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Professor Richard J. Pierce's Reign of Error in the Administrative Law Review

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Abstract by Melissa Sutton

The article is a response to a work by George Washington University Law Professor Richard J. Pierce, Jr., entitled "Judge Lamberth's Reign of Terror at the Department of the Interior," published in the Spring 2004 issue of the *Administrative Law Review*. On January 9, 2004, Professor Pierce filed a complaint with the Chief Judge of the United States Circuit Court for the District of Columbia, targeting Judge Royce Lamberth for his allegedly overzealous and highhanded management of *Cobell v. Norton*, the now famous Indian-trust class action lawsuit. The complaint alleged that, in *Cobell*, Judge Lamberth gratuitously vilified government employees, held five high-ranking officials in contempt without any basis in law or fact, improperly used threats of contempt against other officials, and ordered the Department of Interior to disconnect its computers from the Internet "with no adequate basis in law or fact...." An extended version of his complaint was submitted to the *Administrative Law Review* as a law review article. This article explores Professor Pierce's claims and concludes that they are groundless.

The article proposes that Professor Pierce's article does not seriously examine the merits of the underlying Indian trust case nor make an original contribution to the scholarship of civil contempt powers. Part I of the article reviews the history of the abuse of Indian rights at the foundation of this case and then explains the current posture of the case. Part II illustrates that Professor Pierce's claims about Judge Lamberth are distorted, hyperbolic and ineffectual, and that Judge Lamberth's use of the contempt power has been warranted, judicious, and in no way sanctionable. Part III of the article argues that, if there is a "reign of terror" in this case, its victims are the Indian plaintiffs whose property rights have been trampled and its organizers are the powerful government defendants who have been thwarting justice at every turn. The article concludes that Professor Pierce has capsized the moral duties of intellectuals by inviting us to identify with the agents of official duplicity rather than the victims of it.