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UNITED STATES DEPARTMENT OF JUSTICE

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BANKING IN INDIAN COUNTRY:

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EXPANDING THE HORIZONS

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Speech Given by

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Attorney General Janet Reno

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Renaissance Hotel

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999 Ninth Street, N.W.

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Washington, D.C.

20

Thursday, July 24, 1997

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1 P R O C E E D I N G S

2 THE ATTORNEY-GENERAL: Thank you very
3 much, Gene. When I first met the Comptroller,
4 I thought that he was a banking type, a
5 financial type, and it didn't take me long to
6 learn that he cared more about people than any
7 dollar that he'd ever made and that he has made
8 clear that feeling in his work in the Office of
9 Comptroller of the Currency.

10 And I just want you to know how much
11 I've appreciated the opportunity to work with
12 you. I also want to thank you for inviting the
13 Department of Justice to co-sponsor this
14 conference. I was so excited when I first
15 heard about it. I think of the many activities
16 that I've been involved in it's one of the most
17 hopeful and really exciting initiatives that
18 I've seen, and so I thank you all for being
19 here today.

20 I'm pleased to know that there are so
21 many tribal leaders, banking industry
22 representatives, and federal agency personnel,

1 and I know that many of you have travelled a
2 long way. I hope it will be rewarding for you,
3 and I hope it will be a useful conference.

4 I'd like to focus my remarks on three
5 areas: One, tribal self-government; two,
6 Indian lands, and economic development; and,
7 three, fair lending.

8 Before the first Europeans set foot
9 on North American continent, this great land
10 had been cherished and cultivated for countless
11 generations by American Indians.

12 You have no idea what it's like as a
13 child to go to the Florida Keys, to go to a
14 place where you think nobody's been before, to
15 come around the corner of a high mound, and to
16 reach down and pick up a piece of pottery that
17 had been there for 1,000 years.

18 It gives you a sense of reverence, a
19 sense of awe, a sense of the great, great
20 traditions of American Indians, whether they be
21 on a mesa in the far West or on a small island
22 in the Florida Keys at the top of a mound.

1 They have established powerful civilizations
2 and rich and thriving cultures.

3 Today we recognize that American
4 Indians were indeed the first environmentalists
5 in this Nation who understood far better than
6 we that air, water, and mother earth must be
7 treated with respect and preserved for
8 generations to come.

9 As Chief Seattle of the Suquamish
10 tribe stated so eloquently: Every part of the
11 soil is sacred. Every hillside, every valley,
12 every plain, and grove has been hallowed by
13 some sad or happy event in days long vanished.
14 Even the rocks as they swelter in the sun
15 along the silent shore thrill with memories of
16 stirred events connected with the lives of my
17 people."

18 The lives of his people and of so
19 many other tribes have been part and parcel of
20 this land for so many, many years. And thus,
21 as European nations came to this country, they
22 recognized Indian tribes as possessors of the

1 soil and as self-governing nations. They
2 entered into treaties with tribes soon after
3 they landed in America.

4 Since the founding of our great
5 Nation, the United States has recognized Indian
6 tribes as domestic, dependent nations under the
7 protection of the federal government. Through
8 hundreds of treaties and statutes, our Nation
9 guaranteed the right of Indian tribes to
10 self-government and dealt with tribes on a
11 direct government-to-government basis.

12 In 1787, the Continental Congress
13 declared that: "The utmost good faith shall
14 always be observed toward the Indians. Their
15 lands and property shall never be taken from
16 them without their consent, and in their
17 property rights and liberty they shall never be
18 invaded or disturbed."

19 History tells us that in a large part
20 of our history we have strayed from these
21 ideals. But these great principles of
22 government guide our dealings with tribes today,

1 as evidenced by President Clinton's executive

2 directive to federal departments and agencies
3 to work with Indian tribes on a government-to-
4 government basis concerning tribal
5 self-government, treaty rights, and trust
6 resources.

7 In our Department of Justice policy
8 on Indian sovereignty we pledge to support and
9 assist Indian tribes in the development of
10 their law enforcement systems, tribal courts,
11 and traditional justice systems. I learned
12 long ago that tribes across America can tell us
13 an awful lot about what we don't know about
14 justice and how to establish systems of justice
15 that not only focus blame but instead heal.

16 The department provides appropriate
17 support for tribal governments in litigation
18 before the federal court, and we have tried to
19 make that more understandable. When I first
20 came to Washington and saw the Department of
21 Justice and all 107,000 people, I couldn't
22 figure out what was where and who did you go to

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1 to get what.

2 When I went to the listening

3 conference in Albuquerque in May of 1994, the
4 common complaint was, "I don't know who to talk
5 to in the Department of Justice to have our
6 Tribe's voice heard with respect to what your
7 position should be in terms of litigation." And
8 so we created the Office of Tribal Justice to
9 provide a really open door for all tribes so
10 that they would have access and know where to
11 go to have their voices heard as one sovereign
12 to another.

13 To help Indian tribes make their
14 communities safer and better homes for their
15 people we are also making available to the
16 tribal governments our law enforcement and
17 crime prevention programs, such as Stop Violence
18 Against Indian Women Program and the Drug Court
19 Program.

20 Our Office of Policy Development has
21 a Tribal Courts Partnership Project that
22 increases opportunity for cooperation among

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1 federal, tribal, and state judges. It serves
2 to provide tribal courts with information about
3 funding and technical assistance and develops

4 innovative training for tribal judges.

5 In all of our work, our goal is to
6 assist tribal governments to take their
7 rightful place in our Nation's family of
8 governments and to help Indian communities
9 secure safe, healthy, and productive lives for
10 their family and for their children.

11 The Department of the Treasury has
12 also been active in working with Indian tribes.
13 Treasury's Financial Crimes Enforcement Network
14 has worked on a government-to-government basis
15 with Indian tribes to assist them in
16 understanding their responsibilities under the
17 banking laws.

18 Last year, the Internal Revenue
19 Service published an Indian Assistance
20 Handbook, recognizing the government status of
21 Indian tribes. It explains, "Tribal government
22 power includes the authority to choose the form

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1 of tribal government, determine tribal
2 membership, regulate tribal and individual
3 property, levy taxes, establish courts, and
4 maintain law and order." Copies of that

5 handbook are available today at the conference.

6 Within the Department of Treasury the
7 Comptroller of the Currency has taken a really
8 important role in the leadership efforts with
9 respect to Indian affairs. I hope that his new
10 guides to "Mortgage Lending in Indian Country"
11 and "Providing Financial Services to Native
12 Americans in Indian Country" will spur banking
13 and investment.

14 I'm very pleased to be here today
15 because he has been so personally committed to
16 this effort and to improving the availability
17 of financial services in Indian country.

18 Under our trust responsibility the
19 federal government should take positive,
20 proactive steps like this to support tribal
21 self-government and economic self-sufficiency.

22 But as I talk about some of the

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1 things that we have done, I feel a remorse
2 because there is so much that is left to do.
3 We still have tribes without adequate law
4 enforcement. We still have young people
5 without adequate detention facilities that are

6 focused on tribal traditions and that give a
7 young person a chance to get off on the right
8 foot after they've gotten into trouble.

9 We still don't have adequate
10 prevention programs, and so we must all
11 rededicate ourselves to working together,
12 sovereign to sovereign, to address these
13 critical issues.

14 Let me say a few words about Indian
15 lands and reservation economies in that light,
16 then. In the 19th century, the United States
17 entered into treaties which pledged to secure
18 Indian reservations as "permanent homes" for
19 Indian people.

20 In some areas reservation lands
21 remain largely in Indian ownership with title
22 to the lands held by the United States. But in

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1 other areas Indian reservations have non-Indian
2 fee lands mixed in with their reservation
3 lands.

4 This is a result of the United States
5 19th century Allotment Policy which divided
6 tribal lands by issuing 160-acre parcels of

7 lands to individual Indians and at time
8 resulted in the sale of so-called "surplus
9 lands."

10 From 1887 until the passage of the
11 Indian Reorganization Act in 1934, Indian
12 tribes lost almost 100 million acres of land
13 under the Allotment Policy. Under the Indian
14 Reorganization Act Policy, President
15 Roosevelt's New Deal for Indians, Indian tribes
16 may petition the Secretary of the Interior to
17 acquire additional lands and trust status for
18 them or for their people.

19 And the Department of Justice
20 recently defended the Secretary's authority to
21 acquire Indian lands. We recognize that
22 reacquisition of land for Indian tribes and

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1 individuals may be necessary to assist tribes
2 in rebuilding economies injured by large land
3 losses under the Allotment Policy.

4 Historically, lenders were reluctant
5 to finance mortgages in Indian country because
6 of the unique status of Indian trust lands. But
7 recently statutes have eased the requirements

8 for mortgage lending in Indian country, and new
9 federal programs seek to create a secondary
10 market for Indian country mortgages.

11 In the Indian Financing Act of 1974,
12 Congress declared its policy to provide
13 capital, to help develop and utilize Indian
14 resources, both physical and human, to a point
15 where the Indians will enjoy a standard of
16 living from their own productive efforts
17 comparable to that enjoyed by non-Indians in
18 neighboring communities.

19 Under this Act, a number of Indian
20 tribes have made important and wonderful
21 progress. The Mississippi Band of the Choctaw
22 have developed electronics, greeting card

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1 construction, and printing businesses, a
2 shopping center, and a golf course.

3 I understand that Chief Martin is
4 here and that he will share his remarkable
5 story with you this afternoon. In another
6 example, the Blackfeet Indian Tribe of Montana
7 organized a bank to provide financial services
8 to its reservation residents.

9 Blackfeet National Bank makes housing
10 and business development loans. Eloise Cobell,
11 who helped start the bank, advises other tribal
12 leaders: "Just do it. Use the expertise that
13 is available in the Indian country and do it."
14 I'm happy that she's here today to share her
15 expertise with you.

16 The Indian Gaming Regulatory Act
17 promotes "tribal economic development,
18 self-sufficiency, and strong tribal
19 governments." Indian tribes use the
20 governmental revenue derived from gaming for
21 government purposes such as roads and water
22 systems, hospitals, schools, law enforcement,

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1 and educational programs.

2 Some tribes have achieved financial
3 success through gaming. A few of these tribes are
4 wisely seeking to diversify their economies
5 through banking and other endeavors. And some
6 tribes are seeking to reach out to non-gaming
7 tribes to make sure that we build a strong
8 economy throughout all of Indian country, and I
9 commend them.

10 Yet many American Indians and Alaska
11 Natives continue to be among the poorest people
12 in the nation. That is inexcusable. On some
13 of the larger reservations BIA labor statistics
14 indicate that unemployment reaches about 50
15 percent of the Indian labor force.

16 The 1990 Census reported that 43
17 percent of American Indian and Alaska Native
18 children under five years old fall below the
19 poverty line. The statistics make clear that
20 we all need to work together to create banking,
21 investment, and economic opportunity in Indian
22 country.

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1 I look forward to a report from the
2 Office of Tribal Justice on the lessons learned
3 from all of you today and as to what we might
4 be doing to advance the work that you do here
5 today.

6 Before closing, let me now turn to an
7 issue which presents a challenge to all of us,
8 lending discrimination. Federal law prohibits
9 lending discrimination based on race or
10 national origin, among other reasons, by the

11 federal, state, and local governments, or
12 individuals.

13 This protection extends to American
14 Indians and other minorities in voting,
15 education, housing, credit, public
16 accommodations, and employment. The existence
17 of the federal trust responsibility towards
18 Indian tribes does not diminish the obligations
19 of state and local governments to respect the
20 civil rights of Indian people.

21 Every community needs fair access to
22 credit, including American Indian communities.

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1 Indeed, credit is crucial to Indian tribes
2 because, as we have discussed, the need for
3 economic development is so great in Indian
4 country. For the last several years the
5 Department of Justice Civil Rights Division has worked
6 closely with banking regulatory agencies, such
7 as the Office of Comptroller of the Currency,
8 in vigorously enforcing the fair lending laws.

9 For example, in 1995, the Office of
10 the Comptroller referred a lending
11 discrimination case to our Civil Rights
12 Division concerning a bank in Nebraska that

13 served the Pine Ridge Indian Reservation. As
14 a result of this referral and further
15 investigation, the Civil Rights Division
16 brought a fair lending suit against this bank
17 in 1996.

18 One example is helpful in
19 illustrating the type of discrimination alleged
20 in this case. An Indian professional who
21 worked for the tribe and was paying his loan
22 through a well established payroll deduction

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1 plan was charged 16 percent interest by the
2 bank.

3 A similar loan to a non-Indian who
4 had a credit history that included over 50
5 bounced checks required only an 11-percent rate
6 of interest. This case was successfully
7 concluded in May of this year with the entry of
8 a consent decree by the court, which will help
9 protect the ability of Indian people to gain
10 credit and economic opportunity.

11 Under the settlement, monetary relief
12 of \$275,000 will be provided to Native
13 Americans. \$175,000 for a fund that will

14 compensate victims of discrimination and
15 \$100,000 which will be used to pay for loan
16 application fees for Native Americans in the
17 future.

18 In addition, the bank will develop
19 credit-related education programs on the
20 reservation and recruit qualified tribal
21 members to work at the bank. This settlement
22 is important because it send a message to the

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1 banks and their customers that everyone should
2 be treated fairly when seeking a loan.

3 As bankers and as tribal leaders, I
4 hope that all of you will work together to
5 ensure that the spirit of the fair lending laws
6 is honored. I have been so impressed with the
7 opportunity to work with bankers over these
8 four years. I don't think I've met a banker
9 that in any way would condone discrimination.

10 What has impressed me more is the
11 willingness of these bankers to look hard at
12 what they're doing to make sure that there is
13 no subtle or accidental or unappreciated
14 discrimination within their marketing, within

15 all the processes of lending that they engage
16 in.

17 And I would urge all of you today to
18 reconsider what you do, and to make sure that
19 we are as fair as possible in our lending
20 practices.

21 In closing, let me leave you with a
22 thought. Chief Joseph of the Nez-Perc, tribe

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1 once said, "Give all the people an even chance
2 to live and grow. All people were made by the
3 same Great Spirit. They are all brothers and
4 sisters. The earth is our mother, and her
5 people should have equal rights."

6 When you consider our Nation's
7 enduring commitment to liberty and justice,
8 remember American Indian people and their
9 passionate desire for liberty and for
10 self-government in their own lands. Also
11 remember that in every tribe, every pueblo, and
12 every native village there are Indian veterans
13 who put their lives on the line for the United
14 States of America.

15 Think about those tribal lands that

16 you have visited or that you are from. They
17 represent the land, the water, and the air that
18 you have taught us to cherish. Think about
19 your tribal traditions of justice. They
20 represent a spirit of healing, and not of
21 division, that can be such a vital force in the
22 years to come in this Nation.

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1 And with conferences like this and
2 all you do, whether it be as a banker, as a
3 tribal leader, as a federal employee who cares,
4 let us see what we can learn from the wonderful
5 people who have inhabited this continent for
6 thousands of years to make this world a better
7 place in the next thousand years to come.

8 (Whereupon, the transcribed
9 PROCEEDINGS were adjourned.)

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