forced to litigate against their trustee, the BIA, contracts are not approved! If the Tribe has enough of their own funds to pay their own lawyers, they may get their day in Court. However, without funds Tribes are precluded from the same "due process of law" afforded each and every other American citizen, even though in 1924, via the "American Indian Citizenship Act" the Congress of the United States granted full citizenship to all American

Indians in the United States. This is a serious question of United States Constitutional law which must be resolved!

3.4

POLITICAL FACTORS WHICH AFFECT CROW ECONOMIC SOVEREIGNTY

The fourth critical factor which affects the degree of progress toward "Crow Economic Sovereignty" maybe termed Politics. Surely, each and every person in this room today is well aware of the meaning of this term. Depending directly upon the policies of the National Administration in Washington D.C., as exercised toward the Crow Tribe via the Bureau of Indian Affairs and the Indian Health Service, our efforts toward "Crow Economic Sovereignty" will ultimately succeed or fail. Unfortunately, Ladies and Gentlemen, I must stand before you here today, and report that recent actions by the Bureau of Indian Affairs, U.S. Department of the Interior have resulted in the destabilization of Crow Tribal Government!!

Withholding of Crow Tribal Funds, reduction and delays in Budget categories, intervention in the Crow Tribal Judicial system, and other abuses of power exercised against the Crow Tribe by the BIA have forced me to take legal action.

On August 4, 1987 I filed suit in the U.S. Federal District Court for the District of Columbia against the Secretary of the Interior, the Assistant Secretary for Indian Affairs, and others

in a case entitled The Crow Tribe of Montana v. The United States of America, et al. for Breach of Trust, arbitrary and capricious conduct, breach of contract, for violations of Constitutional rights, and tortuous interference with economic relationships.

This is the first time in the entire history of peaceful relations between the Crow Tribe and the United States that we have been forced to undertake such a serious negative action. The original purpose of this litigation was to render an exit accounting of the management of the Crow Tribe from 1982 to 1986, during the period of time the Crow Tribe was under the absolute control of a Bureau of Indian Affairs administrator. To date, we do not know how millions of dollars were spent -- but my Administration has inherited the bill! On October 23, 1987, in apparent retaliation for bring this lawsuit against our Trustee, the Bureau of Indian Affairs, approximately 30 Federal Agents of the U.S. Treasury, BIA, and others raided my Crow Tribal Administration Building, and confiscated all of our financial records, and other records as well. Without reading me my Constitutional Rights, nor serving me with a proper affidavit indicating the charges upon which the search warrant was based on, my records were seized! Later, at a hearing before the Subcommittee on Appropriations, U.S. House of Representatives, held in Washington D.C. on October 27, 1987, I was finally served the affidavit which charged me with embezzlement of funds. Both

Secretary Donald Hodel and Assistant Secretary for Indian Affairs Ross O. Swimmer were present at this Hearing. Secretary Hodel stated that he authorized this investigation as "... what we believed to be our statutory and legal obligations...".

Ladies and Gentlemen, is this your conception of the "Indian Trust Responsibility?" Does sponsorship of raids against the trustor inspire "trust" in his trustee? Since the raid against us, we have now been questioned by agents of the Federal Bureau of Investigation, the F.B.I. We await the Central Intelligence Agents (C.I.A.), and the U.S. Cavalry -- for whom we were scouts prior to the "Custer Battle" on June 20, 1876. Ladies and gentlemen, unfortunately the "Indian Wars" have not ended, they've just moved to Congress and the Courts!

3.5

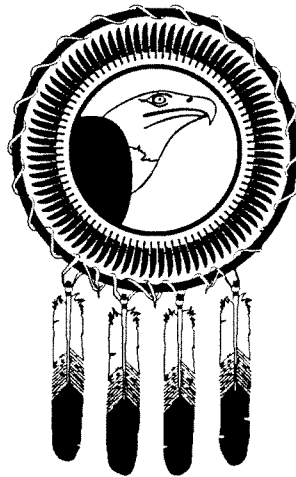
SUMMARY AND CONCLUSION

In closing, Ladies and Gentlemen, I want to reassert my goal for my Crow People - to continue my search for peace and prosperity by struggling for Economic Sovereignty! I need your help; I need your support; GOD BLESS YOU ALL.

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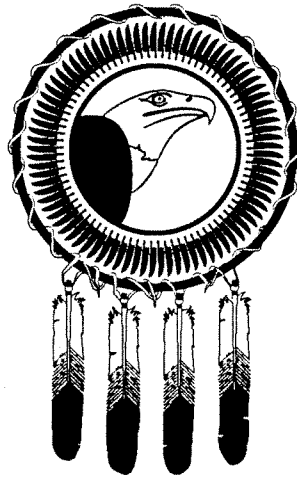
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