**A Review and Fact Check of the book entitled, “Odyssey of the Flathead Indian Reservation and Public Law 280” by George W. P. Simpson**

Written by Gale Decker, Lake County Commissioner

 Mr. Simpson’s credentials for authoring this 477-page book include the following, “Mr. Simpson, the 28th Chief of Police for the City of Polson, Montana, brings his extensive law enforcement experience and extensive research to the forefront in this scholarly work. His career has been dedicated to fostering stronger relationships between law enforcement and tribal communities.”

Trying to comprehend pages and pages of information on a multitude of topics including, but not limited to the Indian Justice Systems, treaty making, geopolitics, federal Indian policy, foundational legal concepts, Tribal immunity, public administration, eugenics movement, intellectual autonomy, scientific racism, restorative justice, equitable income distribution, feedback loops, Montana property tax structure, etc. leads a reader to wonder how a self-educated man could possibly become so enlightened on such a multitude of topics.

Simpson characterizes his book as “scholarly” and undeniably desires that his readers should be impressed with his research, not only of the history of the Reservation but also Public Law 280. Simpson states, “meticulous research and credible sources underpin this work, ensuring a trustworthy account of events and context….. Simpson reinforces his commitment to only using “reliable data and research” in his writing on page 463 in wrapping up his book.

This commitment to “meticulous research” and “reliable data” went off the rails numerous times in his writing. Exposing information that is blatantly erroneous was relatively easy. As a new implant to the area from Florida it is obvious that his understanding of Reservation history and law enforcement is diminished.

Included in the following are excerpts from Simpson’s book. After reading and evaluating the facts, readers will realize that Simpson has contributed nothing to help his audience understand this Reservation or PL 280. In fact, his book does a disservice to readers by creating more confusion with his false information.

Following, I have taken some excerpts from Simpson’s book and fact checked them. I am hopeful that the information I present will actually discredit much of what he has written.

1. ***Excerpt:*** *Lake County officials should have recognized and begun preparing for the inevitable loss of revenue funds as the tribes publicly moved on dam acquisition. The county seemed to gamble on the notion that the tribes would never obtain ownership instead of preparing for the day the tribes would, (pg. 313).*

Fact check:Simpson discusses in detail the acquisition of the former Kerr Dam by the CSKT in 2015. His research of the details of the acquisition apparently did not include the following: “Resolution of the Governing Body of the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation.” (Exhibit FJH-6, Project No. P-5-103, Exhibit No. FJB-25, No. 84-158).

A portion of language found in the resolution reads, “Be it further Resolved, that the Tribes will support the inclusion by FERC in any license for the KERR Project issued to them of a requirement for payments to Lake County in accordance with this resolution.” The Resolution was adopted June 12, 1984, by a vote of 9-0. Payment to Lake County was to be not less than $300,000 and not more than $500,000 per year, with a cost of living adjustment included.

A requirement of the Federal Energy Regulatory Commission is that if a transfer of ownership of a hydroelectric facility is to occur, any loss of tax revenue to local governments must be mitigated. The County had been promised payment from CSKT to mitigate the tax loss not only to the County, but also to schools and other entities on the reservation by the tribal resolution. The CSKT did not follow through with the commitment made with the resolution and the County has not received any compensation for loss of property tax revenue.

1. **Excerpt:** *In 2015 the tribes had the option of purchasing the dam outright. The MPC eventually sold the dam to the Pennsylvania Power and Light (PPL), (Pg. 149).*

Fact check: “PPL Montana and Northwestern Energy (NWE) owned and operated the Kerr Project succeeding MPC and have overseen operation since it’s construction.” (Tripp Burns, Lake County Leader, August 27, 2015.)

Simpson confuses PPL Montana with Pennsylvania Power and Light, a company based in Allentown, PA. Anyone remotely informed on the history of the sale of the Kerr Project to the CSKT would know that the facility had never been owned by a company in Pennsylvania. Montana Power Company (MPC) sold the facility in the 1990’s to NorthWestern Energy and the CSKT purchased the dam from NorthWestern in 2015 for $18.2 million.

1. **Excerpt:** *Based on assessed electricity production values, Lake County received approximately $2.8 million a year in payment in lieu of taxes (PILT) from PPL (Pennsylvania Power and Light), (Pg. 149).*

*When the tribes took ownership (of the dam) Lake County could no longer collect the nearly $3 million in annual PILT funds it had been, (Pg. 149).*

Fact check: The County never received any Payment in Lieu of Taxes for Kerr Dam. The 2015 tax bill (the last year it was in taxable status) for Kerr Dam was $1,963,423.90. Lake County government’s share of that total was $194,650.

A search of Federal PILT payments to counties produced by the Montana Association of Counties (MACO) shows that in 2015, Lake County’s total PILT payment was $421,741, a far cry from Simpson’s assertion that the County received $2.8 million in PILT funding from the dam alone.

Simpson espouses numerous times that the County can solve revenue shortfalls related to actions by the CSKT, such as taking ownership of the dam, by negotiating PILT payments with the tribe. Apparently Simpson missed the sessions on negotiations in his vast law enforcement training. What reprisals were available to the County when the tribe reneged on their agreement to make PILT after acquiring the dam? Threaten to not plow snow on Kerr Dam Road? In negotiations, both parties need to have something to offer or threaten to takeaway if negotiations are to be successful. He relates that the city of Polson has successfully negotiated PILT agreements with the CSKT. Those agreements have been reached because the tribe desired access to city water and sewer. The County has no such leverage in any replacement of lost revenue discussions with the CSKT.

A final note about ownership of the former Kerr Dam that Simpson relates is owned by the CSKT. If Simpson would have researched title information for the facility he would have found that the title is in the name of the CSKT. The Federal government maintains that it is owned by the Federal Government, but held in trust for the CSKT. In the 2023 BIA budget, the government states that they own the Kerr facility. Obviously, the Montana Department of Revenue considers it to be in trust as it is not subject to property taxes. So, the question remains: Who owns the dam?

1. **Excerpt:***The same type of economic loss came when the tribes assumed ownership of the National Bison Range from the Department of the Interior. The bison range became known as the CSKT Bison Range, and Lake County tax rolls took another hit. Lake County Commissioners were once again unsuccessful in a meaningful dialogue with the CSKT Council, and no PILT agreement ever came to fruition. (Pg. 315).*

*While the Federal government had dominion over the range, it paid Lake County $30,000 a year in revenue in payment in lieu taxes (PILT), (pg. 118).*

Fact check: The tribes do not own the National Bison Range. The Montana Water Rights Protection Act, signed into law December 2020, includes the following in Section 13 (2) (D): “to ensure a smooth transition for land, bison, and other natural resources as the land is restored to Federal trust ownership for the benefit of the tribes.” The BIA 2023 budget notes a payment of $2,093,000 to CSKT for operation of the range, another indicator that the Federal government owns the land.

Some people might argue that operating the NBR for the benefit of the tribes is the same as ownership by the tribes. Again, Simpson appears ignorant of the difference between tribal property owned in fee and property owned by the Federal government but administered for the use and benefit of the tribe.

Simpson’s lack of understanding of PILT payments surfaces again in this excerpt. The MWRPA in section 12, (k) PAYMENTS TO CERTAIN COUNTIES states: “the Secretary shall make payments to Lake County and Sanders County in the State, out of amounts in the fund established under section 401 (a) of the Act of June 15, 1935 (16 U.S.C. 715s(a).”

The fund referenced is the National Wildlife Revenue Sharing Act and this Act requires the U.S. Fish and Wildlife Service to pay local governments for land it administers. These payments are not included in Lake County’s Federal PILT allocation.

The amount of the payment to impacted counties is determined by the following: “At the end of each fiscal year the [Secretary](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=16-USC-1264422296-986870833&term_occur=999&term_src=) shall pay out of the fund for such fiscal year to each[county](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=16-USC-1354575542-986870829&term_occur=999&term_src=title:16:chapter:7:subchapter:III:section:715s)in which any [reserve area](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=16-USC-1174189711-986870831&term_occur=999&term_src=title:16:chapter:7:subchapter:III:section:715s) is situated, an amount equal to 25 per centum of the net receipts collected by the[Secretary](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=16-USC-1264422296-986870833&term_occur=999&term_src=)in connection with the operation and management of such area during such fiscal year: Provided, That when any such area is situated in more than one[county](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=16-USC-1354575542-986870829&term_occur=999&term_src=title:16:chapter:7:subchapter:III:section:715s)the distributive share to each[county](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=16-USC-1354575542-986870829&term_occur=999&term_src=title:16:chapter:7:subchapter:III:section:715s)from the aforesaid receipts shall be proportional to its acreage of such [reserve area](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=16-USC-1174189711-986870831&term_occur=999&term_src=title:16:chapter:7:subchapter:III:section:715s).”

Lake County’s receives payment under the Revenue Sharing Act for Lake County WPA lands, Swan River National Wildlife Refuge and the Bison Range. In 2023 the County received a payment of $43,944 total; about 30% of this payment, or about $13,183 was for the range. Once again, Simpson’s reporting that the County receives $30,000 annually in PILT payment from the range can be factually proven false.

1. **Excerpt:** *One* k*ey challenge faced by Lake County and CSKT is ensuring equitable distribution and transparency in PILT payments, (pg. 420).*

Fact check: Following a lengthy dissertation on how PILT payments could solve the County’s economic woes, Simpson challenges the County to be more transparent when revealing to the public PILT funding information. This statement suggests the County has either been hiding or misrepresenting the amount of PILT funding received. There is no information the County could hide as all payments are public record and there is absolutely no reason for the County to attempt to do so. This is just another attempt by Simpson to denigrate County government.

Simpson repeatedly confuses the County’s annual Federal PILT payment with what he believes are PILT payments supposedly made to the County by the CSKT. The U.S Department of the Interior describes PILT payments as, “Federal payments that help local governments offset losses in property taxes due to the existence of nontaxable federal lands within their boundaries.” The site further states that, “DOI does not provide PILT payments for tribal lands it holds title to.” (Response #3 above contains the latest County Federal PILT allocation.) CSKT does not make PILT payments to the County and there have never been negotiations between the County and CSKT to do so.

The County and CSKT have cooperated under Memorandums of Understanding that have proven beneficial to both governments. An MOU that shares the costs of replacing irrigation project infrastructure like bridges and culverts has been in place for several years.

1. **Excerpt:** *“The Commission (Indian Claims Commission) ultimately awarded the CSKT a settlement in 1966. This marked a milestone in the quest for justice as the US Government acknowledged the historical wrongs inflicted upon the CSKT and sought to address them through financial reparation. However, the tribes were not justly compensated, (Pg. 179).*

Fact check: As part of “meticulous” research Simpson neglected to share with readers what is considered to be the most important Supreme Court decision rendered that addressed payments made to tribes for lands allotted to settlers under the Federal allotment acts. The summary of the court in The Three Affiliated Tribes of the Fort Berthold Reservation et al. v. the United States, 390 F.2d 686 (Ct. Cl. 1968), held*: “The land the Government sold and patented to homesteaders, was not taken under the Fifth Amendment of the Constitution, but was disposed of pursuant to the authority which Congress exercises over Indian tribal property. Appellant is entitled to recover only if it can show that the price at which the Government sold those lands was so far below the fair market value as to constitute gross negligence, fraudulent conduct, or an abuse of the Government's fiduciary relationship.”*

This case was referenced in the findings of the Indian Claims Commission in the 1966 case. The Indian Claims Commission findings held that if the tribes were fully and fairly compensated for the land that was allotted to settlers, the State of Montana, and the Federal government under the Flathead Allotment Act in 1904, there was no “taking” under the fifth amendment of the U.S. Constitution. The asset of land was exchanged for the asset of cash.

Simpson also fails to note that the CSKT Tribal Council voted unanimously to accept a payment of $22,204,007 from the Federal government in 1973 as compensation for the lands removed from the reservation, (U.S. Claims Court docket number 50233, dated January 22, 1971).

1. **Excerpt:** *There’s a lot of hidden costs that the public doesn’t typically see. We (the County) spend 12 to 15 million dollars a year on medications in the detention center. Footnote: This figure’s accuracy has not been independently verified with any source. While the dollar amount is high, the reader should acknowledge the amount specificity with caution, (Pg. 439).*

Fact check: This remark was attributed to me and as the footnote states, the figure has not been independently verified. The reason that it cannot be verified is that the statement was never made. It is obvious that Simpson either didn’t do the math associated with this claim, or if he did was unable to comprehend how ludicrous the figure was. Simpson would have readers believe that the County spends $2,740 per inmate per day on medications for a jail that houses 40-50 inmates.

1. **Excerpt:** *Why do non-Indians living on the reservation not pay property taxes to the tribal government?*

*Many tribes, including the CSKT view the inability to tax non-Indians as a limitation on their sovereignty and economic independence. This creates a dichotomy when non-Indians benefit from living on the reservation without contributing to the tribal government revenue base and vice verse.” (pgs. 410 & 411).*

Fact check: By his posing of these questions, Simpson clearly lacks any knowledge of the Montana Constitution and case law that have previously addressed this question.

The Montana Constitution declares that all lands owned or held by an American Indian or Tribal Nation remain under the jurisdiction and control of the U.S. Congress, (Article I).

A more in-depth response was rendered in a decision by the United States Supreme Court in the case*Montana v. United States, 450 U.S. 544* (1981): “If Congress had wished to extend tribal jurisdiction to lands owned by non-Indians, it could easily have done so by incorporating in § 1165 the definition of "Indian country" in 18 U.S.C. § 1151. There is simply no suggestion in the legislative history that Congress intended that the non-Indians who would settle upon alienated allotted lands would be subject to tribal regulatory authority. Indeed, throughout the congressional debates, allotment of Indian land was consistently equated with the dissolution of tribal affairs and jurisdiction.  It defies common sense to suppose that Congress would intend that non-Indians purchasing allotted lands would become subject to tribal jurisdiction when an avowed purpose of the allotment policy was the ultimate destruction of tribal government.

Further questions for Simpson to comment on would be: What benefits do non-Indians receive for living on a reservation? What benefits do Indians receive by living in Lake County?

1. **Excerpt**: *Property taxes on fee land are assessed by the county where the land is located. (Pg. 416).*

Fact check: Simpson devotes an entire chapter to Montana property taxes yet doesn’t understand a basic tenant of how property tax collection is achieved in Lake County: Montana Code Annotated 15-8-101, Department Responsibilities states the following: The department of revenue shall have full charge of assessing all property subject to taxation and equalizing values and shall secure such personnel as is necessary to properly perform its duties.

Additionally, the Montana Constitution in Article VIII, Section 3, specifically tasks the state to perform appraisal and assessment of the value of all property in the state.

Lake County does prepare tax statements for property owners, but only after receiving assessments of property performed by the Montana Department of Revenue.

1. **Excerpt:** *County administrators should start by evaluating the county’s financial resources. This includes examining the revenue streams such as property taxes, sales taxes, state and federal grants, fees, and other income sources…..This draft budget should be presented to the public,” (pg. 429).*

*Another potential reason for rejecting the mill levy (for construction and maintenance of a new detention center in 2020) could be a general distrust in local government. This underscores the crucial need for transparency and accountability in the management of public funds, (pg. 316).*

*Complying with relevant laws and regulations, including those specific to Lake County, is not just a requirement but a commitment to transparency and accountability, (pg. 317).*

Fact check: Simpson insinuates in multiple instances Lake County government is not committed to transparency and accountability and there is a distrust of local government, especially in budget preparation.

 Montana law requires specific steps to be followed when a county prepares a budget. MCA 7-6-4020 requires a Preliminary Annual Operating Budget.  This preliminary annual operating budget for each fund must include, at a minimum: a) a listing of all revenue and other resources for the prior budget year, current budget year, and proposed budget year; b) a listing of all expenditures for the prior budget year, the current budget year, and the proposed budget year.

Upon completion of the Preliminary Annual Operating Budget, MCA 7-6-4021, requires: (1) The governing body shall cause a notice of a public hearing on the preliminary or amended budget to be published. The notice must: (a) provide that the governing body has completed its preliminary annual budget for the ensuing fiscal year or intends to amend its annual budget; (b) state that the budget or budget amendment has been placed on file and is open to inspection in the county or municipal office designated in the notice; (c) designate the date, time, and place of the meeting at which the governing body will meet for approving a final budget or amended budget and making appropriations; and (d) state that any taxpayer or resident may appear at the meeting and be heard for or against any part of the proposed budget or budget amendment.

The final step in budget preparation is outlined in MCA 7-6-4030: Final budget -- resolution -- appropriations. (1) The governing body may amend the preliminary budget after the public hearing and after considering any public comment.

The public is encouraged to view and comment on the proposed budget prior to adoption by the Commission. Four days are set aside every year on the Commission calendar to hear public budgetary comments and questions.

1. **Excerpt*:***  *In 2021 the Lake County Commissioners filed a claim against the federal government under the Tucker Act. The suit alleged that from 2015 to 2021 Lake County lost $75 million annually. That amount is an exciting figure considering that Lake County’s annual budget is approximately $14 million and serves Indians and non-Indians residents. The Court had to determine whether Lake County claims met the requirements to establish jurisdiction under the Tucker Act. It did not and Lake County lost the case, (pg. 318).*

Fact check: It is difficult to find a place to begin to address this excerpt as nearly everything stated is factually incorrect. First, $14 million approximates the County’s share of property tax revenue and represents less than half of our entire budget. Our adopted budget includes money from other sources such as grants and revenue generated by departments. The County’s total operating budget for FY 24-25 was $36,191,135.

The County filed the Tucker Act claim, then withdrew it before the Federal government could be served with the claim. The case never went to trial, and there never was a court case that the County lost.

Readers should be reminded of Simpson’s declaration on page 5 of his book that his emphasis on “research and credible sources assures the reader of the accuracy of the information presented.”

1. **Excerpt:** *Lake County takes advantage of the Inmate Medical Insurance program. This program allows counties to access medical insurance covering excess inmate medical costs. After an initial deductible of $10,000, the insurance will cover up to $240,000 in additional medical expenses per inmate per policy year, (Pg. 438).*

Fact check: This statement is factually incorrect. Lake County is not one of the nine counties in the state enrolled in the program, (MACO website). Simpson’s statement that after the initial $10,000 deductible the insurance will cover up to $240,000 in additional costs is correct if the inmate is *hospitalized*. Another example of how his “meticulous” research failed him.

1. **Excerpt:** *Treaties were frequently broken or renegotiated under duress, with terms that were unfavourable to Indian tribes, (Pg. 206).*

Fact check: In his discussion related to treaties with the Indians, Simpson states the obvious: Almost all treaties are negotiated under duress by the defeated party and terms are not going to be favorable to the defeated party.

 An example of this occurred just prior to the Hell Gate Treaty of 1855 when the Treaty of Guadalupe Hidalgo was signed to end the U.S. war with Mexico. Mexico ceded 55% of its territory including all of what now are the states of California, Nevada, Utah, New Mexico, Texas and most of Arizona.

The ceding a vast amount of territory by the Flathead tribes as a condition of the Hell Gate Treaty was not unusual for that era in American history.

1. **Excerpt:** *“Once an individual is convicted (in court) they enter the correction system, which in Lake County includes the county or tribal jail and probation and parole programs, (Pg. 293).*

*Understanding the criminal justice system in Lake County, Montana is crucial, (pg.249).*

Fact check: The Lake County jail is not part of the County correction system. The jail is a detention center where inmates are held until their cases are adjudicated. Stays in the detention center are intended to be temporary as no rehabilitation programs are in place, unlike the State correction system. Inmates often spend much longer in the County jail than they should as the wait time for a public defender and a court appearance may be significant. If convicted of a crime and sentenced to State Prison or a treatment program, the wait for a bed in those facilities can be lengthy.

1. **Excerpt:** *Regarding PL 280 on the Flathead Reservation, residents generally view the timely availability of criminal justice services as lower than those found in non-PL 280 jurisdictions in Montana……the city law enforcement agencies and the Flathead Tribal Police are better received by reservation residents and guests than county and sometimes state law enforcement agencies, (pg. 292-293).*

Fact check: Simpson makes the absurd claim that other Montana reservations have criminal justice services that are superior to those on the Flathead Reservation. I would share with him information from a couple of other reservations where criminal justice is administered by the BIA or FBI.

 In July of 2022, the Northern Cheyenne Tribe filed a lawsuit against the BIA stating that the U. S. is not complying with treaty obligations to provide adequate law enforcement services on the reservation. In their lawsuit the tribe noted that reports of violent crimes on the reservation increased 50% between 2019 and 2020, and several homicides had occurred during that time frame.

Northern Cheyenne Tribal President Serena Wetherelt was quoted in a news article as saying, “Public safety on the reservation is severely compromised due to lack of meaningful BIA law enforcement presence in our communities.”

In October of 2022, the Fort Belknap tribe also filed a lawsuit against the Federal government for not providing adequate law enforcement services on Indian lands.

In the lawsuit the Tribe’s lawyers wrote, “The population of the Reservation is substantially harmed by violent crime, crimes against children and vulnerable adults, missing persons, drug-related crime, and resulting impacts to the entire Reservation community.”

As happens throughout his book, Simpson presents no evidence supporting his claim of superior criminal justice services provided on other reservations when compared to the Flathead Reservation. In fact, there is significant evidence to the contrary.

 I would add that although we do not live on a BIA reservation, the BIA 2023 FY budget includes an allocation of $1,175,834 to CSKT for “Base Public Safety and Justice.” This funding includes money for law enforcement, courts, and jails.

Simpson’s additional claim that city and tribal law enforcement are better received by Reservation residents is not substantiated by any empirical evidence. I’m sure he likes to puff out his chest and proclaim that his officers are received as “guests,”( whatever that means), due to the far superior training he provides for those who work under him. How would Simpson ever measure the satisfaction of “guests” like tourists with the various law enforcement agencies on the Reservation?

1. **Excerpt:** *“In regards to PL 280, there seems to be a misperception amongst the general population; they’re missing the picture of how we need something in place to keep people safe. Nit-picking about funding and the way it has been politized the last couple of years has created a larger racial divide and racism now, it has become more intensified, 1940’s ideals are not going to help. It’s counter to the solution. Let’s tear stuff down and put (sic) fingers. That’s the political dynamic and it’s so unfortunate.” Dana Grant, Director of Development for Safe Harbor, (pg. 255).*

Fact check: Although this quote is not attributed to Simpson, he published it and therefore owns it. Simpson includes Grant’s analysis of the PL 280 funding debate because it perfectly sums up Simpson’s attitude toward the County’s attempt to secure funding for the costs from somewhere other than County taxpayers.

As Polson Chief of Police, Simpson benefits from his ability to deliver law breakers detained by city law enforcement to the County detention center. Once delivered and booked into the facility, Simpson no longer has any concern about who will pay incarceration costs. He obviously believes the County should continue to be responsible for all costs and not “nit-pick” about who else might be legally required to help pay these costs. The city contributes nothing to help fund PL 280, and has never advocated for funding from the State for County PL 280 costs, yet enjoys significant benefit from the agreement. He chooses to sit on the sidelines and criticize efforts by the County to pursue some possibilities for funding help.

I would question Grant’s quote as an inclusion in the book. Other than being a resident of the reservation and director of development at Safe Harbor, what in his background makes him a “credible” source? Has he ever served as an elected official in County or city government? What is his law enforcement experience? As stated previously, Simpson included the quote because it reflected his personal view on the PL 280 funding debate.

1. **Excerpt:** “*Many amendments were made to the Flathead Allotment Act to seize land for town sites, churches, federal Indian Agency detachments, reservoirs, power sites, and 61,000 for future Montana schools,” (pg. 100).*

*“In 1908, during the allotment era, the U.S. government seized approximately 18,000 acres of Flathead Reservation land to establish the reserve (National Bison Range) in an unjust and disrespectful move, (pg. 117.)*

Fact Check: Although Simpson considers himself to be an informed and unbiased scholar when discussing and pontificating on Indian treaties, his interpretation of treaty language and the consequences of the agreements are influenced by his revisionist view of history.

By Article I of the 1855 Treaty with the Flatheads, the tribes hereby “cede, relinquish, and convey to the United States all their right, title, and interest in and to the county occupied or claimed by them.” In short, the tribes handed over this territory to the United States. Were the tribes under duress to do this? Probably, as they needed protection from the Blackfeet and they also understood the white man’s march to the Pacific, right or wrong, was not going to be stopped.

 Article II of the treaty reserved from the lands ceded, land for the establishment of a general Indian reservation. Congress amended the 1904 Flathead Allotment Act in its 1906 Indian appropriation’s bill to provide for the platting and dispensation of townsites on the Flathead Reservation, (Indian Appropriations Act of June 21, 1906, 59 Cong. Ch. 3504, 34 Stat. 325 at 354.) The appropriations rider named specific preexisting settlements on the Reservation and further authorized the Secretary of the Interior to locate additional “necessary and convenient” townsites. The Secretary was to then “survey, lay out, and plat” the selected sites “into town lots, streets, alleys, and parks.”

The U.S. Supreme Court in 1903, *Lone Wolf v. Hitchcock,* ruledthat Congress’s power over tribal lands was not limited by “the strict letter of a treaty with the Indians.” The Court held that a congressional dispensation of tribal land, even if inconsistent with a treaty’s provisions regarding allotment and dispensation, was “a mere change in the form of investment of Indian tribal property” and fell within the scope of congressional power. Thus, there was no longer a need for a negotiated agreement with the Tribes.

I provide this information to refute Simpson’s assertion that lands were “seized” from the tribes for townsites, churches, etc. How could the Federal government “seize” land they already owned?”

 It’s important to remember that the schools, churches, and land set aside for local government also benefit tribal members who use the schools to educate their kids, worship in the church of their choice, build homes for their families, and use local government services. These are benefits that member and non-members share together.

Being a relative newcomer to Montana, Simpson appears to be unaware of the Enabling Act of 1889. This Act set aside sections 16 and 36 of every township to support public schools. Reservations were not immune to the set asides as Congress viewed reservations as temporary and would be terminated once Indians were assimilated into the non-native culture.

In regards to National Bison Range, that land was reserved out of the reservation in 1909 by a Congressional Act, (16 USC 671). President Roosevelt, concerned that bison were on the brink of extinction, urged Congress to take this action. The Act further states that the range was for, “bison presented by the American Bison Society.”

1. **Excerpt:** *The state of Montana and Lake County have had continuous disputes about public safety on the Flathead Indian Reservation. These disputes have spanned decades and have been focused on public safety……The perpetual argument is usually where the county feels the state is not fulfilling its obligations or interfering too much, (pg. 323 & 324).*

Fact check: Simpson provides no footnotes to confirm his sources for his assertion that the state and county have had “continuous disputes” that have spanned decades. Lacking source(s) it is evident the author is stating his personal view of what he believes to be the relationship between the state and county regarding PL 280.

The current Governor of Montana doesn’t appear to share Simpson’s opinion. In a letter to the County in May of 2023, Gianforte wrote the following: “By all accounts, the implementation of PL 280 on the Flathead Reservation has been a model of success. For more than 50 years, Lake County has advocated for and supported the jurisdiction granted to it under PL 280 to prosecute crimes committed by tribal members and has willingly accepted the corresponding financial responsibilities,” (The text of this letter is included in Simpson’s book).

Simpson knows that the controversy between the county and state has been laser focused on funding. The county and state both understand that public safety for Lake County residents is paramount, the debate between the state and county has been around who pays the costs of PL 280.

In all of his writing related to PL 280, Simpson never provides the reader with any historical context as to why the Flathead Reservation is the only voluntary PL 280 reservation in Montana. Was it not noteworthy that in 1963 the CSKT requested that the state and County consent to assuming PL 280 jurisdiction?

1. **Excerpt:** *Unethical actions involve decisions or policies that violate ethical standards and often perpetuate historical injustices and funding inequities. In the context of PL 280, unethical actions might include non-Indian governments manipulating funding allocations to disproportionately benefit non-tribal residents or undermine CSKT’s ability to govern effectively, (pg. 461).*

Fact check: There can be no confusion as to what non-Indian government Simpson references in this excerpt. Reading between the lines, Simpson anticipates that the County will consider “unethical actions” that will “perpetuate historical injustices” if it withdraws from PL 280. Additionally, the County will manipulate funding allocations in a way that will have a negative impact on CSKT.

Simpson’s does nothing to hide his anti-county bias in the excerpt. Over and over in his book he characterizes the County in a negative way. The County has been, or will be in the future, unethical, lacking transparency, guilty of creating a racial divide, incompetent in negotiating, cannot manage funds, and not be accountable to the public in managing those funds. Despite the seriousness of these allegations, Simpson cannot support the comments with any empirical evidence. During Simpson’s short residency in the County when has County government proven to be unethical or found guilty of hiding any information from the public?

1. **Excerpt:** *A rushed action in this scenario (withdrawing from PL 280) might involve Lake County quickly withdrawing from the law enforcement cooperative agreement without adequately planning for the financial transition or considering the funding impact on tribal and non-tribal residents, (pg. 462).*

Fact check: Although Simpson relates that the County’s attempt to secure financial help in funding PL 280 costs began in 2017, he cautions the County against rushing into a hasty withdrawal from PL 280. An eight-year time frame for contemplating withdrawal seems adequate rather than quick or hasty.

He should be acutely aware that the County’s reason for considering withdrawal has been “the funding impact on tribal and non-tribal residents.” Property tax paying tribal and non-tribal residents are paying all of the costs of the County’s participation in PL 280. The funding transition that will take place if the County withdraws is that the State, Federal, and CSKT governments will take on the burden of paying the costs. This transition would seem to be a beneficial “funding transition” for County property taxpayers. The County should not too be concerned about the funding impact on the CSKT given that their 2022 budget was $224,305,134.

Simpson continues his crusade to cast the County in the role of the villain in the PL 280 debate. He wants readers to believe that withdrawal from PL 280 by the County is ill-considered, and that no consideration has been given to the potential impacts of withdrawal on tribal and non-tribal residents.

**Summary:** Simpson’s allegations of misconduct by Lake County government, especially on the part of the Commissioners, are serious and border on being slanderous. Multiple times he “challenges” the County to be more transparent with the public without ever citing any documented occasion when this has ever taken place. He claims the County lost a case in Federal Court when the County has never been in Federal Court in recent history; how can information so factually incorrect ever be included in a “scholarly” work?

Simpson’s work begs the question: Is he speaking for Polson City government? If so, he has caused considerable damage to relations between City and County governments. Uninformed readers of this book are led to believe that County government is devoid of transparency, hides information from the public, and can’t be trusted.

 If he is not, then City government needs to make that clear to the public. Did any members of city government collaborate with Simpson? Was he encouraged to publish the work by anyone in city administration? Was the City Commission aware of what Simpson was writing?

An obvious complication of Simpson’s “meticulous research” is the troublesome fact that he never contacted any County government official asking for clarifying information on any topic related to the County and failed to include information in his work that is easily accessible to the public. His book is the culmination of an agenda that he obviously set about trying to accomplish some time ago. He has miserably failed, and in his attempt did a disservice to all residents of our County.