

Land, Water Rights-

Be Subjected to Judicial Supervision

Senator Edward M. Kennedy announced last week that the Subcommittee on Administrative Practice and Procedure is planning hearings next month on possible administrative actions that could reverse the continuing breach of trust between the Federal Government and the Indian people. Senator Kennedy said:

"By all legal standards, the land and water which the United States holds in trust for the Indian people should be placed in receivership and be subjected to continuous judicial supervision. In almost every case where Indian rights and interests have conflicted with those of governmental agencies, the Indian rights and interests have yielded or been defeated.

"This has become practically a tenet of administrative practice, intolerable not only because Indian rights are essentially private property rights, but

also because the Federal Government is often the only possible advocate in behalf of those rights. And based upon its performance as an advocate in

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behalf of Indians, the Government should be disbarred."

Over a year ago the President admitted in a message to Congress that "Every trustee has a legal obligation to advance the interests of the beneficiaries of the trust without reservation and with the highest degree of diligence and skill.

Under present conditions, it is often difficult for the Department of the Interior and the Department of Justice to fulfill this obligation." "When conflicts arise," added the President, "the Indians are the losers."

Senator Kennedy observed that "One would think that a President who can wage wars, create departments, and freeze wages could certainly do something to protect Indian rights.

"Yet the best this Administration has done in response to the voiced concern with these conflicts of interest is to send a bill to Congress. In recent letters, White House and Interior

Department officials have reiterated concern but also repeated the conclusion that only legislation—the Trust Counsel bill—can resolve the conflicts.

"I for one believe that immediate administrative actions must be taken to insure that there will be Indian property to be protected by the time the Trust Counsel bill can be passed."

In December 1970 Senator Kennedy's subcommittee published "A Study of Administrative Conflicts of Interest in the Protection of Indian Natural Resources."

This publication documented specific instances where Indian interests were giving way to other governmental interests through inadequate or nonexistent responses of the United States to Indian needs.

Some specific recommendations for administrative actions were contained in the print—none of which have been adopted by the Government.