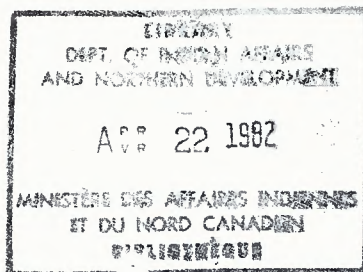


UNITED STATES TERMINATION POLICY .

REPORTS AND DOCUMENTS

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Ottawa 4, September 22, 1969

DR. D. MUNRO

Re: United States Termination Policy

As instructed I went to Washington and met with officials of the United States Bureau of Indian Affairs.

My principal informants were F.W. Massey, Assistant Commissioner, Program Coordination; F.P. Walz, Chief, Tribal Operations, and C.R. Cornelious, Program Officer. Walz and Cornelious had been actively involved in the implementation side of the termination policy almost since inception and are still carrying out functions for a number of tribes where the process is still going on.

In the attached review I have set out briefly the background of termination, the main elements in termination and a brief comparison between the United States policy and that outlined in the Canadian Government's statement.

The most significant differences as I understand the two policies have to do with:

- (a) The protection of Indian land which is contemplated in the Canadian proposal.
- (b) The positive recognition to be accorded Indian cultural heritage.
- (c) Consultation and negotiation with respect to the arrangements with both Indians and provinces especially for programs and services.
- (d) Financial support to the provinces on terms to be negotiated.

In brief, the original policy concept was not too unlike the compulsory enfranchisement which was a feature of the Canadian Indian Act from the 1920's until 1961. As modified the present termination policy is very closely akin to the voluntary enfranchisement provisions of Sections 111 and 112 of the Indian Act.

The termination policy evoked, as it still does, a great deal of emotion. There was and probably still is a great deal of misunderstanding and misconception of the policy. On the other hand it is notable that a number of groups not named in the original statement of Congressional intent, have sought or are seeking an end to Federal supervision and control through the termination process.

We can draw some lessons from the United States experience in the way in which we approach the furtherance of our own policies with respect to Indian people as well as the provinces. I propose to develop a paper which might be useful in devising strategy for the Consultation and Negotiation Group which would take into account the American experience.

ORIGINAL SIGNED BY  
C. I. FAIRHOLM

FAIRHOLM:smp

C. I. Fairholm,  
Director,  
Policy, Planning and Programming.



Fairholm

## A Review of United States Termination Policy

### A. Background of Termination

1. In the 1940's there was growing concern by Congress of the ever increasing cost of Indian affairs, a general feeling that progress was not being made after 150 years of special administration, and also a view that Indians should have social, economic and political equality by being treated as other citizens and, therefore, they should be freed from restrictions and Federal supervision. There had been and were still tribes which pressed for control of their own affairs and an end to Federal supervision. In addition, the Hoover Commission (similar to the Glassco Commission) in 1949 advocated a transfer to State Governments of social programs for Indians.
2. A Congressional Committee carried out an exhaustive investigation of the Bureau of Indian Affairs in 1952 and 1953 and outlined five principles of legislation:
  - (1) Enactment of legislation having as its purpose repeal of existing statutory provisions which set Indians apart from other citizens, thereby abolishing certain restrictions deemed discriminatory.
  - (2) Enactment of legislation terminating certain services provided by the Indian Bureau for Indians by transferring responsibility for such services to other governmental or private agencies.
  - (3) Enactment of legislation providing for withdrawal of individual Indians from Federal responsibility, at the same time removing such individuals from restrictions and disabilities applicable to Indians only.
  - (4) Enactment of legislation terminating Federal responsibility for administering the affairs of Indian tribes within individual States as rapidly as local circumstances will permit.
  - (5) Enactment of legislation terminating Federal responsibility for administering the affairs of individual Indian tribes as rapidly as circumstances will permit.
3. These views were given expression in Concurrent Resolution 108 of 1953 (attached) which states in part:

"Whereas it is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship.....



"That it is declared to be the sense of Congress that, at the earliest possible time, all of the Indian tribes and the individual members thereof located within the States of California, Florida, New York, and Texas, and all of the following-named Indian tribes and individual members thereof, should be freed from Federal supervision and control and from the disabilities and limitations specially applicable to Indians."

The offices of the Bureau of Indian Affairs in California, Florida, New York and Texas were to be abolished.

4. This is the basis for the so-called termination policy. The population covered by the resolution was only a small percentage of the total in the United States - less than 10%.
5. Closely associated with, and often linked with and even called termination is Public Law 280 which transferred civil and criminal jurisdiction over Indians on reservations to named States and also authorized all other States to acquire jurisdiction by legislative action. (It should be noted here that there is a fundamental difference between Canada and the United States in respect to criminal law. The States have criminal jurisdiction; on Indian reservations ten major crimes were Federal and dealt with in Federal courts, also tribes had their own courts; in Canada the Criminal Code applies to all people on or off a reserve and in all parts of Canada. In 1951, by Section 87 of the Indian Act, all laws of general application were made to apply to Indians except those inconsistent with a treaty or the Indian Act.)

B. Implementation

1. The Department was directed to prepare legislative recommendations on short notice to accomplish the purpose of the Resolution.
2. A unit of about 20 to 25 persons was established to work on legislative requirements, to meet with Indians concerned and to implement the legislation when passed by Congress. There are now only two officers at Headquarters concerned with continuing termination activities.
3. As directed by Resolution 108 legislation was prepared which specified the dates on which the tribes would be terminated. Separate legislation was prepared for each tribe, or group of tribes such as in California.
4. As a result of termination legislation well over 100 tribes, groups and rancherias have been terminated since 1953 (see attached list). Some are still under active consideration, the time for implementing termination having been extended by amendment to legislation. There is one recent request for termination from the Colville Tribe in Washington State which is, of course, closely linked to the Okanagan Indians and some have dual membership here and in the Colville Tribe. The total number of Indians to whom the Termination Acts applied has been relatively few. There are only a few communities of substantial size, the remainder being very small communities with only in some cases one or two families. The largest group comprising some 19,000 Choctaws in Oklahoma is to be terminated under current legislation by August 1970.



### C. Modification of Termination Policy

Concurrent Resolution 108 still stands although the policy was modified in 1958 when as a matter of policy tribes were not to be terminated without their consent. There was a further modification by Senate Concurrent Resolution 11 on September 11, 1968 which would assure Indians that Federal programs will be adequate to their needs, that these would be concentrated where the problems are most acute on the reservations, that greater effort be made to encourage self-determination and self-help on the part of Indians, that Indian trust property continue to be protected, that Indian culture and identity be respected and economic and social conditions be improved. In addition, Congress has provided for the consent of the Indians in the most recently enacted legislation regarding the removal of Federal supervision (termination).

### D. Present Policy

1. The policy of the present administration was stated by President Nixon during the election campaign as follows:

"The special responsibilities of the Federal Government to the Indian people will be acknowledged. Termination of tribal recognition will not be a policy objective and in no case will it be imposed without Indian consent."

2. It may be noted that action is only taken now to terminate a tribe or band when requested by the tribe or band. In this respect it resembles very closely the present enfranchisement provisions set out in Sections 111 and 112 of the Indian Act. Requests have been received from the Colville Indians and legislation is pending, but there is considerable controversy in the tribe about the proposal, the proponents being those living off the reservation and those against those living on. The Choctaws of Oklahoma and the Klamaths of Oregon also requested termination.

### E. Termination Process

1. The selection of the tribes to be terminated as set out in Concurrent Resolution 108 was based largely on reports made by local officers of the Bureau of Indian Affairs who were asked by a Congressional Committee for their recommendations.
2. While some tribes had been seeking removal of Federal restrictions the tribes in the States named in the Resolution and those tribes initially named did not give prior consent to the desirability of termination. However, there was considerable consultation on the means of achieving termination. The initial legislation could be likened to compulsory enfranchisement in the Canadian Indian Act, which existed from about 1920 to 1961.



- 4-
3. In all cases legislation was required and usually Congressional Committee hearings were held on the termination bills. The main criticism from the point of view of Indians was that the hearings were conducted in Washington and many of them could not afford to attend.
  4. The consultation carried on by the Bureau of Indian Affairs was at first conducted by the group from Headquarters. It was found that this was not the most practical way to do it and subsequently the local field officers carried on the bulk of the consultations. Usually the governing tribal council was the local authority through whom the discussions took place. It would be true to say that quite often the general membership of the tribe or band did not have a proper understanding of the implications of termination. The difficulty was that the tribal governing councils did not communicate effectively with the general membership about the proposals so that the majority had little knowledge of what was going on.

#### F. Main Elements in Termination

The most significant elements in termination had to do with property, i.e. land, funds, water rights, hunting and fishing, membership, taxation and programs and services.

##### 1. Land

###### (a) Communal

Land held communally was disposed of under the plan agreed upon with the tribe, in most cases in two ways:

- (i) It was sold and the proceeds divided per-capita among those members who were on the rolls at the effective date of termination.
- (ii) In some cases title to land was transferred to a corporate body, a trustee or corporation which held the land for or on behalf of the terminated tribe.

In California all unoccupied land was sold outright.

###### (b) Individually Held Land

Land held by individuals (assigned land which would be similar to land held in Canada under Certificates of Possession) was usually transferred to the individual concerned, i.e. the individual who had land allotted to him was given a patent in fee simple. Before this action took place there was an appraisal made to determine the value of the lands held and then the individual's share in the total assets was calculated accordingly. Improvements made by the individual were not included in the appraised value. There has been some opposition to giving of land in fee simple on the grounds of:



- (i) Loss of lands through inability to pay taxes and,
- (ii) loss of lands by action of the individual Indians themselves or by action of the governing bodies.

2. Tribal Funds

Upon termination tribal funds are paid over to the members on a per-capita basis. Funds of minors and the mentally incompetent are protected, management being carried on by a Trustee which may be a bank. Criticism of the policy has been in part against the division of funds which it is claimed is the main inducement for Indians asking for termination of Federal supervision and dissolving tribal holdings.

3. Water Rights

Water rights were also of particular importance in some parts of the country. Legislation in some cases provided protection of Indian water rights for a specified period of time such as fifteen years. At the end of that time, or when the time limit was not specified, State law would be applicable. State law usually provided that unless the water was used within a specified period it could be acquired by someone else. This is a hotly contested feature as it is argued that some Indians are not in a financial position to make use of the water and, consequently, by application of State law they have lost or will lose water rights.

4. Hunting and Fishing

After termination the normal position is that State laws apply. Where a treaty is involved any hunting and fishing rights are considered to be compensable and the amount of compensation is determined at the time of termination.

Recently, in the case of the Menominees, the courts have held that they have special rights within the area formerly comprising the reservation.

5. Membership

It is understood that all legislation provided for bringing the membership lists up to date and that as of the date of termination membership rolls ceased to exist. There was no formal means established for continuing the existence of tribal rolls. The corporate bodies established to take title to tribal property could be said to contain an element of continued existence through the shares that were distributed. However, these shares could be disposed of in some instances as in the case of the Mixed Blood Utes, where shares have passed into the hands of non-Indians who are entitled to receive any payments that may be made to shareholders.

In the case of the Menominees, those on the final membership roll became bandholders and stockholders in Menominee Enterprises Incorporated - a corporate body under State law, responsible for the management of tribal property - primarily the timber resources.



## 6. Taxation

### (a) Communal Lands

Upon termination land taxes are required to be paid on all lands formerly held in trust. In the case of communal lands turned over to a trustee or a corporate body as in the case of the Klamaths and Menominees respectively, the trustee or the corporate body is required to pay county or State land taxes. In the case of the Menominees, Menominee County which comprises the former reservation and is all Indian, assesses the corporate body the bulk of the land taxes. Two bodies were formed, one responsible for property rights and the other for local government, both under the control of the same people - the Menominees.

In general it may be said that land taxes are levied on the same basis as for other property owners once termination takes place.

### (b) Individual Land Holdings

Individual land holdings are taxed and the individual is treated as any other property owner. In a few cases, land has passed out of Indian hands through seizure for taxation. This usually happens when the value of the land is very minimal and the individual does not feel it is worth paying the tax or cannot afford to do so. So far there has been little loss of lands for non-payment of taxes.

### (c) Personal Incomes - Income Tax

Is paid by the individual or by the corporate body if sufficient income is made to fall within the taxable limits of State and Federal tax laws. It may be noted that the monies distributed at the time of termination or from distributions of claims awards are not taxable at the time they are paid over although income derived from on-going operations or from interest on capital is subject to tax.

## 7. Programs and Services

Direct provision of services by the Bureau of Indian Affairs ceases upon a tribe being terminated. In place of Bureau services the terminated group may provide some services themselves as in the case of the Menominees, or county and State agencies provide programs and services on the same basis as to other residents.

The services of other Federal Departments are available on the same basis as to other citizens.

In 1954 the health service was transferred from the Bureau to the Department of Health, Education and Welfare. This Department continues to provide some assistance such as sanitation facilities to terminated tribes as to others.



The focal point for providing services to Indians is shifting from the Bureau of Indian Affairs to other Departments and agencies of the Federal Government as well as to State authorities. Of a budget of approximately \$498,000,000 in the present fiscal year for Indians and Eskimos less than half (\$242,000,000) is administered through the Bureau. The Department of Health, Education and Welfare, the Housing Authority, the Economic Development agency and other agencies have considerable funds available for Indian communities. However, the present view is that little is to be gained by having functions now performed by the Bureau split among a number of different Departments.

States do, in fact, provide some services either directly or under agreement with Federal authorities. For example, the Bureau of Indian Affairs does not provide any normal services (education, welfare, law and order) to Indians, whether terminated or not in California or New York.

No financial assistance is provided to State governments for or on behalf of terminated tribes as such although requests have been made.

#### 8. Financial Assistance

Initially no provision was made for Federal assistance, direct or indirect, to terminated tribes or to State governments to see them through an adjustment period. It became necessary in the case of the Menominees to provide some assistance for welfare. However, the assistance was given on the basis of need rather than because of Indian identity. In some of the later acts provision was made for a special program of education and training to assist members of the tribe concerned to earn a livelihood and to conduct their own affairs, usually before termination actually took place.

By and large, however, once a tribe is terminated they no longer are entitled to receive special programs because of their status as Indians. Of course Indians as citizens are entitled to receive the benefits of any program or service available to other residents of the State in which they live. In this respect some assistance has been given to the Menominees because the county they formed is poor and required help.

#### 9. Indian Culture

No specific provision was made in the Termination Acts for the preservation or enhancing of Indian culture. On the contrary, the general position was almost directly otherwise -- a melding of the Indian people into the general population.

#### 10. Indian Attitude Toward Termination

Most Indians have been very much opposed to the termination policy.



Opposition is largely for the following reasons:

- (a) Fear loss of lands.
- (b) Detribalization i.e. the breaking up of Indian identity.
- (c) Taxation of lands and income.
- (d) On grounds that the Indians are not ready for termination of special Federal programs and services.

All legislation now requires the consent of a majority of the tribe before termination takes place. It is purely voluntary and it is quite possible for part of a tribe to be terminated and the remainder to carry on as an identifiable group under Federal supervision.

There have been requests of some groups in California to have terminated tribes come back into Federal status. The grounds for the request are that the Indians there are still a Federal responsibility and should receive the same services as other Indians. Recently the State memorialized Congress to come back into California, especially for education. No action has been taken by Congress to do this.

#### 11. Attitude of State Governments

Generally, the State Governments have taken the side of the Indians and have memorialized Congress not to pass termination acts concerning Indians within their State unless the Indians consent. (This is also true in respect of the assumption of criminal and civil jurisdiction on reservations.) Certainly in California the State, while previously testifying that it could provide services terminated by the Bureau, have asked for assistance (particularly for education) for some of the tribes which have been terminated. Wisconsin also has supported requests for the Menominees. Some Federal funds will go to the Menominees because they are in a depressed county rather than because they are Indians. Congress has not yet acceded to the request for educational assistance for terminated Indians in California.

Generally all States agree that Indians are primarily a Federal responsibility. They would like jurisdiction over Indians and be able to tax their land without having to assume financial responsibility for Indian health, education and welfare. Consequently, the States are not anxious to take over financial responsibilities that termination would require. A State, however, is not in a position to hold up termination of a tribe as Congress has complete authority to pass legislation terminating a tribe.

The full implications of termination were probably not appreciated by State authorities - e.g. Wisconsin, until after termination began to take effect and Bureau programs and services were phased out. Some of the State agencies were not prepared sufficiently in advance to fill the gap.



12. Attitude of Public

The public, which usually takes an interest in Indian affairs, has on the whole been against the termination policy. The large majority probably are in favour of the ultimate objective but do not take an active interest in Indian problems. Consequently, it is the vocal proponents of a particular point of view that get the most publicity. The policy does not rate very high as a Congressional objective, the pendulum having swung toward developing programs of social and economic betterment which will enable Indians to compete in modern day American society (see explanation of Senate Concurrent Resolution 11 of September 11, 1968). To this end Federal, State and local government services are used where each can make a contribution. Termination has become purely voluntary and is a step that can be taken if the tribe so desires.

13. Studies on Effect of Termination

*Here's Two?* The Bureau has not followed up with studies on the effects of termination on the people concerned. Funds have not been appropriated for this purpose. However, one study was undertaken at the request of a Congressional Committee on the position of the Menominees. The findings indicated that in a number of aspects the policy was carried out prematurely and a most important drawback it did not provide the financial support necessary to carry on adequate services. \*

14. Phasing Out Indian Bureau Offices

In the States named in Resolution 108 of 1953 - California, New York, Florida and Texas - the Bureau has closed its offices in only one State, Texas.

In New York, where all normal services have been provided to Indians for years by the State Government, the Federal office was closed out in the late 1940's but was reopened in 1962 to provide a specialist financial management service to the Seneca Indians who had received a substantial sum of money for land taken by the United States for a dam.

A continuing Indian administrative agency has taken the place of the Federal Bureau.

The State Governments have tended to set up their own commissions or Indian Affairs organization, e.g. California and Texas. New York, which has been primarily responsible for Indian affairs for nearly 200 years (since 1787) has its own Indian affairs organization. Maine also has its Commissioner of Indian Affairs.



Comparison Between United States Termination Policy  
and Canadian Indian Policy Proposals

United States

Canada

Similarities

- (a) Objective to free Indians from Federal supervision and control and from disabilities and limitations specially applicable to Indians.
- (b) Programs and services to be provided by State, local and Federal agencies on same basis as for other citizens.
- (c) Offices of Bureau of Indian Affairs to be abolished for groups terminated.

Full, free and non-discriminatory participation of Indian people in Canadian society - social, economic, cultural and political equality.

Services to come through the same channels and from the same government agencies for all Canadians.

Indian Affairs to be phased out.

Differences

- (a) Firm policy set out in legislation to end specific reservations.
- (b) Termination of tribal membership rolls.
- (c) Land disposed of or title given to legal entity designated by tribe.
- (d) No financial assistance to States for programs and services during adjustment period.
- (e) No continuing support or recognition given to Indian culture.
- (f) No proposal to provide enriched services.

Policy proposals open to discussion and negotiation with modifications possible.

Continuation of membership under an Indian Lands Act, with control passing to bands when title to land transferred.

Control of lands in Indian hands with protective devices to enable continuing collective ownership.

Financial support to provinces during an adjustment period to be negotiated.

Recognition and support to Indian cultural activities.

Proposal is to provide enriched services to enable those furthest behind to catch up.



Attachments \*

- House Concurrent Resolution 108, August 1, 1953
- Report of House Committee, September 20, 1954
- Legislation terminating the Catawba Tribe, September 21, 1959
- List of tribes terminated
- Report on Menominee Experience
- A criticism of termination - a chapter from The Indian-America's  
Unfinished Business (W.A. Brophy and S.D. Aberle)
- Present policy of Congress as set forth in explanation of Senate Concurrent  
Resolution 11 of September 11, 1968

\* SEE LAST PORTION OF THIS  
BINDER, FOLLOWING MEMO  
DATED JAN. 7, 1970.



November 21, 1969

DR. MUNRO

PROPOSAL FOR A COMPARATIVE STUDY OF  
AMERICAN AND CANADIAN INDIAN POLICIES

Mr. Fairholm's description of the American policy of "termination" is worth applying to our own situation. This could be done by means of a comparative study of two American and two Canadian Indian groups.

Details of such a study will have to be worked out, but the following outline is suggested:

1. Apparently the Menominee (Wisconsin) and Klamath (Oregon) tribes offer sharp illustrations of some of the worst aspects of the American policy of termination. The situation of both tribes as of 1965 is discussed in The Indian: America's Unfinished Business, 1/ although the Wisconsin group receives much fuller treatment than does that from Oregon. 2/

2. It should be possible to select, according to carefully defined indices, two Canadian Indian groups comparable to the two U. S. groups mentioned. Indices should include geographic

- 1/ Brophy, W.A. and Aberle, S.D.: University of Oklahoma Press, 1966. The crucial chapter is included with Fairholm's report.  
2/ For discussion of the Fairholm Report, see separate paper, attached as Appendix A.



and other physical data, statistics of population and other demographic information, and cultural/social descriptions. All data would be selected on the basis of bibliographic research and following consultation with appropriate officials.

3. Tentative conclusions reached would be used to construct a "model" for use in study of the application of Canadian policy.

Difficulties in designing and carrying out the study are not under-estimated. These operations are, however, common to all social-anthropological investigation and examples are readily available in the literature.

If the study is authorized, I see the following results which may accrue:

1. A practical operational tool would have been made available.
2. We should be able to verify or disprove some of the assumptions of Canadian policy: elimination of some proposals, strengthening of others, should occur.
3. The study would offer an opportunity to apply on a small scale some consultative techniques (Management by Objectives, T-Group Theory) as suggested in a previous paper.

#### Proposal.

1. A team of one or more persons should be set up to carry on the proposed study on a full-time basis. It is suggested that at least two persons are necessary, and I would request permission to undertake the job with such a specialist as Dave Flynn, if he can be made available. I have not discussed the matter with Flynn or any other.



2. Bibliographic research should be initiated by the team in regard to the Menominee and the Klamath groups in an effort to up-date information regarding them. (Data on the experiences of these groups are available only up to about 1964-65.) This research would have to be supplemented by visits to the two tribes.

3. Similar research would be then undertaken in regard to the two groups of Canadian Indians selected, again followed by field trips to those groups. Identification of the groups to be studied would be a crucial preliminary step and would depend upon availability of data and the advice of Indian Affairs personnel with wide backgrounds of experience.

4. Indices upon which selection/of Canadian Indian groups for study should include the following:

- a. Size of reserve areas, population, location.
- b. Demographic data.
- c. History and cultural development.
- d. Social structure of band(s).
- e. Economic bases and activities.

*O. T. Fuller*

O. T. Fuller



## "TERMINATION" AND CANADIAN INDIAN POLICY

Earlier this year Mr. Fairholm prepared a paper on the American Indian "termination" policy. His discussion is comprehensive and valuable. He concludes with a summary "Comparison Between United States Termination Policy and Canadian Indian Policy Proposals", listing similarities and differences.

The "similarities" he finds are three in number: first, to bring Indians into the fabric of the larger society; second, to shift responsibility for Indian services from a single federal agency; third, to abolish or phase out that single agency.

Six "differences" are noted, which may be summarized as follows: Canadian proposals emphasized flexibility of general approach; declared continuing financial support is to be given to alternative agencies; federal concern is to be continued as regards Indian self-government and Indian control of their own lands.

Mr. Fairholm's list, it seems to the present writer, should be amended to include two features which might be termed intermediate -- that is, which contain elements of both similarity and difference: first, that in both U. S. and Canadian policies there was included a time-limit; second, that both policies could be seen as having been prepared without the full measure of prior consultation with Indians.

As to the first of these "intermediate" proposals, while the American policy was intended explicitly to apply with as little delay as possible, Canadian policy limited only one element -- phasing out of the Indian Affairs section of the Department -- to a suggested period of five years. In regard to prior consultation, the American policy seems to have been presented deliberately without beforehand discussion with Indians, while the Canadian statement followed a protracted series of such discussions, even though the connection between discussions and statement was not perhaps given a sufficiently explicit emphasis.

With his report Mr. Fairholm presents a considerable body of supporting material, including copies of pertinent Congressional Resolutions and Reports. Among the latter, of considerable importance is a detailed statement on "The Status of the Termination of the Menominee Tribe", prepared by the Bureau of Indian Affairs under date of February, 1965. This expands greatly a

discussion of the Menominee contained in Brophy and Aberle. 1/ In the book there are, also, sections on the Paiute and Klamath Indians, although neither is given the attention afforded the Menominee. 2/ Four bands of the Paiute tribe were affected by termination, as were the entire Klamath and Menominee tribes.

The last-named tribe was apparently either most seriously affected by termination, or else more data regarding the Menominee ~~was~~ <sup>were</sup> available, for there is vastly more detail given for the Menominee than for the other two tribes. In passing, it is of interest to note that in "A list of the tribes...found to be qualified for full management of their own affairs", presented in Resolution 89 of the 83rd Congress of the United States, only for the Menominee was the answer to the implied question an unqualified "Yes". Of the others named above, the Klamath bore a question mark, the Indian Peaks band of Paiute was annotated "Yes (conditionally)" and the three other Paiute bands were categorized "No".

It is not essential here to summarize comments regarding the Menominee and the Klamath, for both are treated in detail in the Brophy and Aberle volume, the crucial chapter of which is given as an attachment to Mr. Fairholm's report. My particular concern is with the possibility that the two groups might serve as "controls" in a study designed to illuminate problems ahead in efforts to implement consultation and implementation of the Canadian Indian policy. If the Menominee and Klamath Indians were given detailed study and then were matched with two carefully selected Indian groups in Canada, useful comparisons and tentative conclusions might be drawn regarding the content and methods of application of our policy to Canadian Indians.

In such a study attempts might be made to apply to the consultation process the theories of Management by Objective and of the T-Group, as outlined in a previous paper. As a beginning, it might be postulated that the American termination policy rested upon a philosophy in which human behaviour is related to the propositions of McGregor's Theory X. 3/ That is, that man is indolent and lacking in ambition, is self-centered, resistant to change, gullible and not very bright. That he must, thus, be directed, motivated and controlled by the use of compulsion; and that attempts to draw him into the complexities of decision-making, even when those decisions may directly affect his future, are a waste of time and effort at best and (by extension) may result in erroneous and even positively destructive action.

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1/ Brophy, W.A. and Aberle, S.D.: The Indian: America's Unfinished Business. University of Oklahoma Press, 1966.

2/ Ibid. Chapter 7, esp. pages 193-213.

3/ McGregor, Douglas: The Human Side of Enterprise. McGraw-Hill Book Co, 1960.



By the same token it may be suggested that the Indian policy formulated for Canada resembles the general attitude designated by McGregor as Theory Y. In this statement the nature of our average man is seen as the antithesis of that postulated in the summary above: he is not passive, unthinking, resistant to change, incapable of responsibility. To be sure, he must be stimulated and guided, but the capacity to join in decision-making and the formulation of policy is present and may be used.

Management by Objectives constitutes an attempt to bring about this new condition and to involve the average man in decision-making. Applied to our own problem, it suggests that Canada's Indians must be deliberately involved in formulating the policy by which they will be directed, and in its implementation.

The extent to which Indians are thus involved will depend largely upon the degree and the manner in which consultation is done. The propositions of T-Group theory are pertinent here. That is, discussions should be carried on within a small-group and face-to-face context of permissiveness and free exchange of information and opinion. The role of the leader will assume first importance, and the extent to which disagreement and argument are permitted will to a great extent determine the success of consultation.

An attempt to use the methods of Management by Objectives and T-Group theory, even in a very limited and tentative way, in the suggested study, will increase the value of the study. Comments in regard to the proposal made in the main section of this paper are solicited.

Effects of the United States Policy of Indian Termination and its  
Bearing upon Implementation of the Canadian Indian Policy.

OUTLINE

A. The Problem

To determine the extent to which a study of the U.S. policy of Indian Termination might be useful to the Canadian Indian Affairs Branch, and particularly to the Indian Consultation and Negotiation Group, in developing our own Indian Policy and its implementation.

B. Preliminary Sources

1. Study of Termination by Mr. C. Fairholm, including Resolutions and Reports
2. Brophy, William A. and Sophie D. Aberle: The Indians America's Unfinished Business (1966: U. of Oklahoma Press.) (Specifically, Chapter Seven, which is incorporated in the Fairholm paper.)
3. Deloria, Vine: Custer Died for Your Sins. (1969: MacMillan & Co.)

C. Additional Sources

1. Reports of the Bureau of Indian Affairs, Washington, D.C.
2. Certain Acts and Reports. (e.g., Wheeler-Howard (Indian Reorganization Act) 1934; Meriam Report, 1928; Indian Citizenship Act, 1924.)
3. Office of Commissioner of Indian Affairs, Washington, D.C.
4. Former Commissioners of Indian Affairs. (e.g., William Zimmerman, Robert Bennett.)
5. Selected officials in Bureau field offices and among selected tribes affected by termination. (See Preliminary Statement, attached)

D. Procedure

1. Bibliographic research: Libraries in Ottawa, Washington, other selected cities and universities, primarily in U.S.
2. Interviews with sources listed under "C", above.
3. Preparation of Report.



PRELIMINARY STATEMENT: Effects of the United States Policy of Indian Termination and its Bearing upon Implementation of the Canadian Indian Policy.

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1. Introductory.

An analysis by Mr. Fairholm of the United States policy of "termination" of Indian tribes was referred to in my report of November 21, 1969. (Appendix A to "Proposal for a Comparative Study of American and Canadian Indian Policies".)

Mr. Fairholm noted that the two policy proposals revealed three general similarities and six general differences, and to this list I added two features that were both "similar" and "different" and which I termed "intermediate".

The "similarities" pointed out were: (1) An intention to bring Indians into the fabric of the larger society - termed "assimilation" in the United States and "integration" in Canada. (2) An intention to shift responsibility for Indian services from the federal government to the states in the U.S. and to the provinces in Canada. (3) An intention to phase out the federal agency previously responsible for Indians, that is, in the United States the Bureau of Indian Affairs and in Canada The Indian Affairs Branch.

The "differences" enumerated were, in summary, that Canadian policy proposed a certain flexibility in general in its approach to Indian affairs and emphasized a continuation of federal concern and financial support for as long as all parties involved (federal, provincial and Indian) deemed necessary.

Since preparing this recapitulation of Mr. Fairholm's report, I have read the Deloria book (item 3 under "B" in the outline) and have to some extent revised my judgement regarding the U.S. termination policy. It appears to me, now that there are few substantive differences between the two policies, U.S. and Canadian, as each was originally stated.

Before documenting this belief, it should be acknowledged that (a) a reference to one additional source of information regarding termination does not constitute adequate grounds for decision; (b) the Deloria statement is in some measure suspect simply because it is written from the Indian point of view. (It is, in fact, subtitled, "An Indian Manifesto".) At the same time, Deloria's credentials are impressive and many instances of objectivity may be noted in his text.

With these caveats, it should be said that Deloria characterizes (page 59) the main original proposals for termination policy as "basically sound. They incorporated plans that had been discussed in the past between the bureau and the tribes. If carried out according to the original design, the program would have created a maximum of self-government and a minimum of risk until the tribes had confidence and experience in the program." (Emphasis added.)

Deloria's thesis is less cogent than it might have been for the reason that his basic assumption revolves about Acting Commissioner of Indian Affairs William Zimmerman's original outline of the policy when, in 1947, he appeared before the Senate Civil Service Committee to answer their request for suggestions on ways by which government expenditures could be reduced.

According to Deloria (page 56), "Zimmerman was anxious to remain a neutral party and so presented the committee with a series of recommendations, none of which would have resulted in substantial savings." Also, he set up criteria for the selection of tribes which, in retrospect, and no matter how acceptable they may appear to be in 1969, in Canada, were probably unrealistic in the immediate post-war atmosphere of 1947 in the United States. Finally, Zimmerman suggested three tribes, as types, for experiments with a policy of termination and did not attempt to expand that list.

A glance at the Zimmerman statement, as summarized by Deloria, reveals the nature of the original termination proposals. He classified (Deloria, page 56) the existing tribes into three categories. The first included those "that could immediately be terminated from federal services, providing certain protections were given them." The second included tribes "that might possibly achieve self-sufficiency within ten years following an intensive program of development." The third included tribes that should be given "an indefinite time period in which federal services were needed" before termination was applied.

These three categories were formulated on the basis of four criteria: (1) "the degree of acculturation" of a given tribe, which included data on "the admixture of white blood, the percentage of illiteracy, the business ability of the tribe, their acceptance of white institutions and their acceptance by whites in the community." (2) "the economic condition of the tribe, principally the availability of resources to enable either the tribe or the individuals, out of their tribal or individual assets, to make a reasonably decent living." (3) "the willingness of the tribe and its members to dispense with federal aid", and (4) "the willingness and ability of the State in which the tribe is located to assume the responsibilities."

Unfortunately Zimmerman lacked even the stature of a confirmed superintendent. Also, even had his suggestions had the support of his superior, the Secretary of the Interior or, more desirably, that of the entire Cabinet, the purview of the body before which he was appearing had nothing to do with Indian affairs, except in so far as the federal budget was concerned in relation to personnel and payroll.

This, perhaps, suggests the prime difference between the U.S. and Canadian Indian policies: that the former was an outgrowth of an intention to reduce expenditures while the latter was no more than slightly that, but was concerned with Indians first of all.

Even beyond this, the United States policy of termination was an expression of the Congress, not of the Bureau of Indian Affairs or even of the Cabinet. Finally, it must be at least suggested that Indian Affairs, in the U.S. have been and continue to be much more involved in politics and party jockeyings than has been the case in Canada, either recently or markedly in the past.

Deloria pins much of his criticism of the policy and practice of termination to the failure to put into effect Zimmerman's proposals. In the chapter which deals specifically and in some detail with termination he describes the



application of that policy to, and its effects upon, eight tribes. In discussing these he charges, and frequently documents those charges, that the federal government through the Congress has been guilty of "unbearable pressures, lies, promises, and threats of termination" against the Indians. "Whenever a tribe needed special legislation to develop its resources," Deloria says, "termination was often the price asked for the attention of the (Congressional) committee."

## 2. Areas of Research

As noted, the volume by Vine Deloria is scarcely by itself adequate as an analysis of the U.S. policy of termination. It has as its most obvious advantages authorship by an intelligent and well-educated Indian who occupied for several years positions of responsibility, and a contemporary outlook due to its 1969 publication. Yet many statements Deloria made ought to be checked by reference to original documents and other authorities.

Deloria, in his last three chapters especially, makes proposals for future development of Indian policy in the United States which, if their documentation and the interpretations they place on past events can be verified, may have direct and crucial importance for Canada, in our attempts to develop and implement our Indian policy.

In very brief summary form, Deloria's proposals include (1) a deliberate effort to develop the Indian reservation as a community (which he likens to the modern corporation) (2) an extension of this community to include all Indians, no matter where they live <sup>1/</sup> but especially those residing in the cities; (3) the development of tribal centres within cities, <sup>2/</sup> such centres to work closely with the reservation communities; (4) support of a movement by Indians to obtain services on contract, with the contracts to be set up and supervised by Indians with no interference by, but with adequate support from, government.

Granted that the situation differs substantially in the United States and Canada, Deloria's proposals are worth examining for their possible application to the Canadian scene.

Deloria presents selected details regarding eight American Indian tribes in relation to the policy of termination. Of these, the Menominees, the Colvilles, the Klamaths and the Senecas seem at first most to warrant detailed study. They are located in four states (Wisconsin, Washington, Oregon and New York). The first and third of these were among tribes initially selected by Zimmerman and were also among the first ten tribes selected for termination. They also happen to have a similar economic base in forest possessions, though each has handled this base in a different manner.

The Colvilles and the Senecas were not listed among the tribes eligible for termination, although in the list attached to HR 89, September 20, 1954, the former was designated "Yes (conditionally)". The circumstances in which each tribe finds itself is different, also.

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<sup>(2)</sup>  
1/ Which would include our "enfranchised" Indians, and our Métis.

2/ Centres in Toronto and elsewhere may qualify.

It is of course not essential that all four tribes be given close study; any one or two of them might be selected. By the same token, the list might be expanded, to include some or all of those additional tribes referred to by Deloria: - Osages, Paiutes, Potawatomis, Alabama-Conshattas. Nor is it impossible that other tribes, some of them only referred to in passing by Deloria, might present aspects worth examining. The exact definition of groups to be studied will be a matter for discussion and decision; but in view of the rather narrow time schedule suggested, I believe some or all of the four first mentioned (Menominees, Klamaths, Colvilles and Senecas) should be first considered.

A schedule for research might be laid out as follows:

1. A precise analysis of William Zimmerman's "recommendations" and "criteria" should be undertaken, and an attempt made to determine the applicability of both the method and the substance to our own future activities. If Mr. Zimmerman is still alive, it would be worthwhile to discuss with him the Canadian situation as it may relate to that in the United States.
2. Each of the American tribes selected for study should be visited, for observation and discussion with tribe leaders and members and others. Criteria used in analysis should include the socio-economic and the political.
3. Mr. Deloria's suggestions as to future development of "communities" and "centres" should be discussed with their author and an investigation of the applicability of those or similar measures to our own Indian groups be made.
4. If it seems advisable, a selection of Canadian Indian groups should be made, matched as far as possible to the American tribes by reference to the same criteria.



JR.

Vine Deloria: CUSTER DIED FOR YOUR SINS. London: Macmillan & Company, 1969 (2nd printing).

#### TERMINATION: GENERAL ORIGINS

page 54: "The Congressional policy of termination, advanced in 1954 and pushed vigorously for nearly a decade, was a combination of the old systematic hunt (of Indians by whites) and the deprivation of services." (Note: Words in parentheses underlined added.)

page 55: "The roots of termination extend backward in time to the early years of the Roosevelt administration....The Merriam Report of 1928 had shown that Indian tribes were in a desperate situation. There had been no progress of any kind on the reservations since they were set up. The people were in the final stages of demise. "Pressures for reform coincided with the election of Roosevelt, who appointed John Collier as Commissioner of Indian Affairs.... He (Collier) quickly pushed the Wheeler-Howard Act through Congress in 1934 and gave the reservations their first taste of self-government in nearly half a century.

"The Senate Interior Committee that handled Indian legislation kept alive its investigative powers over Indian Affairs by periodically renewing the original Congressional resolution which authorized it to initiate the Merriam Report investigation....

"By 1943 the Senate Interior Committee was convinced that the Indian Bureau should be abolished....

"The House Interior Committee...authorized an investigation of Indian Affairs by a special subcommittee headed by Karl Mundt, Republican of South Dakota. The Committee reported that the Wheeler-Howard Act was not accomplishing its task of bringing the Indian people up to the level of their white neighbors."

pp. 56-57: "In 1947 the Senate Civil Service Committee held hearings on ways that government payrolls could be cut and expenditures be reduced....

"William Zimmerman, Acting Commissioner of Indian Affairs, was asked to give testimony on the possibility of reducing personnel in the Bureau by releasing some of the tribes from Federal supervision. The Committee was primarily interested in a consolidation of functions and the subsequent saving of federal funds.

"Zimmerman was anxious to remain a neutral party and so presented the committee with a series of recommendations, none of which would have resulted in substantial savings.

"He classified the existing tribes into three categories. The first ...tribes that could immediately be terminated from federal services, providing certain protections were given them. The second...tribes that might possibly achieve self-sufficiency within ten years following an intensive program of development. The last class had an



indefinite time period in which federal services were needed.

"So Zimmerman laid out the criteria by which he had classified the tribes:

"The first...the degree of acculturation...includes such factors as the admixture of white blood, the percentage of illiteracy, the business ability of the tribe, their acceptance of white institutions and their acceptance by whites in the community.

"The second...the economic condition of the tribe, principally the availability of resources to enable either the tribe or the individuals, out of their tribal or individual assets, to make a reasonably decent living.

"The third...the willingness of the tribe and its members to dispense with federal aid.

"The last...the willingness and ability of the State in which the tribe is located to assume the responsibilities."

"There was no doubt that Zimmerman regarded Indian consent and understanding as among the important factors to be considered in any alteration of the existing relationship. But there was also an emphasis on the willingness of the state to assume responsibility for the tribe and its members.

"Zimmerman had prepared sample withdrawal plans....

"I have prepared separate bills for the Klamath, Osage and Menominee tribes.

"I took these as examples, as specimens, because each of them has substantial assets, each of them has a small degree of tribal control, and each of them has indicated that it wants to assume more control, if not full control, of its tribal assets and its tribal operations.

"Each of the tribes further has prior legislation under which the Department supervises the operations. For that reason it seems to me best to suggest, as types at least, these three different tribes."

"The Acting Commissioner suggested three special plans by which the Bureau might consider it possible to end federal supervision and enable the tribe to have some chance of success."

pp. 58-61. "Every plan put forward by Zimmerman required that the tax immunity remain on Indian lands until the tribal enterprise was financially secure in its new method of operation. Plans also included provisions for approval by a clear majority of the adult members of the tribe before they were to go into effect, and some proposals were not to be initiated by the Bureau but had to come from the tribal governing body at its own request.

"The suggestions were basically sound. They incorporated plans that had been discussed in the past between the Bureau and the tribes. If carried out according to the original design, the program would have created a maximum of self-government and a minimum of risk until the tribes had confidence and experience in the program.

"Unfortunately, the committee dropped Zimmerman's suggestions when it was discovered that the termination of even fifty thousand Indians would have had little effect on the Interior budget. Using the criteria of the committee -- the reduction of federal expenditures -- termination of Indian tribes was not a significant program.



"Three years after the Senate hearings (1950) the House Interior Committee began a massive study of Indian Affairs....it recommended using the philosophy of Rene Descartes, French rationalist of the 1600's, as a method of research:"

(Four precepts: never to accept and use any precept that was not clearly known and accepted; divide each problem into as many component parts as possible; proceed by logical steps from the simple to the complex; make enumerations complete and reviews general.)

"In sum, the committee declared: 'If we can order our treatment of materials in Indian Affairs after this fashion it should be possible to grasp firmly the essentials of the problems involved and to cope with them....'

"They further proposed to use the Domesday survey of 1086 as the model for a twentieth-century investigation of Indian problems:

"This extensive report on an entire nation should serve as a model for the administration of Indian Affairs today. There is a need for an exact, highly localized and thorough accounting of all Indian properties and Indian tribes as a complete allotment and dissolution of separate Indian tribal economic and political organization is contemplated. A survey along the lines of the Domesday project would furnish an inventory of all the basic facts needed to complete Indian assimilation. The Congress and federal government exercise the function of sovereignty over the Indians in the same manner as that by the King of England over his domains. The title to Indian lands and federal public domain lands would be clearly and precisely stated for every locality. Present day information on Indian property and population is generally piecemeal, confused, and probably unreliable. There is a real need for a Domesday survey of Indian Affairs.'

"With this contemptuous announcement of federal power of Congressional committees, the stage was set for...the termination period in Indian Affairs. Dillon Myer, Truman appointee as Commissioner of Indian Affairs, ~~in 1950~~ embarked on a withdrawal program in August of 1952, before Congress had even authorized its great Domesday study." ~~XXXXXXXXXXXX~~

(He told his employees that the withdrawal program was to be a cooperative effort of Indian and community groups with Bureau personnel, and that the latter would be expected to encourage Indian initiative and leadership, even though it might not be possible always to obtain Indian cooperation.)

"Full understanding', Myer went on, 'by the tribal membership should be obtained in any event, and agreement with affected Indian groups must be obtained if possible. In the absence of such agreement, however, I want our differences to be clearly defined and understood by both the Indians and ourselves. We must proceed, even though Indian cooperation may be lacking in certain cases.'"

page 62: "On June 9, 1953, the first shot of the great twentieth century Indian war was fired when Representative William Henry Harrison...introduced House Concurrent Resolution 108 in the Eighty-third Congress. HCR 108 declared the intention of Congress to terminate federal supervision (termination policy) at the 'earliest possible time'.

"February, 1954, saw the beginning of a systematic attack on every tribe in the nation. Gone were the four factors which Zimmerman had used in 1947 to classify tribal readiness for termination."



TERMINATION: GENERAL EFFECTS

- ② page 63: "The basic approach of the Senate committee never varied for fourteen years. Unbearable pressures, lies, promises, and threats of termination were made whenever a tribe won funds from the United States....Whenever a tribe needed special legislation to develop its resources, termination was often the price asked for the attention of the committee."
- ③ page 72: "Rarely does a judgment bill (financial) come before the (Senate Interior) committee but what Gamble (James Gamble, staff member of the committee) tries to have a termination rider attached."
- ① page 75: "Termination is the single most important problem of the American Indian people at the present time."
- ④ page 72: "Whenever a tribe has been terminated all federal assistance stops."



TERMINATION: SELECTED TRIBES

Osages. page 58. The Osages had already distributed shares of their tribal estate in "headrights", allotted the land, and retained the sub-surface mineral rights, which provided oil royalties to holders of headrights. The sample bill (Zimmerman's) for the Osage provided that all funds administered by the Interior Department would henceforth be administered by the tribe, subject to audit at any time by Interior officials.

<sup>ai</sup>  
Piautes. pp. 62-63. The first termination case -- concerning small bands of Piautes, in Utah -- set the precedent for the Senate Interior Committee, from Arthur Watkins, conservative Republican from Utah in 1954, to Henry Jackson, pseudo-liberal Democratic from Washington in 1968....

In this first case, Watkins made sure that some of his Utah Indians were the first to go....It did not matter that the Piautes had not ~~been~~ been mentioned either by Zimmerman or in HCR 108....

He forced consent, if it can be called that, of these small bands of southern Utah by promising them recognition by the federal government of their tribal marriages. But when the legislation came out there was no mention of tribal marriages, only of removal of federal services. The Piautes had been too poor to come to Washington for the hearings, and when they found out what Watkins had done it was too late. They were placed under a private trustee who rarely communicated with them, and in a more restrictive trusteeship than they had known when under federal supervision.

Potawatomi. page 64. Were...considered to be in such a low economic status that to assist...was felt to be too expensive. Better, the Bureau said, to let the Potawatomi ~~expire~~ as private citizens than to have anyone find out how badly the federal government had shirked its responsibilities. Somehow they escaped the blow, although Bureau assistance to them since 1954 has been nil.

Alabama-Coushattas. page 64. The Bureau, meeting with the tribal council, told them the termination bill was concerned with forest management. They stated that any more cutting of timber on tribal lands would not be allowed unless the tribe agreed to the proposal. The tribe agreed, the law was quickly passed with little consultation with the state of Texas, and the tribe was placed under state trusteeship.

Senecas. page 74. Under consideration at the present time is another termination bill. In 1964 the Seneca Nation of New York finally received its compensation for the land taken for the Kinzua Dam. Kinzua was built by breaking the Pickering Treaty of 1794, which had pledged that the Senecas would remain undisturbed in the use of their land.

But before the Senecas could get the Senate Interior Committee to approve their judgment bill they had to agree to section 18, a termination rider, which required the Senecas to develop a plan for termination within three years.

The Seneca bill proposes to capitalize annuities payable to the



Senecas under a number of treaties and pay the tribe outright. Annuities amount to very little, but the Senecas regard them as highly symbolic....They have more of a religious and historical significance than they do monetary value.

Section 9 of the bill provides that the act shall not become effective until a resolution consenting to its provisions has been approved by a majority of the eligible voters of the Seneca Nation voting in a referendum.

Colvilles. pages 72-73. The chief termination problem in recent years has been that of the Colville tribe of Eastern Washington....In the closing years of the 1950's the Colvilles received some land back. This land had been part of the reservation and was opened for homestead. However, when some of it remained unused, the tribe asked for its return. Termination was the price the Colvilles were asked to pay for their own land.

Analysis of the Colville ~~bill~~ termination bill reveals..... the bill provides that the act will become effective after a referendum of the adult members of the tribe. No provision is included to require that a majority of the enrolled adult members vote in the referendum. Thus a majority of fifty votes out of five thousand-plus tribal members would be sufficient to terminate the tribe. Zimmerman's original proposal, which incidentally contained no reference to the Colvilles, provided for the majority of the enrolled adults to initiate any movement toward termination of supervision.

After the referendum is taken, the members will find out what they voted for. The reservation will then be appraised by three independent professionals and the figures averaged. The average value is the price the United States will pay the tribe for its reservation. Section 15 of the bill....there is a provision that while the money is being distributed, the Secretary of the Interior can determine whether any member of the tribe is incompetent and appoint a guardian for him. Incompetency is never mentioned as a requirement for voting in the first part of the bill. But hidden in the middle is a provision giving the Secretary of the Interior unlimited discretionary power over Indian people. Theoretically the Secretary could declare all of the Colvilles incompetent and place them under a private trustee.... Fortunately the House Interior Committee has been sympathetic to Indian pleas and has to date not passed the bill.

pp.75-76. Too often termination has been heavily disguised as a plan to offer the Indian people full citizenship rights. Thus the Washington State Legislature has been continually and deliberately misled by a few urban and termination-minded Colvilles into passing a resolution asking for the extinguishment of the Colville tribal entity and the vesting of the Colville people with "full citizenship" rights. In fact, the Citizenship Act of 1924 gave all Indians full citizenship without affecting any of their rights as Indian people.



In practice, termination is used as a weapon against the Indian people....Neither the Senecas nor the Colvilles were listed in the original discussion of termination by Acting Commissioner Zimmerman in 1947. Nor were these tribes listed in House Concurrent Resolution 108, which outlined termination and mentioned tribes eligible for immediate consideration.

Both tribes have had to submit ot termination provisions in legislation which had nothing to do with termination policy as originally defined by Congress. The Senecas and the Colvilles got caught in the backlash of Congressional ire at the Bureau of Indian Affairs. The Senecas had money coming to them because of the gross violations of their rights under treaty. The Colvilles wanted land returned which was theirs and which had been unjustly taken years before.

In the case of the Colvilles the record is doubly ironic. The tribe rejected the provisions of the Indian Reorganization Act and was determined to operate under a constitution of its own choosing. At the same time, under IRA the Secretary of the Interior has full authority to return lands to the tribe, but he does not have authority to return lands to non-IRA tribes. Thus failure years before to adopt a constitution under the Indian Reorganization Act unexpectedly backfired on the tribe.

Klamath. pages 57, 63-64. ...it was envisioned that all funds would remain subject to Congressional appropriation so that the tribal council would not be subjected to undue pressure for distribution by the reservation people.

A corporation to operate the massive Klamath forest by sustained-yield methods would be organized by the tribe. Officials would be subject to federal laws and courts for acts of malfeasance, to guarantee proper administration of the corporation. Because of treaty rights of tax exemption the forest would remain untaxable, until Congress provided otherwise in consultation with the tribe.

...the Klamaths had received a judgment against the United States for \$2.6 million. But they needed enabling legislation to spend it.

Watkins withheld approval of the Joint Subcommittee until the Klamaths agreed to his termination bill. The state of Oregon was hardly consulted at all. Thus two basic factors of the four presented by Zimmerman were lacking from the very beginning. Termination of the Klamaths had neither tribal nor state willingness.

The Klamath bill had been so ~~badly written~~ hastily written that it had to be amended to prevent collapse of the lumber industry on the West Coast. Since it had originally called for immediate clear-cutting of eighty-million-dollars' worth of timber, the market appeared headed for total disaster because of the great quantity of wood that would suddenly depress the market....there was no conspiracy to cheat the Klamath, the legislation was so sloppily written that no one on the Senate or House committee realized what clear-cutting a forest meant. The committee members' only desire was to get the termination of the tribe over with as quickly as possible.



The Menominee. page 58. The plan advanced for the Menominee was similar (to that of the Klamath). Earlier it had been awarded \$1.5 million in a claim against the United States and took its judgment in land, consolidating its reservation into one large tract. The Menominees had previously successfully resisted the Allotment Act and issued use rights to members of the tribe instead of allotments. In that sense only were they different from the Klamaths, who had an allotted reservation.

The Menominees had a sawmill with a dual purpose -- to provide jobs for tribal members and income for the tribe. Zimmerman foresaw a fifty-year period of tax exemption on the Menominee forest as the most feasible proposal.

pages 65-66. The tragedy of the Menominee tribe of Wisconsin illustrates the extent of termination's failure. The tribe was one of the few paying for all its own services. The sum of \$520,714. was budgeted by the tribe for the reservation the year before termination. The tribe invested \$285,000. in construction projects, \$56,745. for education, \$47,021. for welfare, and \$130,000. for health. It set aside \$42,615. for law and order activities. The federal government, which was obligated to provide ~~for~~ all of these services, actually spent only \$95,000. for roads and \$49,000. for education, on a matching basis with the state and tribe. The total federal cost per year for the Menominees was \$144,000. or \$50.85 per Indian. There was, consequently, not much to be saved by terminating them. But they had won a \$8.5 million judgment against the United States in the Court of Claims and needed legislation to distribute it. In 1908 federal legislation was passed which had given the Forest Service responsibility for administering the Menominee resources on a sustained-yield basis. In violation of this law, local government foresters had decided to clear-cut the forest, and the income which should have come to the Menominees through the years on a sustained-yield basis was deprived them. Finally, in 1951, they had won their judgment against the United States, and the money was deposited to the tribe's account in the U. S. Treasury.

The Joint Subcommittee was outraged that the tribe had been vindicated ....When a bill passed the House Interior Committee, which authorized the distribution of the judgment money, Watkins attached a ~~ridic~~ provision to the bill in the Senate requiring the tribe to submit to termination in order to get the money. The Menominees objected to the provision and Watkins held the bill until the end of the year.

pages 66-67. (Deloria quotes from Subcommittee hearing to indicate that Menominee approval of termination was achieved under duress and by chicane. I.e.: The Menominees were not included in HCR 108. They were told they could not have a per capita payment unless they accepted termination, and the 150 tribe members present voted accordingly.)

pages 68-69. The initial plan was for the Menominee forest to be turned over to the tribe for management. This plan was predicated on the fact that the Menominee tribe had over ten million dollars in the federal treasury. But the Menominees had to agree to termination in order to get a per capita distribution of that money authorized....

Wisconsin strongly opposed the Menominees' termination. It was worried about the eventual effect of the plan on the community and the state. (Especially the effects of depletion of revenues for welfare and services.) ...reference to the Zimmerman recommendations ~~which~~ which included the fifty-year tax exemption for the forest proved



fruitless....there was no appeal for the tribe, either to historic commitments made by the federal government or to common sense....

pages 70-72. With termination came the closing of the Menominee hospital. The tribe was unable, with the additional burden of taxation, to keep up its health program. Deprived of medical services and with poor housing, the infant death rate continued to rise. By July, 1964, 14 per cent of the county, which was the former reservation area, was receiving welfare payments. The State Department of Public Welfare estimated that Menominee country needed a transfusion of ten to twenty million dollars to bring it up to par with other Wisconsin counties.

How much did Menominee termination save the federal government? By 1960 the costs simply to plan for termination had become tremendous ... "a total we anticipate of \$2,357,039. by December 31 (1960)." In addition to the \$2,357,039., however, in 1961 the federal government had to give the Menominees \$1,098,000. over a period of five years, to cover education and health subsidies for problems caused by termination. In 1966, because the county was rapidly going downhill, another law was passed giving the tribe another \$1.5 million over a three-year period. By 1964 the state of Wisconsin had granted the tribe some \$52,363. in special contributions to welfare costs. But by then the situation was so desperate that the state was forced to make a special grant of \$1 million to individuals in the county to keep their shares in the Menominee Enterprises from going out of Menominee hands and disenfranchising the tribe from its forest.

Clearly, with some \$5 million of special federal aid, over \$1 million in state aid, and a rapidly sinking economy combined with increasing health and education problems and a skyrocketing tuberculosis rate, termination has not been a success for the Menominees.





OTTAWA 4, January 7, 1970

1/44-1

*M I*  
DR. D.A. MUNRO

TERMINATION STUDY PROJECT

As you will note, the present paper takes off from Deloria's book. It is as a result broader in scope than the original proposal but, at the same time, I believe it is more precise.

Supposing the four tribes suggested for study are acceptable, I see the project broken down into four periods:

1. Bibliographic research and interviewing, in Ottawa, Washington and Albany, to occupy the month of February. (Possibly a visit to the Senecas might be managed during that period, also).
2. Field trip to the Menominees, the Colvilles and the Klamaths during April.
3. Consolidation of data and preparation of a preliminary report: April.
4. Matching and selection of Canadian Indian groups and preparation of final report: April-May.

This is a total of nine weeks, but might vary one way or the other by a week.

*O.T.*  
O.T. Fuller

*11 Mr Fuller.*

*Please proceed, consulting with Mr. Fairbairn from time to time. I would like to defer approval of visits to the Colvilles & the Klamaths until after you've visited the Menominees. Also please bear in mind our discussion of Indian social stability pre- & post- 1900. In my view, priority must be given to an assessment of situations now in the light of their past history & future.*



## "INDICES OF SOCIAL STABILITY"

Social stability is a summary term applied when a social group is functioning in such a way that relationships between individuals within the group are relatively free of friction and the purposes of the society are generally realized. These purposes are usually considered to include maintenance of law and order, effective security, and perpetuation of the group.

No society, however, is completely free of difficulties and not all purposes are achieved without trouble. When such difficulties arise we speak of "social disorganization", which affects both individuals and the society's institutions. The troubles of individuals are reflected in the malfunctioning of institutions, and "indices of social stability" are, in effect, composite referrals to individual dissatisfaction and malaise.

A list of indices of social stability can be drawn up by direct reference to social institutions.

### 1. Law and Order Data

- a. Crimes and misdemeanors. This category reflects one aspect of overall security and includes delinquency and other aberrant behaviour such as drug use, prostitution, etc.
- b. Police and fire protection. The size and effectiveness of these tools of law and order reinforce judgements reached on the basis of "a".
- c. Courts and the legal framework. Statistics on court cases and convictions, and the laws they reflect, further reinforce conclusions in the field of law and order.
- d. Armed forces. In modern, Western society, only national societies find it necessary to maintain these.

### 2. Actuarial Data

- a. Birth, mortality and morbidity. All statistics which reflect the physical and mental health of individuals may comprise indices. Included also are data on size, use and scope of hospital and medical facilities.
- b. Employment and income. Statistics on bank accounts, availability of cash and credit and the use of funds in entrepreneurial and public enterprises, are included. Also, the proportion of public and individual income expended on necessities and luxuries should be considered.
- c. Welfare payments. This index reflects in some measure both "a" and "b".



- d. School attendance. Includes statistics on the proportion of the population receiving various levels of education, both academic and vocational, and data on the educational plant.
- e. Population mobility. The term, "mobility" may refer to both physical (demographic) and "social" (classcaste) movement within the society, and also fluctuations due to immigration and emigration.

### 3. Social Data

This category reflects and reinforces conclusions drawn from both "Law and Order" and "Actuarial" data. It includes distribution and fluctuations of formal and informal secondary groups and associations. Important, also, may be the persistence of the family as an institution.

These descriptive summaries may be itemized:

#### Indices of Social Stability.

- 1. Incidence of crime and misdemeanors.
- 2. Incidence of delinquent and aberrant behavior.
- 3. Courtroom activity, including arrests, trials, sentences.
- 4. Size of police and fire protection forces.
- 5. Tables of mortality and ~~mobility~~ *morbidity*
- 6. Hospital admissions, diagnoses, hospital-days, discharges.
- 7. Physicians' records, not hospital-derived.
- 8. Welfare, assistance and payment rolls.
- 9. School attendance and withdrawal records, educational levels.
- 10. Size of school plant and population.
- 11. Population mobility -- demographic: internal, external.
- 12. Population mobility -- social: class and status.
- 13. Family size; organization: authoritarian, democratic; persistence as institution; stability.
- 14. Secondary group memberships: persistence and fluctuation.

Most of the data required to establish these indices is of statistical sort, and should be available in community administrative sources, local, county or state. Numbers 13 and 14 will result from observation within the community and from discussions with community officials and members. No very sophisticated statistical operations will be necessary in handling the data or in drawing conclusions.



83D CONGRESS  
1ST SESSION

# H. CON. RES. 108

IN THE SENATE OF THE UNITED STATES

Ordered to be printed as passed August 1, 1953

## CONCURRENT RESOLUTION

Whereas it is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship; and

Whereas the Indians within the territorial limits of the United States should assume their full responsibilities as American citizens: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That it is declared to be the sense of Congress that, at the earliest possible time, all of the Indian tribes and the individual members thereof located within the States of California, Florida, New York, and Texas, and all of the following named Indian tribes and individual members thereof, should be freed from Federal supervision and control and from all disabilities and limitations specially applicable to Indians: The Flathead Tribe of Montana, the Klamath Tribe of Oregon, the Menominee Tribe of Wisconsin, the Potawatamie Tribe of Kansas and Nebraska, and those members of the Chippewa Tribe who are on the Turtle Mountain Reservation, North Dakota. It is further declared to be the sense of Congress that, upon the release of such tribes and individual members thereof from such disabilities and limitations, all offices of the Bureau of Indian Affairs in the State of California, Florida, New York, and Texas and all other offices of the Bureau of Indian Affairs whose primary purpose was to serve any Indian tribe or individual Indian freed from Federal supervision should be abolished. It is further declared to be the sense of Congress that the Secretary of the Interior should examine all existing legislation dealing with such Indians, and treaties between the Government of the United States and each such tribe, and report to Congress at the earliest practicable date, but not later than January 1, 1954, his recommendations for such legislation as, in his judgment, may be necessary to accomplish the purposes of this resolution.

Attest:

LYLE O. SNADER,  
*Clerk of the House of Representatives.*

Attest:

J. MARK TRICE,  
*Secretary of the Senate.*

VII



## Union Calendar No. 925

83d Congress  
2d Session

HOUSE OF REPRESENTATIVES

REPORT  
No. 2680

### REPORT WITH RESPECT TO THE HOUSE RESOLUTION AUTHORIZING THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO CONDUCT AN INVESTIGATION OF THE BUREAU OF INDIAN AFFAIRS

SEPTEMBER 20, 1954.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed, with an illustration

Mr. MILLER of Nebraska, from the Committee on Interior and Insular Affairs, submitted the following

### REPORT

[Pursuant to H. Res. 89, 83d Cong.]

To assist in complying with the instructions of House Resolution 89, Chairman Miller appointed a Special Subcommittee on Indian Affairs to conduct the proposed study. Representative William Henry Harrison was named chairman and the members were Representatives E. Y. Berry, Jack Westland, Wayne N. Aspinall, and George A. Shuford.

Following is the report to the Committee on Interior and Insular Affairs submitted by the Special Subcommittee on Indian Affairs:

#### STATEMENT OF DIFFICULTIES

The subcommittee would like to preface its findings under House Resolution 89 with a brief statement regarding the principal difficulties encountered during its investigations. These difficulties can be used, if properly understood, as means of approach toward solving the general question of Indian wardship and dependency.

(1) There exists at present, no adequate channel for the expression of overall Indian public opinion, either in local communities, or in the Nation as a whole. Indians do not publish daily newspapers, do not have adequate polling systems on public issues, and do not express themselves in public as members of an Indian bloc or segment of the general public. Hence, it is impossible for the subcommittee, under the present system, to poll Indian opinion on issues involving themselves.

(2) Indian Affairs suffer from an increasing complexity of technical and geographical detail which is manifested in the mounting accumulation of special legislation relating to specific Indian groups and an



infinite amount of detail in each piece of legislation which well-nigh overpowers human capacity to comprehend. The background material needed even in the consideration of particular Indian bills is frequently so vast and involved that neither members nor their staffs have the time or resources to digest it.

(3) Under the authority of the Indian Reorganization Act of 1934 (48 Stat. 984-988 C 576) the Secretary of the Interior has been able to delegate certain powers, originally delegated to him by Congress, to the tribal governments themselves with resulting confusion of authorities and jurisdictions which sometimes passes belief. For example, the tribal constitutions contain membership clauses in which the tribe is empowered to determine membership in accordance with tribal membership rolls, which rolls are apparently no one's responsibility to maintain, judging from actual performance at many Indian agencies. Inasmuch as it is possible for certain elements to manipulate these tribal rolls to suit themselves it is possible to include many persons of little or no Indian blood among the recipients of Indian Bureau services as members of tribes holding lands in trust status.

(4) Apparently no law yet enacted in the field of Indian affairs has had the effect of stimulating Indians, as a group, to make an active effort to end Federal wardship. As a matter of record, it is frequently found that the most active and advanced Indian tribes are the most reluctant to sever the ties which bind them to their Federal guardian. It might be supposed that the Indian Reorganization Act of 1934 would have served to school Indians in the ways of self-government in local community life which would have prepared them to participate in the civic life of their States as do non-Indians. Such, however, was not the case, and committee investigations show that the Indian Reorganization Act served to tighten the bonds more closely which held the reservation ward to his guardian. The record suggests that only through an energetic program to eliminate statutory provisions setting Indian citizens apart from non-Indian citizens in matters relating to personal status can there be hope of attaining for the Indian the benefits and responsibilities enjoyed by non-Indians.

Findings and recommendations by the committee regarding the points raised in House Resolution 89 are as follows:

- (1) *A list of the tribes, bands, or groups of Indians found to be qualified for full management of their own affairs, and*
- (4) *Names of States where further operation of the Bureau of Indian Affairs should be discontinued*

In order to present a full list of tribes, bands, and groups which were officially determined by the Indian Bureau to be immediately eligible or ineligible to manage their own affairs, the following table was prepared on the basis of evidence from field agencies submitted by the Indian Bureau in 1953 (i. e., from the Dillon Myer field questionnaire of August 1952). The word "yes" refers to those groups qualified to handle their own affairs immediately and the word "no" to those not so qualified, in the opinion of local officials of the Indian Bureau. (See pp. 25-26, and 29-97, this report.)



- Blackfeet: Yes (except for a minority).  
 California (115 groups listed on pp. 1140-1141 of H. Rept. 2503, 82d Cong., 2d sess.): Yes.  
 Cherokee and Catawba:  
     Cherokee of North Carolina: No.  
     Catawba of South Carolina: Yes.  
 Cheyenne River: No.  
 Choctaw of Mississippi: No.  
 Colorado River Agency:  
     Hualapai: No.  
     Yavapai: Yes (conditionally).  
     Havasupai: No.  
     Camp Verde: No.  
     Fort Mohave: No.  
     Cocopah: Yes.  
     Colorado River: No.  
 Colville and Spokane:  
     Colville: Yes (conditionally).  
     Spokane: Yes.  
 Consolidated Chippewa:  
     Pond du Lac: Yes.  
     Grand Portage: Yes (conditionally).  
     Leech Lake: Yes (conditionally).  
     White Earth: Yes (conditionally).  
     Nett Lake: Yes (conditionally).  
     Mille Lac: Yes.  
 Consolidated Ute Agency:  
     Southern Ute: No.  
     Ute Mountain: No.  
 Crow: No.  
 Crow Creek and Lower Brule:  
     Crow Creek: No.  
     Lower Brule: No.  
 Five Civilized Tribes: No.  
     Quapaw area:  
         Eastern Shawnee: Yes (conditionally).  
         Ottawa: Yes.  
         Quapaw: Yes (except for minority).  
         Seneca-Cayuga: Yes (conditionally).  
         Wyandotte: Yes (conditionally).  
 Flathead: Yes.  
 Fort Apache: No.  
 Fort Belknap and Rocky Boy's:  
     Fort Belknap: Yes.  
     Rocky Boy's: No.  
 Fort Berthold: Yes.  
 Fort Hall: Yes (if gradual).  
 Fort Peck: Yes (except for minority).  
 Great Lakes Consolidated:  
     Bad River: No.  
     Bay Mills: Yes.  
     Forist County Potawatomi: No.  
     Hannahville: Yes.  
     Keweenaw Bay: Yes.  
     Lac Courte Oreilles: No.  
     Lac du Flambeau: Yes (conditionally).  
 Great Lakes Consolidated—Continued  
     Oneida: Yes.  
     Red Cliff: Yes.  
     Sac and Fox of the Mississippi in Iowa: No.  
     Saginaw Chippewa or Isabella: Yes.  
     St. Croix: Yes.  
     Sokaogon or Mole Lake: Yes (conditionally).  
     Stockbridge-Munsee: Yes.  
     Winnebago of Wisconsin: Yes (conditionally).  
 Hopi: No.  
 Jicarilla: No.  
 Klamath: (?).  
 Menominee: Yes.  
 Mescalero Apache: No.  
 Navaho: No.  
 Nevada:<sup>1</sup>  
     Battle Mountain Colony: Yes.  
     Carson County: Yes.  
     Duck Valley: Yes.  
     Duckwater: Yes.  
     Elko: Yes.  
     Ely: Yes.  
     Fallon Colony: No.  
     Fallon: Yes.  
     Fort McDermitt: Yes.  
     Goshute: No.  
     Las Vegas: Yes.  
     Lovelock Colony: No.  
     Moapa: Yes.  
     Pyramid Lake: Yes.  
     Reno-Sparks: Yes.  
     Ruby Valley: Yes.  
     Skull Valley: Yes.  
     South Fork: Yes.  
     Summit Lake: Yes.  
     Walker River: Yes.  
     Washoe: No.  
     Winnemucca Colony: Yes.  
     Yerington Colony: No.  
     Yerington (Campbell Ranch): Yes.  
     Yomba: Yes.  
 Northern Cheyenne: No.  
 Northern Idaho Agency:  
     Kalispel: No.  
     Kootenai: No.  
     Nez Perce: Yes.  
     Coeur d'Alene: Yes.  
 Osage: (?).  
 Papago: No.  
 Pima Agency:  
     Fort McDowell: No.  
     Salt River: Yes (conditionally).  
     Gila River: No.  
     Maricopa or Ak Chin: No.  
     Pine Ridge: No.  
     Pipestone: (?).  
     Red Lake: No.  
     Rosebud and Yankton:  
         Rosebud: No.  
         Yankton: Yes (conditionally).

<sup>1</sup> Based on numerical counts of families, competent, marginal, and incompetent.



San Carlos: No.	United Pueblos—Continued
Seminole of Florida: No.	Picuris: No.
Sisseton-Wahpeton Sioux: Yes.	Pojoaque: No.
Southern Plains:	Sandia: No.
Absentee Shawnee: No.	San Felipe: No.
Alabama-Coushatta of Texas: Yes	San Ildefonso: No.
(except for minority).	San Juan: No.
Caddo: Yes.	Santa Ana: No.
Cheyenne-Arapaho: No.	Santa Clara: No.
Citizen Potawatomi: Yes.	Santo Domingo: No.
Fort Sill Apache: Yes.	Taos: No.
Iowa of Kansas and Nebraska: Yes.	Tesuque: No.
Iowa of Oklahoma: Yes.	Zia: No.
Kaw: Yes.	Zuni: No.
Kickapoo of Kansas: Yes.	Canyoncito: No.
Kickapoo of Oklahoma: No.	Alamo: No.
Kiowa-Comanche-Apache: No.	Ramah: No.
Otoe-Missouria: No.	Warm Springs: No.
Pawnee: Yes (except for minority).	Western Washington:
Ponca of Oklahoma: No.	Chehalis: Yes.
Prairie Potawatomi of Kansas: No.	Hoh: Yes.
Sac and Fox of Kansas and	Lower Elwha: Yes.
Nebraska: Yes.	Lummi: Yes (conditionally).
Sac and Fox of Oklahoma: Yes	Makah: Yes.
(except for minority).	Muckleshoot: Yes.
Tonkawa: Yes.	Nisqually: Yes.
Wichita: Yes (except for minority).	Ozette: Yes.
Standing Rock: No.	Port Gamble: Yes.
Turtle Mountain and Fort Totten:	Port Madison: Yes.
Turtle Mountain: Yes.	Public Domain: Yes.
Fort Totten: Yes (conditionally).	Puyallup: Yes.
Utah and Ouray:	Quileute: Yes.
Utah and Ouray: No.	Quinault: Yes.
Shivwits: No.	Shoalwater: Yes.
Koosharem: No.	Skokomish: Yes.
Indian Peaks: Yes (conditionally).	Squaxon Island: Yes.
Kaibab: No.	Swinomish: Yes (conditionally)
Kanosh: No.	Tulalip: Yes.
Umatilla: Yes (conditionally).	Wind River: Yes.
United Pueblos:	Winnebago Agency:
Acoma: No.	Omaha: Yes.
Cochiti: No.	Ponca: Yes.
Isleta: No.	Santee Sioux: Yes.
Jemez: No.	Winnebago: Yes.
Laguna: No.	Yakima: No.
Nambe: No.	

On the basis of the groups, tribes, bands, etc., named by the local Indian Bureau officials themselves, necessary legislation and administrative steps should be taken to effect discontinuance of further operation of the Bureau of Indian Affairs (either by transfer of responsibility for management and supervision over their lives and property directly to individual Indians or groups, to Federal agencies supplying to non-Indians services needed by some Indians, or to the States and local governmental subdivisions) in the following States: California, Michigan, Nebraska, South Carolina, Texas, and Wyoming. Conclusions reached at the local Bureau level may not, of course, coincide with committee conclusions which might be reached after full hearings nor with local findings that all tribes in all named States are found eligible for termination.

(3) *A listing of functions now carried on by the Bureau of Indian Affairs which may be discontinued or transferred to other agencies of the Federal Government or to the States*

The functions currently performed by the Indian Bureau may be broadly classified under the following headings: (1) "Education";



(2) "Health"; (3) "Welfare"; (4) "Law and Order"; and (5) "Management of Indian Lands and Resources".

The subcommittee recommends that all remaining educational activities now carried on by the Indian Bureau be transferred as soon as possible to the States. If this can be done through contracts under the Johnson-O'Malley Act (49 Stat. 1458) it should be effectuated within 5 years. If not, then special legislation by Congress may be needed. Contracts under the Johnson-O'Malley Act require the initiative to come from the Indian Bureau at the present time and therefore it is advisable to transfer this function of negotiation to the Federal Department of Health, Education, and Welfare.

In the matter of Indian health, the subcommittee also recommends that this function be transferred to the Federal Department of Health, Education, and Welfare with the understanding that services shall be rendered in former Indian hospitals to all citizens alike, regardless of race. Johnson-O'Malley contracts by the Indian Bureau should be discontinued in the field of health.

Welfare activities of the Indian Bureau could be transferred to the Department of Health, Education, and Welfare, so far as they relate to services performed by the Federal Government for all of its citizens. Otherwise, such services might well be terminated or transferred to local units of government.

Johnson-O'Malley Act contracts for Indian welfare by the Indian Bureau should be discontinued. These have never been important and have no significant value.

Law and order functions of the Indian Bureau can and should be entirely transferred to the States. Public Law 280 of the 83d Congress operated to (1) confer as of enactment date, civil and criminal jurisdiction in California, Minnesota (except Red Lake); all of Nebraska, Oregon (except Warm Springs), and Wisconsin (except Menominee); (2) give consent to Arizona, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Utah, and Washington, to amend present organic law to permit assumption of jurisdiction; and (3) to give consent to all other States to acquire jurisdiction at such time and in such manner as by affirmative legislative action such States may so elect. Federal-Indian-State cooperation and understanding of the desirable ends to be accomplished remain the key to solution to this historic and multiface problem.

The management of Indian lands and resources includes programs of credit and extension, forest and range management, irrigation, roads, soil conservation, and land sales, rental, or lease. Some of these are functions normally performed by other Federal agencies for all citizens. These could be transferred to such agencies. Others such as roads could be transferred to State or local governments. Indian forests could be treated in accordance with the individual situation. The function of land sales, management, rental, and lease should definitely be transferred to the Indians themselves. A legislative program of release tribe by tribe would necessarily include provisions for transfer of land and resources management to the proper existing agency. The committee's recommendations regarding the management of Indian lands and resources are set forth under item (6) "Findings concerning transactions involving the exchange, lease, or sale of lands or interest in lands belonging to Indian wards."



- (2) *Legislative proposals designed to promote the earliest practicable termination of all Federal supervision and control over Indians, and*
- (5) *Recommended legislation for removal of legal disability of Indians by reason of guardianship by the Federal Government*

Since legal disabilities of Indians by reason of guardianship by the Federal Government are part and parcel of special Federal supervision and control over Indians the two are grouped together in this report. In fact, the chief remaining legal disability of Indians under ward status consists in the ineligibility of the Indians to handle their own property as they see fit. The effectuation of a removal of Federal special supervision and control over Indians should include a removal of special legal disabilities appertaining to Indians under guardianship.

The organization of Indians into tribal groups with constitutions and charters derived from the Secretary of the Interior—in numerous instances without affirmative tribal approval or comprehension of what was being undertaken—appears to constitute one of the outstanding legal disabilities of Indians at the present time. The requirement for secretarial approval of tribal attorneys' contracts is an additional disability along the same line. Hence, it is the opinion of this subcommittee, after examination of the record compiled during lengthy investigations, with respect to the operation of such tribal governments, both those organized under the Indian Reorganization Act (48 Stat. 984) and those otherwise formulated, that there should be immediately initiated a program to evaluate the operations of each individual tribe under existing authority with an objective of repealing such authority where there is a demonstrated unwillingness or inability of an individual group to function in a reasonably satisfactory manner for maximum group, rather than individual, benefits. A firm policy on local Indian responsibility, combined with full consultation at the local level to achieve understanding, it is believed, should permit objective evaluation of the program, encouraging self-determination.

The subcommittee also takes notice that the so-called Handbook of Federal Indian Law was compiled and published in 1940 and has been employed as a standard reference book on Indian law. The subcommittee has concluded, in view of the great body of statutes, regulations, and court decisions since operative (including those growing out of the Indian Claims Commission Act of 1946), that it is an inadequate and outdated account of Federal-Indian relations; it is therefore recommended that title 25 of the United States Code be specially annotated and printed as a separate fundamental reference on Federal-Indian law and that a detailed index of the subject matter of all congressional legislation relating to individual Indian tribes, to include treaties or other special agreements, be made a part of this document.

The subcommittee recommends that a comprehensive study and report to Congress concerning law enforcement practices on each reservation be made by the Indian Bureau not later than July 1, 1955, with particular emphasis on actual operations, the matter of maintenance and preservation of court records, the receipt and disposition of court fines on reservations, and the history of law enforcement activities since 1934.



The subcommittee furthermore recommends that a study be made of the adequacies of expression of Indian opinion by organizations actively concerned with legislation to remove Indians from the status of wardship, among others (1) the National Congress of American Indians, (2) the Association on American Indian Affairs, (3) the Institute of Ethnic Affairs, and (4) the Indian Rights Association.

The subcommittee recommends that an appraisal be made of the citizenship status of Indians on the rolls of Colville, Blackfeet, Turtle Mountain, Papago, Kootenai, Fort Peck, Red Lake, Fort Belknap, Consolidated Chippewa, Mesquero Apache, New York Indians, Michigan Indians, and any other reservations located within some proximity of our national borders. It may be desirable to have the names of any of those who are on these tribal rolls but who maintain legal residence and citizenship in either Canada or Mexico and the treaty status of such individuals, if relevant.

The subcommittee recommends programming of cadastral surveys looking toward eventual taxation in each State wherein are located Federal Indian reservations. Such surveys are of the greatest importance in making available authentic information regarding ownership, title, extent, and value of Indian lands which may be ultimately added to the local tax rolls. Indian allottees or holders of trust allotments must be effectively familiarized with taxing procedures and tax practices prior to assumption of this responsibility under further congressional legislation.

The subcommittee recommends that at the time of termination of Federal special authority over each Indian tribe, a list of any known legal disabilities, including treaty provisions (if any), for that tribe be compiled and given consideration in terminal legislation. The subcommittee further recommends expediting of the matter of preparing terminal bills to the end that bills may be drawn for all groups mentioned under points (1) and (4) under the category "Yes" within the next 5 years. It is anticipated that programs for termination for remaining groups will be subsequently formulated with schedules of withdrawal for each, with time limits specified.

*(6) Findings concerning transactions involving the exchange, lease, or sale of lands or interests in lands belonging to Indian wards*

The only permanent solution for the problems involved in the handling of Indian lands by the Bureau of Indian Affairs lies in removal of Indian Bureau control. Hence it is the recommendation of this subcommittee that immediate steps be taken to make possible the handling of all leases of Indian land (belonging to those individuals or groups recommended for early termination) a matter of simple contract directly negotiated between individual Indians or cooperative groups of Indians and the lessees. No further Indian Bureau handling of such matters in the case of competent Indians is desirable or necessary. Individual Indians or cooperative groups of competent Indians should be encouraged to make contracts with general counsel of their own choosing without need of approval from the Secretary of the Interior.

Disposition and leasing of tribal land should be left up to the Indians who have interest therein. Competent Indians should be



entitled to buy or sell land as they see fit without restriction. Heirship land should be consolidated or sold and the proceeds distributed among the heirs. Indians should not be subjected to control as to how they are to spend the proceeds of per capita distributions. They will never possess the rights of full citizenship so long as any part of their business activities continues to be handled for them long after they have become really competent.

The subcommittee finds that in the fraud cases involving manipulations of title and underappraisal of land values in the State of Oregon justice has been done and the Indian Bureau appears to have discharged its obligations of trust as well as it could under the circumstances. The only final solution to prevent future repetition of such cases lies in taking all such land from trust status and granting patent-in-fee to all allotments. Indians now in wardship status would, if granted all the rights and privileges of handling their own property, not be subject to fraud in the manner of the cases mentioned above. They would have the responsibilities of full citizenship which is their due. At present the attitude of the Indian under wardship can be that he is not a morally responsible agent in matters of fraud. In other words, the legal status of incompetency, ipso facto, is bad for the Indian. The sooner he is completely rid of this status, the better.

The subcommittee's findings indicate that the policy of renewing expired trust allotments should cease in the interest of the Indian's becoming his own manager. It recommends that the Secretary of the Interior be divested of power to annually renew expired trust allotments. When trust allotments expire the Secretary should promptly issue patents-in-fee to such allotments.

The subcommittee recommends that a card file be assembled at once in the central office of the Indian Bureau with a separate card for each Indian—man, woman or child—whose property is held in trust status by the Indian Bureau and that said card shall contain all essential up-to-date information regarding the trust property and rights in trust property of the individual thereon listed.

#### CRITERIA WHICH HAVE BEEN USED IN DETERMINING THE QUALIFICATIONS OF INDIAN TRIBES FOR MANAGING THEIR OWN AFFAIRS

On February 8, 1947, Mr. William Zimmerman, then Acting Commissioner of Indian Affairs submitted certain testimony regarding the termination of Indian Bureau supervision over selected Indian groups, before the Senate Committee on the Post Office and Civil Service, Senator William Langer, of North Dakota, chairman (officers and employees of the Federal Government, hearing before the Committee on Post Office and Civil Service, U. S. Senate, 80th Cong., 1st sess., on S. Res. 41, pt. 3, p. 547, Washington, 1947). In determining the readiness of specific Indian groups for termination Mr. Zimmerman took four factors into account as follows:

The first one is the degree of acculturation of the particular tribe. That includes such factors as the admixture of white blood, the percentage of illiteracy, the business ability of the tribe, their acceptance of white institutions and their acceptance by the whites in the community.



The second factor is the economic condition of the tribe, principally the availability of resources to enable either the tribe or the individuals, out of their tribal or individual assets, to make a reasonably decent living.

The third factor is the willingness of the tribe and its members to dispense with Federal aid.

The last criterion is the willingness and ability of the State in which the tribe is located to assume the responsibilities.

Although this statement is on the surface an entirely plausible and reasonable approach to the problem of selecting out progressive Indian groups for termination it is potentially another roadblock to full Indian citizenship. This is because it assumes implicitly that Indians must be considered as members of tribal groups rather than as individual citizens. The endless complications involved in finding the right combination of factors for each Indian tribe as a whole are not entirely conducive to termination of Indian Bureau supervision over the group as individuals.

To look at it from another angle for a moment, are we to assume that the Federal Government necessarily has an obligation to supervise Indians as tribes until each of the four criteria mentioned is met in every detail without question? Will there not always be those who, for reasons of their own, will oppose the finding that some one tribe has met all of these requirements in every detail?

Hearings have been held by the Joint Committees of Interior and Insular Affairs of the House and Senate on all of the groups (except New York Indians) mentioned by Mr. Zimmerman as ready under his criteria for immediate termination. Yet in each case a detailed examination of the individual tribal situation showed that one or more of Mr. Zimmerman's criteria were not fully met. In the case of California no less than 115 distinct groups of Indians had to be considered, in western Oregon no less than 60 distinct groups.

The impracticability of dealing with Indians as tribes was long ago recognized in effect by the Indian Bureau when it developed a system of Indian census rolls in terms of specific jurisdictional units. Hence the jurisdiction took the place of the tribe as a social unit for Indians. The totemic clan group, which was in many instances the real local unit, was completely passed over in practical administration. The band was more frequently recognized but then primarily as a subdivision under some larger administrative agency or reservation. Mr. Zimmerman's tribal groups are simple jurisdictional units and to that extent artificial groupings of Indian individuals. The jurisdictional units are artificial inasmuch as they are constantly undergoing shift and rearrangement to suit administrative convenience and do not in the majority of instances represent any aboriginal Indian social group, be it tribe, band, or clan.

Hence the proposition that it is possible to release Indians from Indian Bureau supervision jurisdiction by jurisdiction, under a fixed series of selected criteria, is open to question. The ineffective, and in most instances inactive, tribal governments are the least desirable types of civic social groupings for Indians. Immigrants do not become citizens as tribal groups and neither should Indians. It is by dissolving the jurisdictional system now imposed on Indians by the



Indian Reorganization Act that Indians can become free of these special restrictions.

THE URGENT NEED FOR CONTINUED INVESTIGATION OF AND REPORTING  
ON THE ADMINISTRATION OF INDIAN AFFAIRS

The findings of this subcommittee on the matter of Federal-Indian relations indicates, more than anything else, the urgent need for congressional attention to the question of continued Indian wardship. The Sacramento area office neglected to report on many rancherias in response to the committee questionnaire of 1953. Many of the problems faced today in this field were faced by the Congress a hundred years ago. For example, the charge of corruption in the administration of Indian Affairs has been an almost perennial complaint since the time, at least, of the 1860's. Since the passage of the General Allotment Act in 1887 Congress has endeavored to effect a means whereby Indians could own their own property as individuals, and come under the same local laws.

Today the problem of Indian wardship is still with us and growing steadily more expensive and expansive. The Indian Bureau has been charged with the guardianship of Indian property in addition to the responsibility of preparing the Indians for full citizenship. The passage of House Concurrent Resolution 108 had charged the Bureau of Indian Affairs with the responsibility of preparing Indians for full citizenship as rapidly as possible. Since, however, the subcommittee feels that the Indian Bureau as an organ of the Federal Government specifically charged with the function of administering Indian affairs and property will not of itself initiate the necessary steps to terminate its own services through assisting individual Indians to become full citizens, it recommends transfer of certain Indian Bureau functions to other Federal agencies with a view to making it possible for the Bureau to concentrate more effectively on the mandate embodied in House Concurrent Resolution 108.

Finally, an observation or two on the relationships between Congress, the public, and the Indians appears pertinent here.

Private organizations have assisted, and it is hoped will continue to assist, the Congress in its deliberations on legislative matters affecting the American Indian; from such sources, valuable funneling of opinion can be achieved, so that the Congress will have a full appreciation of the attitudes, hopes, and desires of our Indian citizens, and at the same time the latter may gain a full understanding of the aims and objectives of the legislative program.

Some critics of the congressional program for Indians apparently overlook the fact that not only individual Indians but whole tribes have asked or pleaded for termination of Federal supervision over their lives and property. The same persons may frequently overlook the fact that while in a sense Federal supervision under the Indian Reorganization Act constitutes protection, it also singles out a worthy group of fine American citizens and places them under restrictions



and controls which tend to kill individual initiative or desire for advancement. On the basis of 103 years of programming by the Federal Government, through the Department of the Interior, Members of Congress can only conclude that there have not been made available to our Indian fellow citizens those benefits which our modern concept of citizenship participation prescribe for all citizens.

Membership of the House Indian Affairs Subcommittee during the 83d Congress came from areas populated by more than 250,000 Indians in the United States and Alaska. The undersigned are convinced, from a vantage point of collective years of working in this field, that if there is one bulwark against hasty, ill-conceived legislation affecting the American Indian, it must lie within the membership of the Indian Affairs Subcommittees of the House and Senate. As with all other legislation, members must act as experience, conscience, and the very best advice obtainable from all available sources dictate action. To impute indifference, response to special interests, political partisanship, lack of sympathy for, or understanding of, this complex problem to Congressmen, is unrealistic and—in a very real sense—unfair to all concerned.

The most frequent argument used in attacking the current congressional program follows this line: Congress is endangering the Indian cultures, moral traditions, and violating the sanctity of values handed down for generations. Indian tribes should have the right to determine their own destinies and the right to maintain their own identity, distinct from other citizens of the United States.

The undersigned believe that the current congressional program might be described more accurately in this manner: American history, including the advance of western civilization on the North American Continent since 1800 and the settlement and development of State after State in the great western expanse of the United States, has involved a change and adaptation in the aboriginal culture patterns and moral values to meet the changed situation in which the Indians find themselves. Congress now recognizes that these changes in the manner of living of Indians require redefinition of the status in which these worthy people were placed during the period of their acculturation and integration into western civilization.

Today there is no possibility of recapturing the Indian way of life which characterized the great unfenced expanses of an undeveloped continent wherein tribes roamed at will and were impeded only by clashes with stronger and more numerous groups in bloody, intertribal warfare. The present-day economic development of this country and its resources requires the cooperation of persons of Indian descent along with other citizens. The Indians as a whole have adopted the civilization and moral values of western civilization and must be dealt with having these considerations in mind.

With respect to Indian legislation, the subcommittee recognizes that at least a part of the resistance is opposition, not to the substance of the legislation, but opposition because of apprehension born



of definite misinformation—deliberate or otherwise—channeled to tribes or individuals by interested parties.

Private organizations and individuals claiming to represent the American Indian can do no greater disservice to their cause than by acting as a barrier to understanding of the Federal program, rather than a bridge. Yet, the record strongly suggests that there are those small groups of individuals who, while claiming to represent the interest of the Indians, are in actuality seeking only to keep them in status quo so that they—the self-styled spokesmen for the Indian—can perpetuate the continuing need for their own “services” and thus continue to enjoy positions of prestige, importance, or profit to themselves alone. To accomplish this end, subcommittee files reveal, such groups and individuals, including some otherwise held in high public esteem, have disseminated untruths and misinformation to the very people whose interests they claim to represent. From such untruths and misinformation has flowed, not unexpectedly, apprehension on the part of the Indians, and indignation on the part of the non-Indian public sincerely interested in Indian welfare. Certain groups have claimed, and some Indians have repeated the assertion, that the current congressional approach has resulted in a negative attitude on the part of the Indian and in an attitude of resignation to the inevitable, which approach will be in all instances “bad for the Indian.” The experiences of the subcommittee during the 83d Congress demonstrated to subcommittee members that tribes and individuals previously dealing with the Congress through these groups and individuals (frequently misrepresenting the facts) have gotten an entirely different picture of the congressional program when directly dealt with. The subcommittee and its staff have been watchful in this respect and must continue to be so in the future.

Nor do the activities of these small self-styled spokesmen for the Indians stop here. They have been known to indulge in the practice of literally bombarding the Indian subcommittees of the House and Senate with inspired telegrams, letters and to use many other similar pressures when Indian legislation has been under consideration. They have also used the same technique with the Office of the Chief Executive of this Nation in an effort to obtain veto or other action on Indian legislation. The deceptive and dishonest element in this situation is the fact that the real Indians themselves are almost completely drowned out by the high-powered propaganda machine of the “professional Indians” and their manipulators.

An additional problem of some magnitude is presented by a large group of persons, many of whom have apparently little or no Indian blood, who persist—as “professional Indians”—in “free loading” at Government or tribal expense under the guise of incompetent Indians.

Continued surveillance of progress under the directive of House Concurrent Resolution 108 will have a decisive effect in the accomplishment of the policy therein envisaged. The subcommittee therefore, recommends a continuation of the present House committee investi-



gation, so fruitful in its results to date, as a means of supplying an intelligent framework within which the legislative body may act.

WILLIAM HENRY HARRISON, *Chairman*,  
WESLEY A. D'EWART,  
E. Y. BERRY,  
JACK WESTLAND,  
A. L. MILLER (ex officio),  
WAYNE N. ASPINALL,  
GEORGE A. SHUFORD,

*Special Subcommittee on Indian Affairs.*

NOTE OF COMMITTEE CLERK.—It is pointed out that the recommendations of the subcommittee set out above were developed over the period embracing the 1st and 2d sessions of the 83d Congress and that subsequent legislative action effecting some recommendations has been taken since formulation of such recommendations, including the signing into public law of several then pending legislative matters.



7/28/67

REMOVAL OF FEDERAL TRUSTEESHIP BY ACTS OF CONGRESS FOR THE  
FOLLOWING LIST OF TRIBES AND RANCHERIAS

Land Unit	Principal Tribe (Population at Time of Termination)	Public Law (Statute Reference)	Effective Date
<b>CALIFORNIA</b>			
<b>Sacramento Area Office</b>			
Lower Lake	Pomo (8)	84-443 (70 Stat. 58)	Mar. 29, 1956
Coyote Valley	Pomo (30)	85-91 (71 Stat. 283)	July 10, 1957
Laguna	Diegueno (0)	80-335 (61 Stat. 731)	Aug. 4, 1947
Buena Vista	Miwok (5)	85-671 (72 Stat. 619)	Apr. 11, 1961
Cache Creek	Pomo (4)	do	do
Paskenta	Wintun (6)	do	do
Ruffeys	Ruffey (0)	do	do
Strawberry Valley	Maidu (2)	do	do
Table Bluff	Miami (48)	do	do
Alexander Valley	Wappo (12)	do	Aug. 1, 1961
Chicken Ranch	Miwok (16)	do	do
Lytton	Pomo (33)	do	do
Mark West	Pomo (0)	do	Apr. 11, 1961
Mooretown	Maidu (4)	do	Aug. 1, 1961
Potter Valley	Pomo (11)	do	do
Redwood Valley	Pomo (27)	do	do
Redding (Clear Creek)	Mixed (44)	do	June 18, 1962
Guidiville	Pomo (21)	do	Aug. 30, 1965
Robinson	Pomo (79)	do	Sept. 3, 1965
Scotts Valley	Pomo (46)	do	do
Big Valley	Pomo (126)	do	Nov. 11, 1965
Cloverdale	Pomo (20)	do	Dec. 30, 1965
Graton	Pomo (4)	do	Feb. 18, 1966
North Fork	Mono (1)	do	do
Picayune	Chukchansi (11)	do	Feb. 18, 1966
Pinoleville	Pomo (67)	do	do
El Dorado	Miwok (2)	do	July 16, 1966
Elk Valley	Crescent City (30)	do	do
Rohnerville	Bear River (29)	do	do
Blue Lake	Blue Lake (22)	do	Sept. 22, 1966
Indian Ranch	Paiute (8)	do	do
Nevada City	Maidu (2)	do	do
Wilton	Miwok (32)	do	do
Greenville	Maidu (22)	do	Dec. 8, 1966
Quartz Valley	Karok-Shasta (58)	do	Jan. 20, 1967
Chico (Meechupta)	Mixed (113)	do	June 2, 1967
Smith River	Smith River (119)	do	July 29, 1967
Auburn	Maidu (83)	do	Aug. 18, 1967



The following rancherias have approved plans under Public Law 85-671 and will be terminated as soon as the provisions of these plans are carried out.

Land Unit	Principal Tribe (Population at Time of Termination)	Public Law (Statute Reference)	Effective Date
Big Sandy	Mono (43)	85-671 (72 Stat. 619)	
Cold Springs	Mono (48)	do	
Hopland	Pomo (119)	do	
Table Mountain	Chukchansi (51)	do	
Upper Lake	Pomo (64)	do	
Jackson		85-671 (72 Stat. 619) as amended	
Mission Creek		do	
Resighini (Coast Indian Community)		do	
Trinidad		do	
Sheep Ranch		do	
Berry Creek		do	
Rumsey		do	
Big Lagoon		do	

#### NEBRASKA

Aberdeen Area Office  
Ponca

Poncas of Nebraska  
(Final Rool - 442)

87-629 (76 Stat. 429)

Oct. 27, 1966

#### OKLAHOMA

Muskogee Area Office

Wyandotte (also Kansas) Wyandotte (423) 84-887 (70 Stat. 893)  
Huron Cemetery, Kansas City, Kansas, yet to be disposed of.  
S.226 introduced in Jan. 1965

Aug. 1, 1959

Peoria Peoria (230)  
Ottawa Ottawa (244)  
Modoc (Also Missouri) Modoc (29)  
Choctaw Choctaw  
(Final 1907 Rool,  
19,139

84-921 (70 Stat. 937)  
84-943 (70 Stat. 963)  
83-587 (68 Stat. 718)  
86-192 (73 Stat. 420)  
87-609 (76 Stat. 405)  
89-107 (79 Stat. 432)  
90-476 (82 Stat. 703)

Aug. 2, 1959  
Aug. 3, 1959  
Aug. 13, 1961  
Three years  
from  
Aug. 4, 1965  
Aug. 24, 1970.

*initiated by tribe but  
not yet effected*



Land unit	Principal Tribe (Population at Time of Termination)	Public Law (Statute Reference)	Effective Date
<b>OREGON</b>			
Portland Area Office			
Grand Ronde & Siletz <i>small communities</i>	Clackamas, Umpqua, Rogue River, & Klamath (2,100)	83-588 (68 Stat. 724)	Aug. 13, 1956
Western Oregon P.D. allotments (including Coos Bay)	Kusa, Rogue River Klamath and Umpqua (803)	do	do
Klamath	Klamath, Modoc & Snake (Final Roll 2,133)	83-587 (68 Stat. 718) 85-132 (71 Stat. 347) 85-731 (72 Stat. 816) 86-247 (73 Stat. 477)	Aug. 13, 1961
<b>SOUTH CAROLINA</b>			
Washington Office			
Catawba	Catawba (353) (Roll - 631)	86-322 (73 Stat. 592)	July 1, 1962
<b>TEXAS</b>			
Anadarko Area Office			
Alabama-Coushatta	Alabama-Coushatta (385)	83-627 (68 Stat. 768)	July 1, 1955
<b>UTAH</b>			
Phoenix Area Office			
Indian Peaks	Paiute (26)	83-762 (68 Stat. 1099)	Mar. 1, 1957
Kanosh	Paiute (42)	do	do
Koosharam	Paiute (34)	do	do
Shivwitz	Paiute (130)	do	do
Uintah & Ouray	Ute (Mixed Blood only) (269) Affiliated Ute Citizens of Uintah and Ouray	83-671 (68 Stat. 868)	Aug. 27, 1961
<b>WISCONSIN</b>			
Minneapolis Area Office			
Menominee	Menominee (2,221)	83-399 (68 Stat. 250) 84-715 (70 Stat. 544) 84-718 (70 Stat. 549) 85-488 (72 Stat. 290) 86-733 (74 Stat. 867)	April 30, 1961

December 19, 1967



NATIONAL AMERICAN INDIAN AND ALASKA NATIVES  
POLICY RESOLUTION

SEPTEMBER 11, 1968.—Ordered to be printed

Mr. McGOVERN, from the Committee on Interior and Insular Affairs,  
submitted the following

## REPORT

[To accompany S. Con. Res. 11]

The Committee on Interior and Insular Affairs, to which was referred the concurrent resolution (S. Con. Res. 11) National American Indian and Alaska natives policy resolution, having considered the same, reports favorably thereon without amendment and recommends that the concurrent resolution do pass.

This resolution was the subject of a hearing conducted in Washington, D.C., on March 5, 1968. On May 31 and June 1, further testimony was taken on the measure at three Indian reservations in South Dakota in connection with hearings on S. 1816, the proposed Indian Resources Development Act.

## BACKGROUND

Not since 1953, in the 83d Congress, has the Congress of the United States clearly enunciated a declaration of purpose toward the American Indian and the Alaska natives. That statement, known as House Concurrent Resolution 108, proposed, in effect, to withdraw Federal support from these two groups of Americans.

Popularly known as "termination," this policy did not enhance the economic and social well-being of the American Indian. It may well have delayed the day when the Indian can become a fully self-sufficient citizen.

At present over 400,000 Indians and Alaska natives living on reservations still look to the U.S. Government for leadership and assistance. These people as a group are about half as well educated as other citizens. They have approximately two-thirds the life expectancy, and receive between one-fourth and one-third as much income. The new-



born Indian, because of deplorable living conditions, has only half the chance of non-Indians of surviving the first year.

#### EXPLANATION OF SENATE CONCURRENT RESOLUTION 11

The resolution would assure our Indian citizens that Federal programs will be adequate to their needs, that they will be consistent, innovative, and efficient. It will also assure them that Federal activity will be concentrated where the problems are most acute--on the reservations. At the same time, the resolution makes clear that the long-range purpose of these efforts is to encourage a greater measure of self-determination and self-help on the part of our Indian and Alaska native citizens.

Senate Concurrent Resolution 11 recites that many American Indians and Alaska natives suffer from adverse economic, health, education, and social conditions; that the delay in correcting the situation is in no small measure due to periodic changes in Federal Indian policy; and recognizes that improved and expanded Federal services and programs in Indian communities in recent years have begun to accomplish encouraging breakthroughs.

Senate Concurrent Resolution 11 resolves that it is the sense of Congress that progress for many American Indians and Alaska natives can only be achieved by a sustained, positive, and dynamic Indian policy backed up by constructive programs and services directed through tribal governing bodies. It further states that these programs must offer self-determination and self-help features and be continued until the Nation's obligations to the descendants of the first Americans are fulfilled, and they are able to take their place with other citizens.

Paragraphs 2 and 3 of the resolution state that the services of the two major Federal Indian service agencies, the Bureau of Indian Affairs and the Division of Indian Health in the Department of Health, Education, and Welfare, are not fully responsive to the modern day needs of Indians and Alaskan natives; that the solution of Indian problems requires new and innovative services by Federal, State, and local governments, and the Department of the Interior, and that the Bureau of Indian Affairs should be charged with coordinating and co-operating with governing bodies of the tribes on programs the Indian wish to utilize.

The fourth paragraph expresses the sense of Congress that Indian and Alaska native trust property continue to be protected; that Indian culture and identity continue to be respected; that efforts be continued to develop natural resources; that inadequate and substandard housing and sanitation be corrected; that a comprehensive health program be developed; and that the long-term vocational, technical, and professional education programs be continued and further developed.

The fifth paragraph expresses the congressional view that the Secretary of the Interior should periodically review all the activities of the Commissioner and Bureau of Indian Affairs to assure maximum utilization of Federal, State, and local programs and resources for Indian and Alaska native well-being, and that an annual report, together with needed legislative recommendations, should be submitted to Congress indicating the manner in which this resolution is being carried out.



The final paragraph of Senate Concurrent Resolution 11 recommends that Indian and Alaska native communities be given the freedom, encouragement, and assistance to develop their maximum potential, through continued congressional support of programs and services, to bring Indians and Alaska natives to a social and economic level of full participating citizens.

The numerous witnesses, Indian and non-Indian, who appeared at the committee hearing strongly recommended the adoption of Senate Concurrent Resolution 11.

#### DEPARTMENTAL REPORTS

The favorable reports of the Department of the Interior and the Department of Health, Education, and Welfare are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., March 7, 1968.

HON. HENRY M. JACKSON,  
*Chairman, Committee on Interior and Insular Affairs,  
U.S. Senate,  
Washington, D.C.*

DEAR MR. CHAIRMAN: Your committee has requested this Department's comments on Senate Concurrent Resolution 11.

The resolution recites that the American Indian and Alaska natives suffer from certain adverse conditions which prevent them from achieving social and economic advancement; that periodic reversals in the Government's Indian policy over the years have contributed to the prolonging of the Indians' deplorable conditions; and that expanded services to Indian communities have begun accomplishing some breakthroughs. It then resolves that there must be "a new national Indian policy."

It also resolves that the complete solution to the Indian problems requires "new and innovative services" that should be coordinated by the Bureau of Indian Affairs; that the Indian and Alaska native governing bodies should be able to determine the utilization of their resources for their communities; that Indian culture and identity be respected; that efforts be continued to develop natural resources to the maximum extent; that inadequate and substandard housing and sanitation be corrected; that a comprehensive health program be developed; and that a long-term vocational, technical, and professional education program be encouraged and developed.

Lastly, the resolution provides that the Secretary of the Interior periodically review the activities of the Commissioner and the Bureau of Indian Affairs and submit an annual report with legislative recommendations showing how the policy of the resolution is being executed, and that the Congress "will support a policy of developing the necessary programs and services to bring Indians and Alaska natives to a desirable social and economic level of full participating citizens."

As you know, President Johnson yesterday transmitted to the Congress a special message on the American Indian. The recommendations and commitments made in this special message are generally consistent with the resolving clauses contained in Senate Concurrent Resolution



11. In view of this, the administration would particularly welcome that clause of the resolution cited above which calls for congressional support for programs to bring Indians to a desirable social and economic level of full participating citizens.

Accordingly, this Department would strongly favor the passage of a resolution along the lines of Senate Concurrent Resolution 11. However, the committee may wish to modify the resolution in several respects after considering certain recommendations in the President's message.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

HARRY R. ANDERSON,  
*Assistant Secretary of the Interior.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,

March 6, 1968.

HON. HENRY M. JACKSON,

*Chairman, Committee on Interior and Insular Affairs, U.S. Senate,  
Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request of January 24, 1968, for comment on Senate Concurrent Resolution 11.

The proposed resolution—after referring to the deplorable conditions in which our Indians and Alaska natives still find themselves despite encouraging breakthroughs in services to them in recent years, and to the fluctuations in the Government's Indian policy through various periods—calls for formalization of our Government's concern for these citizens in a new national Indian policy, a policy that is sustained, positive, and dynamic, and implemented with the necessary constructive programs and services directed to the governing bodies of these groups for application in their respective communities, offering self-determination and self-help features for the people involved.

The resolution would state it to be the sense of the Congress that, among other things, complete solution of Indian problems will require new and innovative services for the full development of these people and their communities; that their governing bodies should be recognized as having full authority to determine the extent and manner of utilizing all available resources for their communities; that their property should be protected and continued efforts directed to maximum development of their natural resources; that their indigenous culture and identity should be respected; that a comprehensive health program should be further developed for them; that inadequate and substandard housing and sanitation should be corrected; that a long-term general, vocational, technical, and professional education program should be encouraged and developed for both old and young among these people so that they may share fully in our society and move toward future economic independence; and that American Indian and Alaska native communities should be given the freedom and encouragement to develop their maximum potential.



Lastly, the resolution would state that "Congress will support a policy of developing the necessary programs and services to bring Indians and Alaska natives to a desirable social and economic level of full participating citizens."

The terms of the resolution are in most respects in consonance with the tenor of, and the recommendations and policy commitments made in, the President's special message on the American Indian transmitted to the Congress today.

We would fully welcome an expression of the sense of Congress along the general lines of this resolution, and we are especially pleased with the promise the resolution would offer that Congress will support the policy of developing necessary programs and services to bring Indians and Alaska natives to a desirable social and economic level for fully participating citizens. A resolution along these lines, we feel confident, would be equally welcomed by all Indians. We believe, however, that the committee may wish to review the detailed provisions of the resolution in the light of the President's message. We shall, in our testimony, discuss the activities of our Department concerned with services to these groups and the manner in which we have been moving in the direction outlined in the President's message.

Sincerely,

WILBUR J. COHEN,  
*Acting Secretary.*

O



## *Policies Which Impede Indian Assimilation*

### I. INTRODUCTION

THE PRECEDING CHAPTERS highlight several facets of the over-all "Indian problem." So long as all these unresolved predicaments persist, the Indian problem will remain with us. This chapter demonstrates that any official policy which ignores the prevailing value systems of Indian tribes is not only doomed to fail, but to compound the difficulties already existing. To be specific—so long as levels of Indian education, health, and economy are sub-standard, so long as the Indian's status in practically all areas of life is uncertain, just so long will legislation or other precipitate action fail to assimilate the Indian into the majority society.

The assumption that Indians and members of other alien groups were inferior because they were simple, primitive, or savage dominated the thinking of the Western world during most of the nineteenth century. In the United States this national attitude was reflected by the Congress (which, accordingly, established policies based on this false implication) and officially expressed by the B. I. A. Under the guise of subscribing to the national attitude of "civilizing" or "assimilating" Indians, forcibly if necessary, the land-hungry people, the moralists, the super-patriots, the conformists, and even government officials exploited the Indians. Toward the end of the century, under the guidance of the emerging disciplines that we now call the behavioral sciences, a clearer view of the Indian problem and the white man's obligation began to develop.



## THE INDIAN

The realization that conformity cannot be legislated changed the national policy toward Indians. The conviction that men and cultures differing from us and our culture must, nevertheless, be respected led to the Indian Reorganization Act of 1934,<sup>1</sup> which shifted the initiative in relation to Indian problems from the B. I. A. to the Indian tribes themselves. However, before the efficacy of the act could be adequately demonstrated, World War II broke out; and after the war the old attitude of trying to assimilate Indians by legislation reasserted itself, culminating in the "termination resolution" (House Concurrent Resolution Number 108, of August 1, 1953, and Public Law 280, of August 15, 1953), which has been proved capable of disrupting Indian life by depriving Indians of powers in their tribal governments and which concentrates, not on the best interests of the Indians, but on easing the burden on the federal government. The effect has been to deprive Indians of both their property and the public services for which the federal government has long been obligated.

### II. BACKGROUND OF TERMINATION

The avowed purpose of termination is not new. Since the beginning of the Republic, federal policy has from time to time been aimed at encouraging Indians to adopt the ways of their white neighbors. Between 1789 and 1886 such policy vacillated between making treaties with Indian tribes as land-owning, autonomous nations and compelling them to live as wards of the government, segregated on reservations. Certain bands were virtual prisoners, forced to dwell within the boundaries of their original domain or on land given them in exchange for it. Even temporary absence from their reservations was permitted only through the use of passes.

Laws were enacted in the nineteenth century to abolish tribal existence; but most of them, for one reason or another, failed to stick. Those Choctaws who remained in Mississippi when the rest of the tribe was moved westward were terminated about

<sup>1</sup> See Chapter One, pp. 20-22, above.



### *Policies Which Impede Indian Assimilation*

1830,<sup>2</sup> the Kickapoos, in 1862,<sup>3</sup> the Cherokees who remained in North Carolina, in 1868;<sup>4</sup> and the Winnebagos, who separated from their brothers in Nebraska, took up homestead allotments about 1875.<sup>5</sup> Each had its tribal organization dissolved and its relation with the federal government legally severed, but today each is accorded the rights of an Indian tribe and is so recognized by the United States.

After much difficulty and many successive acts of Congress, the Five Civilized Tribes in Oklahoma were by 1906 deprived of their governments;<sup>6</sup> their tribal courts were abolished; their chief executives were made subject to removal by the President; and their authority was completely stripped from them, including control of schools, public buildings, and the like. One legal device alone remained: their continuation as tribal entities for the purpose of winding up their affairs. Terminating these tribes caused suffering, resentments that lasted for generations, the subjugation of a proud people, and a slowly dawning realization among some whites that this method was not the way to assimilate the red man successfully.

Until the early 1930's the federal programs were, nonetheless, based on the belief of administrators that properly executed government regulations would settle the Indian question. By that time, however, it had become clear that the destruction of Indian governments, the liquidation of tribal property, and hostility to Indian culture had been a mistake, that they had defeated rather than furthered the objective of adjusting Indians to the dominant society. The Meriam Survey *Report* in 1928, compiled under the auspices of the Institute for Government Research, pointed out these shortcomings and showed what needed to be done to achieve the desired goals. It had a profound effect. A new policy, initiated under President Hoover, Secretary of the Interior Wilbur, and Commissioner Rhoads, was expanded and galvanized into action under President Roosevelt, Secretary

<sup>2</sup> Cohen, *Handbook of Federal Indian Law*.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*



## THE INDIAN

of the Interior Ickes, and Commissioner Collier, who extended and buttressed the policy by adopting the Indian Reorganization Act in 1934. From 1934 to 1950, the period of home rule, an attempt was made to assimilate the Indian by letting him use his own culture as a springboard for his operations and as a basis for his integration.

A definite shift away from the policy of the Indian Reorganization Act occurred, however, when on February 8, 1947, the Senate Committee on Civil Service directed William Zimmerman, Jr., acting commissioner of the B. I. A., to prepare a statement outlining reduction of expenses of the Indian Office and increasing the responsibility of states for tribes within their borders. In drawing up his plans, Zimmerman did not recommend that the United States rid itself of all its Indian obligations. That move came later. In April of that year John Provinse, assistant commissioner, outlined the policy of administration foreshadowed by the Johnson-O'Malley Act of 1934<sup>7</sup>—namely, the transfer of some B. I. A. social services to the states and private organizations.

Between 1950 and 1960 the major controversy in Indian affairs was over whether the United States should follow a program of pressing for prompt termination of tribes without the consent of their members. Policies were confused, the secretary seeming to espouse one kind and the B. I. A. another.<sup>8</sup> But mandatory termination appeared to be the goal until September 18, 1958, when Secretary of the Interior Fred A. Seaton, broadcasting over radio station KCLS, Flagstaff, Arizona, surprised everyone by stating that no tribe would be involuntarily terminated.<sup>9</sup> Since its adoption in 1953, House Concurrent Resolution No. 108, which states that the policy of Congress is to terminate as soon as practicable, has been in effect. However, since the publication of

<sup>7</sup> See Chapter Five, p. 149, above.

<sup>8</sup> Communication from Orme Lewis, assistant secretary of the interior, to Senator Watkins, chairman of the Senate Subcommittee on Indian Affairs, March 14, 1953; Memorandum No. 67 to the Commissioners, Commission on the Rights, Liberties, and Responsibilities of the American Indian, Jan. 12, 1959.

<sup>9</sup> Dept. of Interior news release, Sept., 1958.



### *Policies Which Impede Indian Assimilation*

"A Program for Indian Citizens" in January, 1961,<sup>10</sup> the mimeographed report of President Kennedy's Task Force in July, 1961,<sup>11</sup> the declaration by various groups in Chicago under the aegis of Professor Sol Tax,<sup>12</sup> and Secretary Udall's elucidation of Indian policy,<sup>13</sup> the administration has emphasized the development of Indian resources.

In contrast to the frequent contradictions of policy in governmental executive and legislative branches during the history of the B. I. A., one area of stability is noteworthy. The judiciary branch of the government must enforce laws enacted by Congress, but the federal courts have, since the beginning, treated individual Indians as needing special protection and services and the tribes as dependent nations.

### III. KINDS OF TERMINATION

Nobody knows exactly what termination really means—neither the Indians nor anyone else. Termination can mean, for example, that one branch of the federal government surrenders a function, as in the transfer to the United States Public Health Service of the B. I. A.'s Division of Health. It may refer to a contract made by the B. I. A. with a state or local government for special services, such as the education of Indians in public schools. It may signify the relinquishing by the B. I. A. of part of its control of property, such as is involved when Indians are allowed to negotiate their own leases for allotted land or when B. I. A. transfers a function to the tribal government, as in the transfer of irrigation works and their operation to the Navaho tribe. (These works then do not become subject to state law.) It may even mean the withdrawal from a tribe of certain services usually rendered by the B. I. A., as, for example, the Bureau's removal of a superintendent capable of advising the inexpe-

<sup>10</sup> Commission on the Rights, Liberties, and Responsibilities of the American Indian, "A Program for Indian Citizens, a Summary Report," Jan., 1961.

<sup>11</sup> Report to the Secretary of the Interior by the Task Force on Indian Affairs, July 10, 1961.

<sup>12</sup> "Declaration of Indian Purpose," American Indian Chicago Conference, University of Chicago, June 13-20, 1961.

<sup>13</sup> Dept. of Interior news release, July 12, 1961.



## THE INDIAN

rienced Umatillas in retaining their land and replacing him with a man whose previous experience had been chiefly in *selling* federal land. It may mean that a state is given Congressional authorization to extend its criminal and civil laws to Indian reservations, thereby depriving the tribes of substantial powers of local self-government (Public Law 280). It may also mean the passing of laws by Congress severing the historic relationship between the federal government and the tribes, abolishing their long-existing governments, and placing their affairs and resources under control of a state. It is in the sense of the last two meanings that the word "termination" is used in this report. Termination not only is not assimilation; it is not even assured integration. Integration comes only as a race is dispersed within the general population. If Indians so choose, they can now effect such dispersal, but it must be voluntary.

### *Termination by Assumption of Jurisdiction over Indian Country by States (Public Law 280)*

Unlike many of the earlier federal statutes which granted only judicial jurisdiction to states, Public Law 280<sup>14</sup> conveys legislative authority, thus giving states the right to enact measures that could vitally change the character of the communities in which the Indians live without any option on their part. A state could wipe out most tribal customs, reduce or destroy the family's traditional control, abolish customary or undocumented marriages and so make children illegitimate, change the inheritance laws, and apply a complicated criminal code to a simple people.

In Nebraska, the state and its subdivisions refused adequate policing after the United States withdrew B. I. A. law-and-order personnel from the Winnebago and Omaha Indians, although the tribesmen paid over \$55,000 in land taxes and furnished a substantial part of the county budget. In 1961 the legislature at last appropriated \$30,000 for that purpose.

Public Law 280 allows state, criminal, and civil legislation to supersede tribal and federal enactments in the case of reserva-

<sup>14</sup> Public Law 280, 67 Stat., 588, Aug. 15, 1953.



### *Policies Which Impede Indian Assimilation*

tion Indians in Wisconsin, Minnesota (except the Red Lake Reservation), Nebraska, California, Oregon (except Warm Springs Reservation), and, by amendment, Alaska. The act, however, imposes certain limitations. Restricted property may not be alienated or encumbered, nor may states tax or regulate the use of the property or adjudicate its ownership in a manner inconsistent with any agreement or federal law. Hunting, trapping, and fishing rights secured by treaty agreement or statute are likewise protected; and tribal ordinances or customs, if not incompatible with state law, are to be applied in civil cases. The act further permits any other state to extend its civil and criminal statutes to Indians without Indian consent. But in order to extend its laws to the reservation, a state must amend its constitution or statutes and assume financial and other responsibilities, which few have seen fit to do.

In 1962 Public Law 280 was in all stages of adoption. Nevada, North Dakota and South Dakota have acted to extend their jurisdictions. The Nevada statute allows counties to petition to be excepted from its provisions. It is reported that every county but one has followed the tribes' wishes, even though the law does not require tribal consent. North Dakota in 1958 amended its state constitution to enable the legislature to accept jurisdiction on its own terms, but the lawmakers have yet to take action. The South Dakota law, calling for tribal referendums, authorizes counties to assume the responsibility only on the impossible condition that the United States defray the cost, which federal law does not permit.

The constitution of the state of Washington disclaims jurisdiction over Indian lands, but despite this, Public Law 280 was construed by the state as permitting state law-and-order codes to be effective on Indian reservations. This authority caused so much dissatisfaction that, on February 11, 1963, the legislature of the state of Washington passed Senate Bill No. 56. This bill provided that the state will not assume jurisdiction over Indians on tribal or allotted lands within an established reservation held in trust by the United States unless the governor of the state re-



## THE INDIAN

ceives from the majority of the tribe, or tribal council, or other governing body a resolution expressing the desire to be brought under state laws. If the Indians do not accept this new law, the state still maintains jurisdiction over Indians in regard to compulsory school attendance, public assistance, domestic relations, mental illness, juvenile delinquency, adoption proceedings, dependent children, and operation of motor vehicles upon public streets.<sup>15</sup>

President Eisenhower, in 1953, believing the act to be a step toward complete Indian equality, approved the authority with

... grave doubts as to the wisdom of certain provisions. Sections 6 and 7 ... permit other States to impose on Indian tribes within their borders the criminal and civil jurisdiction of the State, removing the Indians from Federal jurisdiction and, in some instances, effective self-government. The failure to include in these provisions a requirement of full consultation in order to ascertain the wishes and desires of the Indians and of final Federal approval, was unfortunate.

He therefore urged that at the earliest possible time the act (Public Law 280) be amended to require both prior consultation with the tribes and concurrency of the federal government.

The Senate Subcommittee on Constitutional Rights has since 1961 conducted an extensive investigation into the Constitutional rights of the Indian, the first such study ever made by Congress. On the basis of their findings, Senate Bill 966 was introduced into Congress. It would repeal Public Law 280 and provide a feasible and equitable method of state civil and criminal jurisdiction over Indian country for those tribesmen who might elect to come under state law. Judge Lewis in a recent opinion said:

The legal history of the status of Indian tribes under State and Federal law presents a complex and ever-changing concept of an

<sup>15</sup> Nevada Laws, 1954-55, c. 198, p. 297; North Dakota Laws, 1957, p. 792. *Senate Concurrent Resolution O*; South Dakota Laws, 1957, c. 319, p. 427. South Dakota Constitution, Art. 22, 26; Washington Laws, 1957, c. 240, p. 941. Washington Constitution Art. XXVI; Dept. of Interior news release, June 28, 1961; *States v. Paul*, 337 P. 2d 33 (1959).



### *Policies Which Impede Indian Assimilation*

artificial entity progressing from independent but helpless sovereignty toward a status of complete integration in the legal, economic and moral life of the people of the United States.<sup>16</sup>

The new concept in Indian law introduced by Public Law 280 has been further emphasized by the Kake Village case which held (369 U.S. 60; 75):

These decisions indicate that even on reservations State laws may be applied to Indians unless such application would interfere with reservation self-government or impair a right granted or reserved by Federal law.

Integration of Indian tribes under state law is moving forward at an accelerated rate.

### *Termination by Withdrawal of Federal Services*

From 1954 through 1960 many laws and amendments were passed abolishing tribes as political entities—to “get the United States out of the Indian business”—and shifting responsibility for Indian affairs from the federal government to the states. During these years sixty-one tribes, groups, communities, *rancherias*, or allotments were terminated. Delays were allowed in setting a final termination date for such things as federal construction of sanitary facilities and the search for a trustee to dispose of the Wyandotte Cemetery in Kansas City, for pending settlement of claims before the Indian Claims Commission, and for the distribution and adjudication of unliquidated claims of gas and mineral rights. Exceptions were made for the Alabama-Coushatta tribesmen in Texas to retain medical aid and eligibility for their children's federal education.

#### A. NOTABLE WEAKNESSES AND UNDESIRABLE RESULTS

The policy of termination and the legislation implementing it are characterized by several glaring weaknesses. (1) The basic assumption of assimilation-by-legislation is invalid. (2) Action has been taken precipitately. (3) Indians were given inadequate

<sup>16</sup> *Sam Dickey et al. v. Cheyenne-Arapahoe Tribes, Inc.*, 304 F. 2d 113, U.S. Court of Appeals, Tenth Circuit, May 17, 1962.



## THE INDIAN

information and explanation regarding all probable effects of the policy, were rushed into the situation, and were permitted no true voice in the matter. (4) Although several tribes have been abolished as governmental units, ambiguities have been written into individual termination acts, which leave many highly important jurisdictional areas unclear.<sup>17</sup> (5) The remaining obligations of the federal government to the Indians must yet be defined, probably by court action. For example, a terminated tribe does not know whether a state or a tribal tax should be levied on tribesmen and on persons doing business on its land. In case of a conflict, what is the proper federal action? (6) The traditional rights of a tribe to determine—in the absence of federal law—its own membership and to possess as a unit its assets in perpetuity have been transferred to federal jurisdiction. (7) The policy resulted, during the years when House Concurrent Resolution 108 was the guideline, in Congressional and B. I. A. concentration upon the withdrawal of federal services, instead of upon improving the Indian situation. It brought, in this connection, the appointment of private trustees to take over some of the federal functions (such as handling tribal resources) and the selection by the secretary of the interior (instead of by the tribes concerned) of management specialists to handle—under the secretary's instructions—whatever economic resources a "terminated tribe" may have had. (8) The legislation prohibits a tribe from spending before the termination date any tribal funds in the Treasury unless approved by the secretary.

There are other inequities wrought by the legislation, other potentially disastrous situations caused by the policy. To say the least, termination has been ill considered and weak; to say more, it has proved genuinely destructive of its own announced aim. House Concurrent Resolution 108, which the Indians believed had the force of a statute, effected some of the above far-reaching changes immediately, even regarding tribes not actually terminated by law. Once more, acquisitive white men looked toward

<sup>17</sup> The Palute act, 25 U.S. Code Annotated, sec. 753. The Klamath act has the same provisions, 25 U.S. Code Annotated, sec. 564-12.



### *Policies Which Impede Indian Assimilation*

Indian land. Once more, confusion increased regarding the status of the Indians. And the Indians themselves were seized with fear, made additionally insecure, and forced to rely for strength upon their own cultural conventions, thereby automatically accentuating every ethnic trait separating them from the dominant society.

The termination policy emphasized the housekeeping activities of trusteeship. The result was that many B. I. A. administrators became indifferent to basic Indian needs. The shortsighted policy of forcing Indians into the white man's pattern took precedence over any need to understand the effects of such a policy upon the individual. Mass transfers of students were made from federal to public schools to implement the policy, without taking into account the quality of teaching or the readiness or unreadiness of a child for the change.

The B. I. A. extension service was transferred to the Extension Division of the Department of Agriculture with the sole aim of getting rid of the Indian Service. The additional expenses involved and the compounding of administrative problems went unheeded. Land was made available for sale, with little or no thought given to the Indian's future after he had lost his land.

The historic connections between the tribes and the United States were severed by the termination acts, without a clear understanding on either side of what was involved. Special services the United States had rendered were stopped without any assurance that they would or could thereafter be provided willingly by the states or their local units. For example, the United States, as well as the B. I. A., builds roads on Indian tribal land with federal money. The western states, in obtaining their share of funds from the Bureau of Public Roads, include Indian reservations in the total land area, which is a basis for allocations. The B. I. A. also performs maintenance work. Some states or local units undoubtedly would not have money for such programs if federal support were withdrawn. Only the California termination legislation mentions roads, stipulating that they are to be brought up to standard before the federal government relinquishes its obligations.



## THE INDIAN

If there had been more time for the Indians to understand and consider these termination bills, and had they then been given the opportunity to amend or reject them without the immediate inducement of cash resulting from a division of tribal funds, the Klamath and Menominee bills at least would probably never have taken the form in which they were enacted. Some states, especially those with large Indian populations, have declined to assume the responsibility to Indians without extra federal compensation.<sup>18</sup> If local governments are willing but financially unable to render such services, the United States should make financial arrangements with them. If the cost of service is less than taxes, adjustment should be made to forestall the realization of local profits from the transaction. There should never be any termination without federally enforceable assurances that adequate services will be continued. Court injunctions are no substitutes for schools, roads, or police protection.

Turning Indian affairs over to the states is, therefore, no solution in itself. The chances are that each state which has assumed or will assume such obligations may wind up (as have California, New York, and Texas) with a commission or division of Indian affairs. New York State, for example, which since 1787 has taken over responsibility for its Indians, has furnished special services to them. An interdepartmental committee on Indian affairs, set up in 1952 for integrating these functions, co-operates with a joint legislative committee in a continuing attempt to "find a solution for the . . . confused and paralyzing legal status of New York Indians." Actually, unless the manifold results of the termination program are more accurately foreseen and more carefully studied, the United States may end up with a multifunctional "Department of Indian Termination," costing more to operate than the Bureau of Indian Affairs.

### B. INDIAN "ACCEPTANCE" OF TERMINATION

If termination is so patently unfair to Indians, why—one might well ask—have some tribes accepted it? Many diverse fac-

<sup>18</sup> See Chapter Four, pp. 130-32, above.

### *Policies Which Impede Indian Assimilation*

tors have pushed tribes into such "acceptance." Near the top of the list one must place the inducement of the funds to be distributed among individual tribesmen. Perhaps the most persuasive factor, however, has been the fact that Indians have grown weary of too much supervision and resentful of what they feel to be the "father-knows-best" attitude of the B. I. A. Yet, despite their discontent, most existing tribes oppose termination because they are accustomed to a dependent relationship with the federal government and because they know they are unprepared for a clean break.

Some tribal members favor termination because they want to buy tribal land or use the reservation, but the strongest proponents are members no longer living on reservations. In some instances they presently receive nothing from tribal land, but would get their share of the proceeds if the property were divided and sold. Also, there are the selfishly interested whites—ranchers, farmers, stockmen, and speculators in oil, minerals, timber, or real estate—who are totally unconcerned with the welfare of the Indians or the moral and legal obligations of the federal government, wanting only to get their hands upon reservation acres.

### C. INCONSISTENCIES BETWEEN TESTIMONY AND ACTS

The repeated assertions at hearings on the termination acts that Indians are ready for termination are all belied by the provisions of the acts themselves, which invariably set up the safeguards usually provided for persons needing guardians. In the transitional period practically every tribal action of consequence has required the approval of the secretary of the interior. Some of the acts have authorized the secretary to provide temporary education, including language, and orientation in non-Indian communities, customs, and living standards—courses which would hardly have been selected had the Indians really been ready to operate successfully in the white society. The acts have not helped individuals to meet their personal problems or the surrounding community to solve the difficulties created by the legislation.



## THE INDIAN

Termination legislation when tribes were prepared for severing B. I. A. relations has caused no suffering or displacement—the bands in western Oregon, for example. In California, on the other hand, the legislature memorialized the President and the Congress, protesting the possible wholesale termination affecting seven thousand inhabitants of 117 reservations or *rancherías* on grounds that not all were ready for termination:<sup>19</sup>

... the American Indians conveyed their property to the United States Government in exchange for the promise of perpetual Federal protection and certain other benefits; and ... the tribes vary widely in their educational level, and social and economic development, and many of them would suffer greatly if Federal control and protection of their reservation was terminated ....

As a result, the final Congressional termination legislation covered only 41 *rancherías* or reservations, affecting only about one thousand people occupying 750,000 acres. (Later Public Law 85-671 was amended by Public Law 88-419 to extend the provisions of the act.) Whether these groups were satisfactorily integrated into the white culture only time will tell.

The nature of the impact of the termination acts on each reservation depended on the Indians' education, their adaptation to the white culture, the value of their resources, their leadership, and countless other factors. The Menominee and Klamath tribes, for example, both had land resources. The Menominees organized as a group to keep their resources intact, but the Klamaths divided a large proportion of their assets among withdrawing members. So that the terms of the original act could be met, Congress had to pass five amendments for the Menominee and five for the Klamath Indians.

The early history of the termination acts is instructive. At a hearing before the Joint Subcommittee on Indian Affairs in Washington on February 15, 1954, Glenn Emmons, then commissioner of Indian affairs, said that he called superintendents and area directors of the Bureau to Washington to help frame legislation. Drafts of laws were developed as a basis for discussion

<sup>19</sup> See Chapter Four, p. 132, above.

### *Policies Which Impede Indian Assimilation*

and were taken by the B. I. A. personnel to the groups of Indians concerned. Commissioner Emmons had explained earlier that "consultation" did not mean Indian consent to termination. He said:

As trustee, the Federal Government must make the final decision and assume the final responsibility . . . . Naturally the time for consultation was short. But formal statements of Indian views were obtained where possible. Indians were urged to submit any additional comments they might have directly to the Congressional committees. . . . the bills were revised to incorporate all of the suggestions that were considered sound . . . . The bills are certainly not perfect. The Indians will have opportunity to present additional views at these hearings which will undoubtedly result in the development of a sound legislative program.<sup>20</sup>

Since Commissioner Emmons conceded that these bills were not "perfect" and implied that Indian consent was not necessary, the Indians' attendance at the Congressional hearings was, of course, all-important to them. Yet many of the hearings were held in Washington, D.C., and transportation costs were too high for most Indians to afford.

#### D. THREE SPECIFIC EXAMPLES OF TERMINATION

##### *1. Paiute Termination<sup>21</sup>*

The ill effects of hastily severing uneducated and unprepared Indians from federal services is illustrated by what happened to about two hundred members of the Shivwits, Koosharem, Indian Peaks, and Kanosh bands of the Paiutes, who owned approximately 46,000 acres of land and were among the first tribes to be terminated. Public Law 762 was passed in September, 1954, and the Proclamation of Termination of Supervision for these four groups was published in the *Federal Register* on February 28,

<sup>20</sup> *Termination of Federal Supervision Over Certain Tribes of Indians*, Joint Hearings Before the Subcommittees of the Committees on Interior and Insular Affairs, 83 Cong., 2 sess., Part 1, Utah (Feb. 15, 1954), 41, 42.

<sup>21</sup> Unless otherwise stated, the material in this section was taken from Memorandum No. 492 to the Commissioners, Commission on the Rights, Liberties, and Responsibilities of the American Indian (July 10-11, 1958).



## THE INDIAN

1957. Obviously, the four bands were poor; yet, according to the evidence presented, they had received almost no services from the Bureau of Indian Affairs.<sup>22</sup> Testimony differs concerning their educational attainments. In 1950 a Bureau report stated that the Shivwits, Koosharem, and Kanosh were not prepared for federal withdrawal, but that the Indian Peaks band, although also not competent to manage its own affairs, was "ready for complete Bureau withdrawal as soon as the reservation is sold and the Indians completely established on individual home sites within good labor market areas."<sup>23</sup> Despite evidence to the contrary, Assistant Secretary of the Interior Orme Lewis wrote in 1954: "It is our belief that the members of these groups have in general attained sufficient skill and ability to manage their own affairs without the very limited special Federal assistance that they now receive."<sup>24</sup> The Paiutes' lack of education, their low income, the inept handling of their resources, and the fact that the final termination law (Public Law 83-762) provided that they be given instruction in English and special education to help them earn a livelihood and conduct their own affairs all testify that they were not ready for termination. And their subsequent history proves it.

A year after the Paiute termination was completed (1958), they were asked why they had not objected to termination. A Kanosh man answered that at the time of the hearings the people had not understood what was happening. According to the 1954 chairman of the Kanosh tribe, he had never been to school a single day, and many old people had very little education. Even without schooling they might have comprehended the implications of the impending law, but no one could afford either to go to Washington or to obtain legal advice. When a B. I. A. employee came to clarify what was later to become Public Law 83-

<sup>22</sup> *Termination of Federal Supervision Over Certain Tribes of Indians*, Joint Hearings, 83 Cong., 2 sess., Part 1, Utah (Feb. 15, 1954), 13-16, 54-56.

<sup>23</sup> 83 Cong., 2 sess., *House Report 2630, Report with Respect to the House Resolutions Authorizing the Committee on Interior and Insular Affairs to Conduct an Investigation of the Bureau of Indian Affairs*, 86-87.

<sup>24</sup> *Termination of Federal Supervision Over Certain Tribes of Indians*, Joint Hearings, 83 Cong., 2 sess., Part 1, Utah, 9.

*Policies Which Impede Indian Assimilation*

762, each group was approached separately, so that they never discussed together or really understood the legal implications of the act.

Soon after the passage of Public Law 83-762, Paiute land was transferred from the B. I. A. to trustees of the Walker Bank and Trust Company in Salt Lake City, about 160 miles away. The Paiutes had difficulty getting transportation to the bank and then communicating with the trust officer. An Indian Peaks man said that they finally collected enough money for gasoline to go to Salt Lake City, where they saw the trustee, but they could not understand his remarks and after a few minutes were shown out of his office. They also tried unsuccessfully to get advice from an attorney appointed by the bank and paid with Paiute money. Later the attorney wrote the Indian Peaks official that he would have samples of valuable minerals found on tribal land tested. "But," the Paiute continued, "we do not know one stone from another."

A Shivwits man said that without the tribe's consent the trustee had leased their range to a cattleman at a price of 30 cents a head each month for 100 cattle. This was \$1.20 less per animal than the government's appraised value, and, in addition, their land was being overgrazed. The trustees had given the state highway department permission to repair the reservation road without the Indians' knowledge. The maintenance men had knocked down the fences, and the Indians did not know to whom they should go to get help.

Public Law 762 required the United States to reserve for ten years subsurface rights from any division or sale of tribal property and to vest the legal title in the trustee to whom property might be transferred. Thus, should profitable minerals be discovered on the land, continuing obligations of a trust nature will probably be thrust upon the United States.

Extra charges connected with public schooling entailed expenses the Paiutes could ill afford. There was a fifteen-dollar payment to the activity fund each year for each child and one dollar a week for school lunches. Many of the children in Cedar City



## THE INDIAN

came home during the noon hour because they had no lunch money. State services posed other problems. A man over sixty-five years of age could not get welfare payments because he had no birth certificate and could not prove his age. A Kanosh farmer could not get a loan on his farm because it was part of the land held by his tribe and owned by several people. Hospital and doctors' bills became burdens, although the Mormon church paid some of the charges.

Registering to vote, complying with state regulations for hunting and fishing licenses, or obtaining farmers' home or other loans—such important activities were all beyond the experience and understanding of the Paiutes. Without birth certificates, Social Security numbers, land deeds, and a command of English and general know-how, they are relatively helpless. This one case amply demonstrates that the policy statement of Congress "to make Indians . . . subject to the same laws and entitled to the same privileges as are applicable to citizens of the United States" (House Concurrent Resolution 108) is not accomplished by termination legislation.

### 2. *Klamath Termination*

The 2,133 enrolled Indians on the Klamath Reservation in southern Oregon had extensive and valuable holdings: 720,000 acres in forests (chiefly ponderosa pine) and 280,000 acres of range, farmland, or marsh. The act terminating their relation to the federal government (Public Law 587) was passed August 13, 1954, and the tribesmen were given their choice of taking their share of the assets or keeping the property in one block in trust for the group. In the election held to determine what should be done, 1,660 tribesmen voted for a distribution of assets while 84 voted to continue as a group.

The reservation had been set aside for these Indians by the treaty of 1864, but they had never developed the requisite skills for handling this valuable estate. At the same time they lost much of their native culture. The elders no longer counseled the young with the old adage, "Work hard so people will respect you."

### *Policies Which Impede Indian Assimilation*

Access to wealth freed the Klamaths from restraint; and the imposition on them of the B. I. A.'s economic program without their consent relieved them of responsibility. Internal stresses and jurisdictional controversies developed, which almost completely exhausted tribal, communal, and even family control. In one year five out of eight murders involved Indians.<sup>25</sup> With this background it is easy to see why 1,660 members voted for termination and cash.

The withdrawing members received 78 per cent of the entire property or a per capita payment of \$14,000 each. As soon as it became clear that large sums of money would be distributed to Indians, many ingenious ways were developed by unscrupulous citizens to induce the Indians to part with their cash, such as exorbitant interest rates on loans made before their inheritance was received or excessive attorneys' fees. Some Klamath Indians have used their money wisely; a great number have nothing whatsoever left and may end by swelling the state welfare rolls.

In the sale of their assets tribesmen were given first choice in the purchase of land or personal property; the rest was offered to the public. The government purchased, through the Bureau of Sport Fisheries and Wildlife, 15,000 acres of land as a refuge on the flyway of migratory fowl. Eighty-four thousand acres were sold in small units without any restrictions, while 617,000 acres were divided into sustained-yield units and offered for bids. The law required the purchaser of each unit to pay at least the appraised price and to manage the land on a sustained-yield basis. Only one tract of 92,000 acres was sold to a private purchaser, the Crown Zellerbach Corporation. The remaining sustained-yield units, consisting of 105,000 acres, were bought by the government at the appraised price: one-fifth was assigned to the Frémont National Forest, and four-fifths to a new Winema National Forest.

Four hundred and seventy-three Indians—the 84 who had voted to have their combined property handled in one block

<sup>25</sup> Vincent Ostrum and Theodore Stern, "A Case Study of the Termination of Federal Responsibilities Over the Klamath Reservation" (1963).



#### THE INDIAN

and 389 who did not vote—were organized as a nonprofit trusteeship under state law. They have an executive committee of five serving as the official spokesmen for the group. They meet regularly with the officers of the United States National Bank of Portland, who administer their assets.

At the time the trust was formed, the assets of the group amounted to approximately 143,000 acres of timber, marsh, and ranch land and 266 head of cattle. Under the provision of the trust, beneficiaries were given the opportunity to terminate the trust agreement at the end of each five-year period. The first period ended in 1964. Somewhat over half the members in this group were minors in 1959 and many reached their majority by the 1964 election.<sup>26</sup> At this meeting the trust would have been terminated if the votes of only those present had been counted. However, it was decided to count the absentees as voting for a continuation of the trust; therefore the trust is still intact.

This trust operates on the old B. I. A. policy of paternalism—namely, to produce the maximum amount of income for the beneficiaries, with no concern for encouraging the people themselves to handle their own property. The management of the trust is solely the responsibility of the bank. Since the bank has taken over the role previously exercised by the B. I. A., some of the Indian resentments and expectations once directed toward B. I. A. are now being visited upon the bank.

These feelings were obvious at a meeting on May 4, 1963, in the Klamath County Library in Klamath Falls. Present at the meeting were a member of the American Friends Service Committee, a representative of the firm of Wilkinson, Gragun, and Barker (the Klamath attorneys), and four members of the executive committee. The fifth member of the executive committee, though absent, was represented by a delegate. There were about a dozen uninvited spectators. The Indians' discontent was centered upon the following factors: First, the failure of the bank to employ Indians to help with the forest or cattle herd. It was explained that the bank had tried hiring Indians but had not

<sup>26</sup> Material furnished by the Portland area office, B. I. A., 1963.

### *Policies Which Impede Indian Assimilation*

found such applicants to be satisfactory. Second, the bank made too much money handling the estate. (The bank was to receive 3 1/2% of 1 per cent of the assets, which never amounted to less than \$91,000 a year; in 1962 the bank had charged the Klamaths \$92,597.68). And, third, in its farm operation the bank purchased equipment and then hired farmers who brought in their own machinery. (It was pointed out that the machinery purchased did not include the type of machinery rented.)

The government, however, is not clear of all relations with the Klamaths. An old claim based on loss of tribal land is pending, and there may be other suits based either on the Indians' belief that the government did not pay enough for their land or on their loss of mineral or water rights. It is too soon to tell whether termination has solved any of the Indian problems or whether there has been only a shift of problems from the federal to the state government.

Ten years after the passage of Public Law 83-587, Mrs. Marie Norris, a Klamath leader living in Klamath Falls, said: "If I had known what termination would have meant to all of us, I would have fought it tooth and nail."

### *3. Menominee Termination<sup>27</sup>*

Termination of the Menominee Indians of Wisconsin (Public Law 83-399, June 17, 1954) has caused even greater confusion and disruption of tribal life than the termination of the Paiutes, although it was expected to succeed. The 3,876 Menominees on their 221,000-acre reservation in Wisconsin had long wanted independence from the federal government. For many years they had largely financed their own activities with their tribal assets, and they possessed effective leadership.

At first glance, tribal properties and on-going programs might have constituted an excellent background for the "assimilation" supposed to be the aim of termination. In truth, what appeared as resources under tribal law only compounded the Menominees'

<sup>27</sup> A study of Menominee Termination for the Commissioners by S. D. Aberle, 1959-65.



Summary of: "The United States Indian Service (A Sketch of the Development of the Bureau of Indian Affairs and of Indian Policy." 1961).

From the time of settlement, and up to the 1870's the United States regarded North American Indians as sovereign nations and treated with them diplomatically, as with other nations. During the latter part of this period, as Europeans increased in numbers and pressed westwards to settle larger and larger areas, a virtual state of continuous war existed between the U.S. and the Indians. From the time of President Jackson, in the early 1820's, pressure was exerted to move the Indians voluntarily, if possible, and by force if necessary, to areas west of the Mississippi, and these efforts culminated after 1865 in a full-scale conflict.

With the exception of scattered bands of Indians along the eastern seaboard and the interior woodlands, and a very few tribes in the southeast, most Indians had, by 1870, been established with or without their consent, west of the Mississippi.

Accompanying this geographical change there had been developing on the part of the federal government a new attitude towards Indians. The latter were no longer thought to constitute sovereign entities, but had come to be regarded as wards, suitable for charity, the responsibility of a paternalistic government -- in effect, as not very bright and quite incompetent children. This attitude prevailed until well into the twentieth century. It was characterized by flagrant exploitation, official and unofficial, of Indian lands, water, timber, minerals and grazing areas, and included continuing efforts to alienate individual Indians and groups from land which had been assigned to them as reservations.



As early as 1887 the General Allotment Act constituted an attempt to break up reservations into small parcels under individual or Indian family control, and success in this attempt resulted in a proportion of the Indians' possessions passing into white hands.

The process thus commenced was supported and rationalized by an apparently official belief that the way to solve the Indian "problem" was to make the Indian become a white man, to adopt white ways and accept the responsibilities of citizenship. Economic pressure was reinforced through control of education, welfare and social assistance, all instituted and administered by the federal government as authoritarian father.

It was not until after World War I that any very serious attempt was made to evaluate Indian reservations in practical terms of their separate and distinct elements of character and need. In the 1920's a survey was undertaken, actuated in part by the growing conviction in federal government that many of the services given to Indians should emanate from the states. The Meriam Report, in the late - 1920's, carried this policy (of surveying Indian reservations) into the area of explicit planning for future development; and while government policy remained paternalistic and exploitative, there appeared a growing tendency to institute Indian self-help programs with the Indians' welfare and independence as human beings no longer so completely ignored.

With this, there emerged the stated policy that Indian Lands, previously decimated under the Allotment Act, should be consolidated and Indians trained in management techniques, with assistance given them by grants and loans to the extent deemed possible in view of the size of the problem. At the same



time, efforts were increased to bring more Indians into the service of the Bureau and to decentralize the Bureau's services to regional and local offices and other governmental agencies.

The policy later widely known as "termination" developed naturally out of these attitudes and practices. Termination found official expression in 1953, when Concurrent Resolution 180 was passed by the Congress. The stated purposes of this act were to eliminate the Bureau of Indian Affairs, turn over as many as possible of Bureau-rendered services to the states and other federal agencies, and bring the Indian into full citizenship.

During the early-1950's agreements were reached in regard to termination of federal services with 158 bands and groups of Indians in California and Western Oregon, and a guide towards future withdrawals of services was drawn up in relation to over 200 other bands.

"Termination policy" sent a wave of apprehension through Indians, who felt their security threatened. This feeling persisted, despite efforts at reassurance by federal officials. Stress was laid by the latter upon the facts that tribal differences were recognized and would be afforded different treatment at varying rates, and that the process of withdrawal of services would not be precipitate.

During the years 1953-60, great emphasis was laid upon the need for universal Indian education and upon encouraging Indian people to assume greater responsibility for planning and managing their own affairs.

Consultation between Indians and government officials was the bye-word. In

1956 the Commissioner summarized the Bureau's objectives under nine headings:

Co-operatively with the Indian people we are essentially seeking:

- (1) To make a careful analysis of reservation populations, their probable increase, their needs, and their potentialities.
- (2) To accurately inventory physical resources and possibilities for their improvement for the purpose of determining the number of people for whom these resources can provide a decent living.
- (3) With the cooperation of the Public Health Service to secure adequate health coverage to reduce wasted human resources.
- (4) To provide through local and state educational systems, as well as directly through Bureau operated programs, adequate educational opportunities in basic and vocational fields benefitting the beginners through adults.
- (5) Specific training and guidance programs to develop greater self-reliance and equip Indians to adjust to a competitive economic society.
- (6) Improvement and conservation of physical resources.
- (7) Development of supplementary sources of income through establishment of payrolls on or near reservations.
- (8) To advise Indians of the economic opportunities available to them and to give adequate assistance within the limits of available appropriations to all desiring to seek these opportunities.
- (9) Gradual assumption of functions performed by the Bureau either by the Indians themselves or as appropriate by agencies of the local, state, or Federal government.

In 1961 the Secretary of the Interior appointed a four-man task force on Indian Affairs. This body submitted its report that same year.

In its more important detailed recommendations the Task Force Report advocated:

- (1) More vigorous efforts to attract industry to reservation areas.



- (2) An expanded program of vocational training and placement.
- (3) Improvement of credit resources for Indian tribal organizations and enlargement of the Bureau's revolving loan fund.
- (4) Establishment of an Advisory Board on Indian Affairs composed of both Indians and non-Indians prominent in the field.
- (5) Negotiations with States and counties, and resort to the courts where necessary. to assure off-reservation Indians the same rights and privileges as other citizens.
- (6) Collaboration with States and tribes to bring tribal law and order codes into conformity with those of States and counties where the reservations are located.
- (7) Acceleration in the adjudication of cases pending before the Indian Claims Commission.
- (8) Greater use of judgment funds to finance tribally planned development programs.

"The group re-emphasized the urgent need to develop plans and programs on the basis of active collaboration with the people they are designed to benefit, pointing out that 'Basically, we must not forget that ours is a program which deals with human beings. We must have faith in their abilities to help themselves and be willing to take some risks with them.'"

Nevertheless, the Task Force reiterated the Bureau's objectives - - i.e., the attainment of social, economic and political parity for Indian citizens. At the same time, the group suggested that the Bureau had over-emphasized the policy of termination as an end and that emphasis from then on should be placed more on development - - on the process, itself.

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That the difficulties inherent in termination are not semantic, only, is suggested in later developments; the Dixon administration has apparently rejected termination in its entirety. Whether or not there will be during the next few years a true reversal of that policy, remains to be seen.



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## THE UNITED STATES INDIAN SERVICE

### A Sketch of the Development of the Bureau of Indian Affairs and of Indian Policy.<sup>(1)</sup>

(NOVEMBER, 1961)

From early colonial times until 1871 the British, the Colonial and later the United States government looked upon Indian Tribes as sovereign nations, to be dealt with by treaty or through the medium of a diplomatic service. With their numerical inferiority in early times, the position of the colonists was precarious and, although an effort was made to regulate relations between themselves and the Indians in the interest of peace, no attempt was made to govern the internal affairs of the Tribes. Just before the American Revolution, and just after the close of the French and Indian Wars, the British established two superintendencies of Indian Affairs, the jurisdictions of which corresponded to the areas occupied by the Northern and the Southern Colonies. The Superintendents functioned as ambassadors of a foreign power, charged with the duty of observing events, negotiating treaties and generally maintaining peaceful relations between the Indians and the border settlers.

As the years passed, a transition gradually took place in the course of which the colonies grew into a nation and the balance of power shifted from the Indians to the Whites, creating across the years a changing pattern of relationships between the two groups. That changing pattern is amply reflected in the development, composition and function of the United States Bureau of Indian Affairs, with the varied policies, attitudes and objectives that characterized it in its effort to cope with the ever-changing problem of Indian relationships through the years.

One of the first Acts of the Continental Congress, in 1775, was to declare its jurisdiction over Indian tribes by creating three departments of Indian Affairs, a Northern, a Southern and a Middle department, with Commissioners at the head of each charged with duties comparable to those of the earlier Superintendents. The Commissioners chosen for the Middle department were Benjamin Franklin, Patrick Henry and James Wilson, an indication of the importance in which the positions were held.

After the Revolution, in 1786, the Congress of the Confederation established two departments for Indian affairs, the Northern—north of the Ohio River and west of the Hudson River, and the Southern—south of the Ohio River, with a Superintendent at the head of each, reporting to the Secretary of War. Each of the two Superintendents had the power to grant licenses to trade and live among the Indians.

When the Federal Government was reorganized under the new Constitution in 1789, the War Department was established, with Indian Affairs continuing as a responsibility of the Secretary of War. The First Congress and the First President recognized the need for remedying the problems created by conflict between Indian and White interests, serious even then, and National policy, already set forth in the Northwest Ordinance of 1787,

<sup>1</sup>Adapted largely from Chapters 2-4, inclusive of Felix S. Cohen's *Handbook of Federal Indian Law* pub. 1945, GPO, for the period extending from colonial times to 1935. For the years subsequent to 1935, source material is identified in the text or by appropriate footnotes. The account contained in this section was prepared by Robert W. Young, Assistant to the General Superintendent, Navajo Agency, with the generous assistance of Leonard Ware, Program Officer, Bureau of Indian Affairs, whose deep knowledge of the subject field made it possible to correct certain errors contained in the source material utilized for the period prior to 1935.

was reaffirmed in the Act of August 7, 1789, to the effect that "The utmost good faith shall always be observed towards the Indians; their land and property shall never be taken from them without their consent; and in their property, rights and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them."<sup>2</sup>

<sup>2</sup>Some insight into early frontier attitudes toward, and relationships with, the Indian Tribes is provided by Isaac Weld, Jun., who visited the States and parts of Canada in 1795, 1796 and 1797, and whose letters were published in London in 1807 under the title of "Travels Through the States of North America and the Provinces of Upper and Lower Canada during the years 1795, 1796 and 1797 (pp. 199-201).

"Acceptable presents are generally found very efficacious in conciliating affections of any uncivilized nation: they have very great influence over the minds of the Indians; but to conciliate their affections to the utmost, presents alone are not sufficient; you must appear to have their interest at heart in every respect; you must associate with them; you must treat them as men who are your equals, and in some measure, even adopt their native manners. It was by such steps as these that the French, when they had possession of Canada, gained their favour in such a very eminent manner, and acquired so wonderful an ascendancy over them. The old Indians still say, that they never were so happy as when the French had possession of the country; and, indeed, it is a very remarkable fact, which I before mentioned, that the Indians, if they are sick, if they are hungry, if they want shelter from a storm, or the like, will always go to the houses of the old French settlers in preference to those of the British inhabitants. The necessity of treating the Indians with respect and attention is strongly inculcated on the minds of the English settlers, and they endeavor to act accordingly; but still they cannot banish wholly from their minds, as the French do, the idea that the Indians are an inferior race of people to them, to which circumstance is to be attributed the predilection of the Indians for the French rather than them; they all live together, however, on very amicable terms, and many of the English on the frontiers have indeed told me, that if they were but half as honest, and as well conducted towards one another as the Indians are toward them, the state of society in the country would be truly enviable.

On the frontiers of the United States little pains have hitherto been taken by the Government, and no pains by the people to gain the good will of the Indians; and the latter, indeed, instead of respecting the Indians as an independent neighboring nation, have in too many instances violated their rights as men in the most flagrant manner. The consequence has been, that the people on the frontiers have been involved in all the calamities that they could have suffered from a vengeful and cruel enemy. Nightly murders, robberies, massacres, and conflagrations have been common. They hardly ventured to stir, at times, beyond the walls of their little habitations; and for whole nights together have they been kept on watch, in arms, to resist the onset of the Indians. They have never dared to visit their neighbors unarmed, nor to proceed alone, in open daytime on a journey of a few miles. The gazettes of the United States have daily teemed with the shocking accounts of the barbarities committed by the Indians, and volumes would scarcely suffice to tell of the dreadful tale.

It has been said by persons of the States, that the Indians were countenanced in committing the enormities by people on the British frontiers, and liberal abuse has been bestowed on the government for having aided, by distributing amongst them guns, tomahawks, and other hostile weapons. That the Indians were incited by presents, and other means, to act against the people of the colonies, during the American War, must be admitted; but that, after peace was concluded, the same line of conduct was pursued toward them, is an aspersion equally false and malicious. To the conduct of the people of the States themselves alone, and to no other cause, is unquestionably to be attributed the continuance of the warfare between them and the Indians, after the definitive treaty was signed. Instead of them taking the opportunity to reconcile the Indians, as they might easily have done by presents, and by treating them with kindness, they still continued hostile toward them; they looked upon them as indeed they still do, merely as wild beasts, that ought to be banished from the face of the earth; and actuated by that insatiable spirit of avarice, and that restless and dissatisfied



turn of mind, which I have so frequently noticed, instead of keeping within their territories, where millions of acres remained unoccupied, but no part, however, of which could be had without being paid for, they crossed their boundary lines, and fixed themselves in the territory of the Indians, without ever previously gaining the consent of these people. The Indians, nice about their boundary line beyond any other nation, perhaps, in the world, to have such extensive dominions in proportion to their numbers, made no scruple to attack, to plunder, and even to murder these intruders, when a fit opportunity offered. The whites endeavored to repel their attacks, and shot them with as much unconcern as they would either a wolf or a bear. In their expeditions against the white settlers the Indians frequently were driven back with loss; but their ill success only urged them to return with redoubled fury, and their well-known revengeful disposition leading them on all occasions to seek blood for blood, they were not merely satisfied with murdering the whole families of the settlers who had wounded or killed their chiefs or warriors, but oftentimes, in order to appease the manes of their comrades, they crossed their boundary line in turn, and committed most dreadful depredations amongst the peaceful white inhabitants in the States, who were in no manner implicated in the ill-conduct or the men who had encroached upon the Indian territories. Here, also, if they happened to be repulsed, or lose a friend, they returned to seek fresh revenge; and as it seldom happened that they did escape without loss, their excesses and barbarities, instead of diminishing, were becoming greater every year. The attention of the government was at last directed towards the melancholy situation of the settlers on the frontier, and the result was, that Congress determined that an army should be raised, at the expense of the States, to repel the foe."

In the same year, Congress appropriated \$20,000 for the purpose of "negotiating and treating" with Indian tribes, and in 1790 it passed an Act for the purpose of regulating trade and intercourse with Indian tribes. The latter provided for the licensing of Indian Traders, and conferred extensive regulatory powers on the President. During the period 1796 to 1822 trading houses were maintained under Government ownership for the purpose of supplying Indians with necessary goods at a fair price, and for the purpose of offering a fair price for Indian furs in exchange. The Agents in charge of the trading houses were appointed by the President and were responsible to him. In 1806 the office of Superintendent of Indian Trade was established, its duties including the purchase and charge of all goods intended for trade with the Indian nations.

In 1822 the office of Superintendent of Indian Trade was abolished, and Secretary of War Calhoun created the Bureau of Indian Affairs by order of March 11, 1824, placing at its head Thomas L. McKenney, who formerly had been Superintendent of Indian Trade. Mr. McKenney's new duties included the administration of the "Civilization Fund" established by Act of Congress on March 3, 1819, to provide a permanent annual appropriation of \$10,000 for the express purpose of "introducing among the Indians the habits and arts of civilization."

Between 1824 and 1832, confusion appears to have reigned in the conduct of Indian Affairs, but by Act of July 9, 1832, Congress authorized the President to appoint a Commissioner of Indian Affairs to manage all matters arising out of Indian relations, subject to the direction of the Secretary of War and to regulations prescribed by the President. In 1834, an Act of Congress established a Department of Indian Affairs. It provided for the employment of Agents, Sub-Agents, Interpreters and other employees, and was, to a large degree, a reorganization of the field force of the War Department with relation to Indian Affairs.

Fifteen years later, in 1849, Congress created the Home Department of the Interior, the Bureau of Indian Affairs at that time passing from military to civil control. The Act provided that "the Secretary of the Interior shall exercise the supervisory and appellate powers now exercised by the Secretary of the War Department, in relation to all the Acts of the

Commissioner of Indian Affairs." After 1849 Congress debated for years whether or not to transfer the Indian Bureau back to the War Department.

Following the Civil War, in 1869, an effort was made to correct mismanagement in the purchase and handling of Indian supplies through the creation of a Board of Indian Commissioners appointed by and reporting to the President. It was to be composed of not more than 10 men serving without compensation, and was to exercise joint control with the Secretary of the Interior. This board was not abolished until 1933 when President Roosevelt issued an Executive Order providing that the affairs of the board be terminated as an economy measure. Since that time the Secretary of the Interior has supervised public business relating to Indians, the management of Indian Affairs, and all matters arising out of Indian relations.

Elbert Herring became the first legislatively authorized Commissioner of Indian Affairs in 1832, and during the century or more ensuing, the post has been held by almost 40 individuals representing a wide range of opinions regarding the responsibilities of that office. To a great extent their views, as set forth in their official and unofficial writings, reflect the history of our national expansion. The Indian Service began as a diplomatic service to manage negotiations between the United States Government and the Indian tribes, the latter considered as domestic dependent nations, and by a gradual process of jurisdictional aggrandizement on the one hand and voluntary surrender of Tribal powers on the other, the Indian Service reached a point at which nearly every aspect of Indian life was subject to the almost uncontrolled discretion of its officials. Only in recent years has this approach to the administration of Indian Affairs undergone radical change.

The reports of the heads of the Bureau of Indian Affairs from 1824 when the Bureau was established to the present provide a graphic account of changing policies, and provide an excellent commentary on the attitudes and philosophies of the American people relative to Indian problems. In 1825 Mr. Thomas L. McKenney, as head of the Office of Indian Affairs, wrote to the effect that it was the policy of the Government to guarantee "lasting and undisturbed possession" of new lands in the Indian country beyond the boundaries of Missouri and Arkansas to those Indians whose land titles had been extinguished and who had decided to move westward in an attempt to re-establish themselves rather than try to stand against the tide of White expansion. This was a period when our nation was growing, and when White men were seeking new lands beyond the frontiers—lands to which Indian groups had formerly held title, in many instances by treaty. The Indians were induced, by various means, to relinquish their lands and move westward, and under Jacksonian policy the Government relied heavily on the use of the military to accomplish removal of those who elected not to do so voluntarily.

Educational policy of the period was aimed at the "civilization" of the Indian, largely through manual training, agriculture and "the mechanic arts." As early as 1826, the head of the Indian Bureau urged an increased appropriation for Indian education in the belief that increased school facilities would ultimately be more effective than the military in achieving the objectives of a peaceful relationship with the Indian. However, effective education and the bodily removal of entire Indian tribes from their traditional homeland did not always stand in a complimentary relationship to each other.



In 1851, Commissioner Luke Lea wrote to the effect that "on the general subject of the civilization of the Indians, many and diversified opinions have been put forth; but, unfortunately, like the race to which they relate, they are too wild to be of much utility. The great question, how shall the Indians be civilized, yet remains without a satisfactory answer. The magnitude of the subject, and the manifold difficulties inseparably connected with it, seem to have bewildered the minds of those who have attempted to give it the most thorough investigation."

Commissioner Lea went on to point out that he believed that the civilization of the Indian should provide for "their concentration, their domestication and their ultimate incorporation into the great body of our citizen population."

As the economic requirements of the White population grew, the land holdings of the Indian tribes were reduced to reservations, and the latter gradually shrank in size as the westward expansion of our new nation progressed. White men, interested in intensive agricultural use of the land, could not see the justification of Indian tenure of large areas for purposes of hunting and small scale farming. Consequently, Commissioner Lea felt that it would be preferable to concentrate Indian tribes to facilitate the assimilatory process to which he referred as "civilization." His recommendation that Indians be ultimately incorporated into the citizenry of the country was a marked departure from the previous policy of removal and segregation.

Domestication of Indians was accepted as a part of our policy when, in 1853, Commissioner Manypenny objected to the practice of permitting Indian tribes to retain portions of their Tribal domain as Reservations after selling or otherwise relinquishing a major part. He said, "with but few exceptions, the Indians were opposed to selling any part of their lands, as announced in their replies to the speeches of the Commissioner. Finally, however, many Tribes expressed their willingness to sell, but on the condition that they could retain Tribal Reservations on their present tracts of land." He was of the opinion that, rather than retain Tribal Reservations, the Indians should take up individual farms and thus become "domesticated." No consideration was given to the fact that many such groups had not been traditionally conditioned by their own ways of life to facilitate easy transition to an existence patterned after that of the White farmer.

At first, the stream of White migration had been content to push the Indian before it, but by 1850 it had begun to bypass him, surrounding and engulfing him. The practice of removal and resettlement of Indian tribes on Reservations beyond the frontier was rapidly becoming impractical, a fact which only intensified the question of what to do about the Indian. Further, as the White men swarmed westward, the conviction grew, on the part of the American public, that lands previously reserved to Tribes that had removed themselves from territory formerly held in the east, should be whittled down to a size commensurate with the actual needs of the group: "Reservations should be restricted so as to contain only sufficient land to afford them a comfortable support by actual cultivation," wrote Commissioner Denver in 1857, "and should be properly divided and assigned to them, with the obligation to remain upon and cultivate the same."

Up to the Civil War period, the national policy in dealing with Indian tribes was based on treaty, with the Tribes considered as quasi-independent

nations. However, during and after the Civil War this policy was replaced with one based on the premise that Indians were objects of national charity and without legal rights. Writing in 1862, Secretary of the Interior Caleb B. Smith pointed out that Indian tribes have none of the elements of nationality, and that they reside within an area under the jurisdiction of the United States. "The rapid progress of civilization upon this continent will not permit the lands which are required for cultivation to be surrendered to savage tribes for hunting grounds," he stated. "Indeed, whatever may be the theory, the Government has always demanded the removal of the Indians when their lands were required for agricultural purposes by advancing settlements. Although the consent of the Indians has been obtained in the form of treaties, it is well known that they have yielded to a necessity to which they could not resist. A radical change in the mode of treatment of the Indians should, in my judgment, be adopted. Instead of being treated as independent nations they should be regarded as wards of the Government, entitled to its fostering care and protection. Suitable districts of country should be assigned to them for their homes, and the Government should supply them, through its own Agents, with such articles as they use, until they can be instructed to earn their subsistence by their labor."

During the period from 1863 to 1876, Indians were in the process of being established on Western Reservations, and the Commissioners turned their attention to problems of permanent policy and administration. The main question in connection with Indian affairs centered about the advisability of continued treaty making, the proper role of the military, reorganization of the Indian Bureau, development of a means for individualizing and controlling the Indian, and the question of the present rights and the future prospects of the conquered people. The system of treaty making was abandoned in 1871<sup>3</sup>, and was replaced by a system of agreements between the Government and the Indians. It was urged that even these be discarded since, in many instances, Tribal government had completely broken down. Indeed, under the budding policy of paternalism, power and authority had passed to the Agents sent to control the various groups, and to care for them as wards of the Government, with the result that Tribes no longer possessed many of the characteristics of independent

<sup>3</sup>The first treaty between the United States and an Indian Tribe was that concluded with the Delaware Indians on September 17, 1778 (7 Stats., 13).

The Act of March 3, 1871 (16 Stats., 556) provides in part: "That hereafter no Indian Nation or Tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe or power with whom the United States may contract by treaty: PROVIDED FURTHER, that nothing herein contained shall be construed to invalidate or impair the obligations of any treaty heretofore lawfully made and ratified with any such Indian Nation or Tribe.

With regard to the status of Indian treaties, the Supreme Court has held them to be substantially of no greater force or effect than an Act of Congress. In the case of *Lone Wolf v. Hitchcock* (187 U. S., 566) the Court held that: "The power exists to abrogate the provisions of an Indian treaty, though presumably such power will be exercised only when circumstances arise which will not only justify the Government in disregarding the stipulations of the treaty, but may demand, in the interest of the country and the Indians themselves, that it should do so. When, therefore, treaties were entered into between the United States and a tribe of Indians it was never doubted that the power to abrogate existed in Congress, and that in a contingency such power might be availed of from considerations of government policy, particularly if consistent with perfect good faith toward the Indians." (From Bulletin 12, Office of Indian Affairs, 1926 reprint, "The American Indian and Government Indian Administration," by Assistant Commissioner Edgar B. Merritt.)



political entities. Confined to their Reservations, the Indians were rapidly becoming almost totally dependent upon the Government, and that paternalistic relationship was being fostered as an answer to the problem of what to do with our Indian minorities. Where Indians did not immediately show themselves inclined to accept the paternalistic relationship between themselves and the Government, use of the military was sometimes advocated. In fact, in 1873, Commissioner Edward P. Smith urged that troops be made available on the Sioux Reservations "to enable the Agents to enforce respect for their authority, and to conduct Agency affairs in an orderly manner." And this in the face of a treaty with the Sioux in which the United States had agreed to send no troops beyond the Reservation line.

When the Indian was established on one of the Reservations his movements were confined to that area, but insofar as possible he could retain his traditional way of life. He could retain the religious, linguistic, and other cultural characteristics that served to distinguish him, but often he found it impossible to gain his livelihood after the traditional pattern. The hunting tribes of the Great Plains, for example, could no longer follow the herds of buffalo. As a result, the Government found it necessary to feed the Indian populations on many Reservations to prevent their starvation and preclude the possibility of rebellion. The Indians, of course, soon came to be dependent upon direct relief and, in the words of a contemporary, "seeing no future for themselves in the area to which they had been relegated, they passed their time in idleness." Many knew nothing of agriculture, and the old economic base had been extinguished with such suddenness that they did not have the time necessary for gradual adjustment to the changed environment. For obvious reasons the weak and impotent tribes received the least, while those groups that still possessed a war potential were the most generously appeased.

In 1872, after the so-called "feeding" policy had been in effect for about three years, Commissioner of Indian Affairs Walker defended it and defended the Reservation system by pointing out that "there is no question of national dignity, be it remembered, involved in the treatment of savages by civilized powers. With wild men, as with wild beasts, the question of whether in a given situation one shall fight, coax, or run, is a question merely of what is easiest and safest." He discussed further the function of the Reservation to the effect that "the Indians should be made as comfortable on and as uncomfortable off, their Reservations as it was in the power of the Government to make them, that such of them as went right should be protected and fed, and such as went wrong should be harassed and scourged without intermission. Such a use of the strong arm of the Government is not war, but discipline."

Traditional land tenure on the part of Indian groups was not based on individual ownership of specific tracts of land. More generally, Indians occupied areas of land as tribal entities, holding or controlling the areas in common. When such tribes were settled on reservations, they continued to utilize the land in common. On the other hand, the White men, feeling a pride in individual ownership, and being historically conditioned to intensive, individual agricultural pursuit as a basic way of life, were convinced that the Indian could not be "civilized" until he too came to share that pride of individual ownership, and adopted intensive cultivation of the soil as a basic way of living. The belief was held that the Indian should be "individualized" as rapidly as possible through a process of allotment of

the Reservation lands in severalty, to thus break up the communally held Reservations into individual holdings. This technique for "individualization" of the Indian allowed, as a by-product, a considerable amount of surplus land in many instances, available for other purposes after Indian applicants on the Reservations had received their individual allotments. In fact, the reduction of Indian Reservations gained momentum to such an extent that, in the year 1890 alone, more than 17,400,000 acres, or about 1/7 of all remaining Indian land, was acquired by the Federal Government. The process of breaking up the reservations was justified on the basis that those areas had originally been given to the Indians to meet their needs as non-agricultural peoples, and that they no longer required such large areas in view of the emphasis being placed on intensive agriculture.

The problem of the consolidation and sale of surplus lands on Reservations had already appeared in 1872. Commissioner Walker stated that "the Reservations granted heretofore have been generally proportioned, and rightly so, to the needs of the Indians in a roving state, with hunting and fishing as their chief means of subsistence, which condition implies the occupation of a territory far exceeding what could possibly be cultivated. As they change to agriculture, however rude and primitive at first, they tend to contract the limits of actual occupation. With proper administrative management the portions thus rendered available for cession or sale can be so thrown together as in no way to impair the integrity of the Reservation. Where this change has taken place, there can be no question of the expediency of such sale or cession. The Indian Office has always favored this course, and notwithstanding the somewhat questionable character of some of the resulting transactions, arising especially out of violent or fraudulent combinations to prevent a fair sale, it can be confidently affirmed that the advantage of the Indians has generally been subserved thereby."

However, despite the magnitude of the Indian problem, for many years the Government had sought to economize by providing very low salaries for Indian Service personnel, and very small appropriations for Education and other services. In 1882, Commissioner Price urged that the Government pay the salaries necessary to attract capable men to the Administration of Indian Affairs. "Paying a man as Indian Agent \$1200 to \$1500, and expecting him to perform \$3,000 to \$4,000 worth of labor, is not economy," the Commissioner pointed out, "and in a large number of cases it has proven to be the worst kind of extravagance." In the same report Mr. Price speaks of education to the effect that "if one million dollars for educational purposes given now will save several million in the future, it is wise economy to give that million at once, and not dole it out in small sums that do but little good."

Writing in 1881, Commissioner Hiram Price, a businessman, expressed a viewpoint quite counter to that expressed by most of his predecessors in terms of educational philosophy, and one which is remindful of a period a half century later. Commissioner Price said "It is as common a belief that the boarding should supersede the day school as it is that training schools remote from the Indian country ought to be substituted for those located in the midst of the Indian. But I trust that the time is not far distant when a system of district schools will be established in Indian settlements which will serve not only as centers of enlightenment for those neighborhoods, but will give suitable employment to returned students, especially the young women, for whom it is especially difficult to provide."



The General Allotment Act became law on February 7, 1887 and, as we mentioned above, a great deal of Indian land was soon lost. Even in those times there were men who opposed the Act on the ground that allotments might be forced upon many Indians before they were ready for such a drastic change. Actually, the abortive attempt at "individualization" through the process of allotment fell far short of achieving the purpose for which it was conceived.

In 1889, Commissioner Morgan set forth several points of policy to the effect that (1) The Reservation system belongs to the past, (2) Indians must be absorbed into our national life, not as Indians, but as American citizens, (3) The Indian must be "individualized" and treated as an individual by the Government, (4) The Indian must "conform to the White man's ways, peaceably if they will, forceably if they must," (5) The Indian must be prepared for the new order through a system of compulsory education, and (6) The traditional society of Indian groups must be broken up.

In 1905 Commissioner Leupp pointed up the need for education as a means of severing the individual Indian from his Tribe, and from the Government, and setting him upon his own feet. Manual training was the basis of Commissioner Leupp's policy, with enough of the "three R's" to get by.

Allotments to individual Indians were made in such a manner that the allottee was prevented from alienating the land during a 25-year trust period, at the end of which time he was to receive a patent in fee. However, an Act of 1906 empowered the Secretary of the Interior to issue a patent in fee before the end of the trust period if the Indian applicant was shown to be competent. Each application for a patent had to be considered on its own merits and on the basis of a report from the Agency Superintendent concerned. However, during the first three years following passage of the law, more than half of the recipients of patents sold their land and spent the proceeds, leaving themselves destitute. To correct the situation and safeguard the Indian land base, a policy was introduced by Commissioner Valentine in 1911 whereby more rigid proof of "competency" was required. To provide the necessary proof, competency commissions were established and Superintendents were asked to submit lists of all Indians of one-half or less Indian blood who were able bodied and mentally competent. It had been proposed to immediately grant patents in fee to all such individuals, and to persons of more than one-half Indian blood provided they were adjudged competent. This policy was hailed as a new era in Indian administration. "It means that the competent Indian will no longer be treated as half ward and half citizen. It means reduced appropriations by the Government and more self respect and independence for the Indian. It means the ultimate absorption of the Indian race into the body politic of the nation. It means, in short, the beginning of the end of the Indian problem." In those terms Cato Sells, Commissioner of Indian Affairs in 1917, eulogized the new policy.

Following the first world war there was a reversal in the policy of issuing patents in fee to anyone of one-half or less Indian blood without further proof of competency, and a more rigid system was introduced.

Commissioner Burke, in his report dated 1922, stressed the need for education. He observed that "probably States should ultimately assume complete responsibility for the Indians within their borders, but pending that time there is much to be done by the Federal Service." Under

ated. This survey was the forerunner of a more comprehensive study to be undertaken a few years later for the purpose of developing for each Reservation a definite program, adapted to meet the specific requirements of the group, and designed to make each of the Tribes self supporting. It was a great departure from the previous system of extending a single general policy over all Indian Tribes regardless of whether or not it fit their needs and circumstances.

During the period 1926-28 the Institute for Government Research carried out a survey of social and economic conditions of the Indians, commonly known as "The Meriam Report," after Lewis Meriam, the technical director of the survey staff. The investigators described what they found on the many Reservations, analyzed prevailing policy in terms of their findings, and made positive recommendations which were basic to the new Indian policy that was to follow. Among other things, they stressed the need for a realistic educational program adapted to the problems of Reservation life, the need for sustained and coordinated economic planning and development, the need for more carefully chosen, better paid personnel, the strengthening of community life, and clarification of the law and order function on Indian Reservations.

Prevailing policy at the time of the Meriam Survey, in connection with Education, was predicated on the premise that the advancement of Indian groups could be best accelerated by removing the Indian child from his home environment, breaking his ties with his family, and educating him in a boarding school where only English would be spoken, and where the child might receive instruction in the three R's and in manual training. The Meriam Committee found that the school day in most such boarding schools was theoretically devoted half to academic studies and half to manual training. However, in many instances, the "manual training" was found to be actually composed of institutional labor. By utilizing small children to do the more or less heavy work of gardening, kitchen work, janitorial labor, etc., and by paying extremely low salaries to the school staff, it was possible to operate such institutions on a very low budget.<sup>4</sup>

<sup>4</sup>The Act of April 30, 1908 (35 Stats., 72) limited the per capita cost of boarding schools to \$167 per year and this limitation was not relaxed until 1918. In 1926 the per capita cost was \$225 per year, and in 1932 this allowance was raised to \$345 for schools of 200 or less enrollment, and \$300 if the enrollment exceeded 500 and later \$50.00 additional was allowed for all pupils in grades above the sixth. At present, in 1955, the allowance for Community Boarding Schools on the Navajo Reservation averages \$705, while that for the larger Boarding Schools averages \$835. This increase in per capita allowance eliminates the parsimony and the need which characterized the Boarding Schools of less than a half century ago, to depend on the children for a large part of the necessary institutional labor; and it vastly improves diet and other opportunities for modern Boarding School children. In fact, one of the explicit justifications for raising the allowance in 1932 was stated as "the employment of labor to relieve children of excessive institutional drudgery." (From "Indian Administration Since July 1, 1929," by Commissioner of Indian Affairs C. S. Rhoads and Asst Commissioner J. Henry Scattergood.)

The Meriam Report, published in 1928, provides some insight into the Boarding Schools of less than 40 years ago. On page 327 the survey committee states that "The average allowance for food per capita is approximately eleven cents a day, exclusive of the value of food secured from the school farm. \* \* \* Malnutrition was evident. They (the pupils) were indolent and when they had the chance to play, they merely sat around on the ground, showing no exuberance of healthy youth."

Further, and with reference to institutional labor, the Meriam Committee stated on page 375 of their report "If the labor of the Boarding Schools is to be done by the pupils, it is essential that the pupils be old enough and strong enough to do institutional work \* \* \* The institutional work has to be done, in part at least, by very small



children \* \* \* children, moreover, who according to competent medical opinion, are malnourished. \* \* \* In nearly every Boarding School one will find children ten, eleven and twelve spending four hours a day in more or less heavy industrial work \* \* \* dairying, kitchen work, laundry shop. The work is bad for children of this age, especially children not physically well nourished; most of it is in no sense educational, since the operations are large scale and bear little relation to either home or industrial life outside \* \* \* At present the half day plan is felt to be necessary not because it can be defended on health or educational grounds, but because the small amount of money allowed for food and clothes makes it necessary to use child labor.

They described teaching methods as antiquated, mechanistic and of a type which had been generally discarded years before in public school systems. It was their conviction that, although the boarding schools might impart some modicum of knowledge in terms of the three R's, they failed to educate in the broader sense of preparing the Indian child for his place in the society in which he would be expected to live. Further, the Meriam Committee expressed the opinion that the boarding schools as they found them denied the established role of the family in the development of personality, and ignored the necessity on the part of the child for parental guidance and affection. They found the general policy and objectives of Indian Education to be those of attempted "de-indianization" through severance from family and reservation environment. The survey then recommended that children be educated in day schools located within the communities in which they lived in order that they might benefit from a more normal home life, and in order that the schools could thus reach beyond the child to influence the life and thinking of the total community.

Accordingly, in 1932, Commissioner Rhoads reflected the new trend in thinking when he observed that "the most significant feature of the year in Indian education was a determined effort to make the change from boarding school attendance to local day or public school attendance for Indian children." A year later Commissioner John Collier indicated that, in connection with education, his policy would be one of aiming at a "redistribution of educational opportunity for Indians, out of the concentrated boarding school reached the few and into the day school reaching the many. The boarding schools which remain must be specialized along lines of occupational needs of children of the older groups, or along those of the need of some Indian children for institutional care. The day schools must be worked out on lines of community service, reaching the adult as well as the child, and influencing the health, the recreation, and the economic welfare of their local area."

The Meriam Survey had described the tragic results of the allotment system whereby Tribal groups lost so much of their land base, and the investigators found a great deal of sentiment expressed by the Indians themselves in favor of continued wardship on the part of the Federal Government. In connection with Indian lands, Commissioner Collier said that "the allotment system has enormously cut down the Indian land holdings and has rendered many areas, still owned by Indians, practically unavailable for Indian use. The system must be revised both as a matter of law and practical effect. Allotted lands must be consolidated into Tribal or corporate ownership with individual tenure, and new lands must be acquired for the 90,000 Indians who are landless at the present time. A modern system of financial credit must be instituted to enable the Indians to use their own natural resources. And training in the modern techniques of land use must be supplied Indians. The wastage of Indian

lands through erosion must be checked." Commissioner Collier's social and economic policies were, to a large degree, formally incorporated into the Indian Reorganization Act which became law on June 18, 1934.

From 1922 on, the emphasis on education as a basis for solution of Indian social and economic problems grew, and the policy of exclusive control of Indian affairs by the Federal Government declined. In his 1928 report, Commissioner Burke stated that "It is hoped that closer cooperation may be established between states having Indian populations and the Federal Government in dealing with questions of education, health and law enforcement."

Five years later, with reference to reorganization of the Indian Service, Commissioner Collier, in his 1933 report, expressed the view that "a decentralizing of administrative routine must be progressively attempted. The special functions of Indian Service must be integrated with one another and with Indian life, in terms of local areas and of local groups of Indians. An enlarged responsibility must be vested in the Superintendents of reservations and beyond them, or concurrently, in the Indians themselves. This reorganization is in part dependent on the revision of the land allotment system; and in part it is dependent on the steady development of cooperative relations between the Indian Service as a Federal Agency, on the one hand, and the states, counties, school districts, and other local units of government on the other hand."

In 1940 Joseph C. McCaskill, an Assistant Commissioner, summed up the trend in Indian administration in a paper entitled "The Cessation of Monopolistic Control of Indians by the Indian Office" with the statement that "... we see the Indian Office divesting its authority into three directions; first among other Agencies of the Federal Government which have specialized services to render. Second among the local state and county governments, which are much more closely associated with the problems in some areas than Washington can be; and finally among the tribal governments which have organized governing bodies, and which expect eventually to take over and manage all the affairs of Indians. Perhaps thus, but not at once, it may be found possible to cease special treatment, special protective and beneficial legislation for the Indians; and they shall become self-supporting, self managing, and self-directing communities within our national citizenry."

The new stress was against uniformity of policy and planning and in the direction of a maximum of local adaptation, both of method and goal. It was the beginning of an approach to Indian policy and planning based on the premise that each Tribe presents special problems which cannot be successfully attacked and solved through a general plan applied universally to all Indian groups.

Following World War II, pressure for the decentralization of Indian administration and the spreading of functions formerly held by the Indian Office grew to include many State and Federal agencies not previously concerned, including State Departments of Public Welfare, State Departments of Public Instruction, the U. S. Department of Agriculture, the State courts, etc. It was a stormy transition period, leading to the development of a policy aimed ultimately at the elimination of the Bureau of Indian Affairs.

In an address before the Western Governors' Conference at Phoenix, Arizona, on December 9, 1952, Commissioner Dillon S. Myer emphasized the fact that by Act of Congress in 1924, and by prior actions in previous



years, all Indians in the United States were declared to be citizens and that, in accordance with the 14th Amendment to the Federal Constitution, they were therefore citizens, not only of the United States, but also of the states in which they reside.<sup>5</sup> Commissioner Myer pointed to the fact that the emphasis in Bureau policy and planning was on health, education and welfare services, with these three activities accounting for 60% of all Bureau employees; and on resources management which accounted for 16% of all employees.

Through the Johnson-O'Malley Act of 1934, which authorized the transfer of Federally appropriated funds to State and local agencies for services rendered, Bureau contracts with State Departments of Public Instruction, and with school districts, were made. In 1952 there were 52,000 Indian youngsters in public schools, and 31,000 of these were in schools receiving some supplemental assistance from federal funds. At the same time plans were going ahead rapidly for the transfer of additional Indian Service schools to local state school districts for operation. Commissioner Myer pointed to reduction of Indian Service hospitals in a number of areas through use of community and private hospital services, reduction of the Bureau's welfare services through the Social Security Act and the State Welfare Departments, and a start was made toward the transfer of agricultural extension, soil and moisture conservation, credit programs and road maintenance from the Bureau to other federal or to state agencies.

Congress urged, and the Bureau of Indian Affairs was looking toward, its eventual elimination through effective planning and programming. "We believe," Mr. Myer stated, "that the services now rendered by the Bureau of Indian Affairs can be transferred, step by step, either to the Indians themselves if the service involves handling their own economic affairs, or to other governmental agencies if it is the type of service normally rendered by government to citizens generally. This programming must be carried on in close cooperation with the Indians, both as individuals and as groups, as well as with responsible representatives of other governmental agencies—mainly state and local."

Commissioner Myer emphasized the policy of transfer to other agencies and organizations of services provided by the Bureau wherever and whenever such other agencies were equipped to provide those services as cheaply and efficiently as the Bureau. However, he stressed the fact that such transfer is not a simple mechanical process, and stated

<sup>5</sup>The act in reference was approved on June 2, 1924 (43 Stats., 253) and provides: "That all noncitizen Indians born within the territorial limits of the United States be, and they are hereby, declared to be citizens of the United States: PROVIDED, that the granting of such citizenship shall not in any manner impair or otherwise affect the right of any Indian to tribal or other property."

It is noteworthy that, prior to the passage of the Act in reference above, two thirds of the Indians in the United States were already citizens pursuant to Acts previously passed by the Congress, including the General Allotment Act of February 8, 1887 (24 Stats., 388), as amended by the Burke Act of May 8, 1906 (34 Stats., 182); by the Act of August 9, 1888; the Act of November 6, 1919 (41 Stats., 350) affecting honorably discharged Indian servicemen of World War I; the act of March 3, 1901, (31 Stats., 1447) conferring citizenship on all Indians of the Five Civilized Tribes of Oklahoma; and the Act of March 3, 1921 (41 Stats., 1250) with relation to the Osage Indians. In a decision involving the U. S. Vs. Nice (241 U. S. 598), the Supreme Court of the United States held "Citizenship is not incompatible with tribal existence or continued guardianship, and so may be conferred without completely emancipating the Indians or placing them beyond the reach of congressional regulations adopted for their protection. (Op. Cit. (3) )

that "The kind of programming that is essential for further progress in this field is not a simple process and should not be taken lightly. It involves a thorough-going analysis of the problems both as they relate to functions and as they relate to individual bands, tribes and groups of Indians inhabiting specific geographic areas. Only after a thorough-going inventory and analysis of all problems are we ready to discuss how these problems might be solved and how certain responsibilities may be transferred from the Bureau of Indian Affairs to the Indians or to other governmental agencies."

During Commissioner Myer's administration, agreements were reached with more than 43 bands and groups of Indians in western Oregon, and with 115 identifiable bands and groups in California looking toward termination of Federal responsibilities and services as provided through the Bureau. Also, an overall inventory of problems as they relate to over 200 different Indian bands, tribes or groups was completed as a guide to withdrawal programming. These problems included the heirship status of some 18,000,000 acres of allotted lands, and those of managing tribal lands of which there are some 38,000,000 acres, much of it sub-marginal in quality. Poverty of many Indian groups and lack of health, educational and other training opportunities were also taken into account in withdrawal planning.

"It is a mistake to think of all Indians as an agricultural people," Commissioner Myer said. "Some are interested in agricultural pursuits while others would like to follow other vocations. Unfortunately we have not provided adequate opportunity for them to prepare for other vocations. \*\*\*Because of lack of education, lack of communications, language difficulties, and limited association with non-Indians, many Indians are afraid of the outside world."

Commissioner Myer advocated the initiation of a large scale training program in cooperation with state and private vocational schools to prepare Indian workers to take advantage of employment opportunities through relocation, and thus raise the living standards of surplus Indian population. As an alternative to such a program, he saw the necessity for indefinite subsidy by the Federal or state governments in social and welfare services on the crowded reservations.

For those who chose to remain on the reservations, Commissioner Myer saw the need for their social, economic and political development to raise reservation standards and to prepare them for leadership and intelligent cooperation with the Bureau in the development and execution of plans for the ownership, organization and management of their individual and group resources.

He advocated the step by step transfer to county and state agencies of those community services and governmental functions currently carried on by the Bureau, and stressed the point that "you cannot have trusteeship without paternalism \*\*\* We are faced with this dilemma. On the one hand, we are trying to encourage Indian individuals and groups to take over responsibility in the management of their own affairs; and on the other we are saddled with the tremendous responsibility of protecting Indian properties—a responsibility which has been vested in the Government not only by law, but as a result of many treaty commitments made down through the years. \*\*\* If the job of eliminating the need for the Bureau of Indian Affairs is to be done with honor, and in a manner that ~~will~~ inspire pride, we must concentrate on the difficult job of factual



analysis and constructive programming. As we approach the task, let us bear in mind that treaties must not be broken and agreements must not be set aside, and that many obligations which have been assumed and which are not a part of treaties should be discharged before the final closing of the doors. I am thinking especially of the completion of irrigation projects in order to safeguard Indian water rights which now exist, as well as to develop good land resources to the point of greatest productivity. I am also thinking of completion of needed Indian road projects before they are turned over to the county and state Governments; and working out the transfer of responsibility for health, educational and other social services in a manner that will assure the continuation of these services to Indians on a basis of full equality with other American citizens."

In August, 1953, the 83rd Congress passed House Concurrent Resolution 108, establishing formally a policy of gradual elimination of Federal trusteeship and of the special services provided by the Bureau of Indian Affairs to Indians. The Resolution in reference provided that "It is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all the rights and prerogatives pertaining to American citizenship."

Withdrawal programming and the newly formulated termination policy of the Federal Government sent a wave of apprehension through many Indian Tribes, especially those who were most immediately concerned. Many groups, not yet prepared for life in a competitive society, felt that their security was threatened and made their sentiments heard. They feared that actions jeopardizing their future, if not their very survival, might be prematurely taken by Congress, and in some tribes there developed cleavages with factions that favored and factions that opposed termination of Federal wardship.

Shortly after his appointment as head of the Bureau of Indian Affairs, Commissioner Glenn L. Emmons personally visited Indians throughout the United States and Alaska. He reassured Indian groups everywhere that programming by the Bureau would be determined on the basis of individual Tribal and regional need, and that every opportunity would be afforded to them for consultation and close participation in all aspects of program planning affecting them. In fact, those aspects of policy were formally set forth in a letter of September 2, 1953, from President Dwight D. Eisenhower to the Commissioner, and the latter read the presidential letter to groups he visited in order to fully reassure them.

"\*\*\*One thing that has impressed me above all others is the tremendous complexity and diversity of (Indian Affairs)," Commissioner Emmons said.<sup>7</sup> "I have realized for many years, of course, that there are a large number of Indian groups throughout the country who are quite different from the tribes which I have known more intimately in the area around Gallup. But I find that these differences are even more substantial than I had suspected. I am now more convinced than ever that you cannot apply the same yardstick to the more than 200 Tribal groups throughout

<sup>7</sup>From address by Commissioner of Indian Affairs Dillon S. Myer, before the Western Governors' Conference—Phoenix, Arizona, December 9, 1952.

<sup>8</sup>Address delivered to Indian Tribal groups visited by Commissioner G. L. Emmons. See 1/20/53

the United States. Each Tribe has its own customs and traditions, its own set of problems, its own type of organization, its own past history of relations with the Federal Government, its own ideas about its future development. All of these things and many others will have to be carefully considered before we decide on a course of action with respect to any particular tribal group. \*\*\* Some of the broad outlines of Indian policy, of course, have been pretty well established. What we are trying to achieve essentially, as I see it, is a condition of parity or equality for the Indian people as compared with the rest of the population. This does not mean that we are expecting Indians to give up their own culture and be just like everyone else. But it does mean that we want to give the Indians the same opportunities for advancement — the same freedom and responsibility in the management of their properties — as other American citizens. \*\*\* I know that there are some Tribes who are ready and anxious to take over full responsibility for their own affairs at the earliest possible time, and that others will have to move along toward that objective much more slowly and gradually. \*\*\* I recognize that in many areas there is a real need for a continuation of the trusteeship and will be for several years. While I cannot, of course, guarantee that your government will always accept your recommendations on the termination of trusteeship, I can and do pledge that each tribal group will be fully consulted by the Bureau of Indian Affairs before we take any final action in recommending a termination program to Congress. \*\*\* In the meantime, however, we shall be continuing in our efforts to transfer our service responsibilities in the field of health, education, welfare and similar fields wherever possible to the agencies which normally provide these services for other citizens. I am greatly encouraged by the progress which has been made in placing Indian children in the public schools of the country, and I hope we can speed up and broaden our efforts in this direction. We should also be able to make similar progress eventually in health, welfare, law enforcement, road maintenance, agricultural extension, and home demonstration work, and along other lines. Every transfer of this kind which we make to a local agency is another step toward the day when the Indian people will be able to move forward without further restrictions or special services from the Federal Government."

Commissioner Emmons laid great stress on education as an essential prerequisite to successful preparation of Indian Tribes for the management of their own affairs, and as a foundation upon which to build a better society based on improved social and economic standards. The construction of public and Federal schools serving Indian children was accelerated, where necessary, and other steps were taken, as dictated by local requirements, to increase the enrollment of Indian children.

On the economic front, the Relocation Services program was expanded to reduce the pressure on meager reservation resources where such were inadequate to support the population, and an effort was made to provide increased industrial employment on and near reservations through the attraction of industries capable of using reservation manpower. Initially, in the latter regard, emphasis was placed on bringing such employment to communities located close to the reservations, and the program was designed to utilize Indian manpower exclusively; later, the emphasis was directed toward cooperative efforts by Indian and non-Indian communities to develop industrial employment opportunities for their mutual benefit.



As an adjunct both of relocation and industrial employment, a program was launched to provide vocational education for adult Indians.

The issue of termination continued, to haunt Indian tribal groups although, in 1958, Fred A. Seaton, the Secretary of the Interior, assured the Indian people that he interpreted the intent of Congress, as expressed in House Concurrent Resolution No. 408, as a statement of ultimate objective—not an immediate goal." Mr. Seaton stated that his own position was that "no Indian tribe or group should end its relationship with the Federal Government unless such tribe or group has clearly demonstrated—first, that it understands the plan under which such a program would go forward, and second, that the tribe or group affected concurs in and supports the plan proposed. \*\*\* under no circumstances could I bring myself to recommend the termination of the Federal relationship with any Indian tribe in this country until the members of that tribe have been given the opportunity of a sound and effective education. To me it would be incredible, even criminal, to send any Indian tribe out into the stream of American life until and unless the educational level of that tribe was one which was equal to the responsibilities which it was shouldering."

During the period from 1953-1960 the emphasis of the Federal Government in the field of Indian Affairs was placed primarily on the objectives of universal education for Indian people, utilizing the public schools to the maximum extent possible, and on the attainment of economic parity for the Indian minorities throughout the country, primarily through a shift to increased dependency on off-reservation resources.

Tribes were encouraged to improve and expand the management of their own affairs, and to help themselves to the greatest extent possible. On April 12, 1956, the Commissioner issued a memorandum addressed to all Area Directors and Superintendents under the title "Programming for Indian Social and Economic Development." In this memorandum the policy of the Bureau and the mechanics and procedures to be utilized in implementing Federal Indian policy were delineated.

"In this memorandum," the Commissioner stated, "I desire to impress upon Agency and Area personnel the need to come to grips with the basic long-range problems in each tribal situation which presently impede the betterment of the Indians' economic status and living standards, hamper the provision of full educational opportunities for their children, and obstruct the improvement of their health conditions. It is not enough for us to go on from day to day just providing certain services and carrying out our trust responsibilities. We must sit down with the Indian people and reach a common understanding and mutual agreement upon the means and methods for their reaching the stage where they will have developed the self-reliance necessary to conduct their personal affairs with the same degree of independence as other American citizens.

"To implement this, I am herewith placing the major responsibility upon the Bureau field personnel to assume the initiative in this broad field of programming with Indian groups. Herein are discussed the salient points of policy and procedures to offer some guidelines for your operations. It is requested that all members of Area and Agency staffs be fully briefed on its contents; that it be made available to any and all Indian groups, and that copies thereof be made available to any interested official of the state or local subdivisions thereof.

"Fundamentally, I wish to emphasize the importance of developing

# *FORWARD-LOOKING PROGRAMS, IN WRITTEN FORM, THRU THE CONSULTATION PROCESS*

at each of the tribal jurisdictions. By the term consultation process I mean making a sincere and sympathetic effort to formulate and establish the interests and aims of the Indian people through the process of providing them with a complete and unhampered opportunity for an expression and development of their views and giving the fullest possible consideration to the desires and objectives of each tribe, group, or band. In those cases where there are good and compelling reasons for not developing a program which complies with the tribal request or recommendations, it means explaining carefully and clearly just what those reasons are and why, from the Government standpoint, these differences seem to be important.

"Cooperatively with the Indian people we are essentially seeking

(1) To make a careful analysis of reservation populations, their probable increase, their needs, and their potentialities.

(2) To accurately inventory physical resources and possibilities for their improvement for the purpose of determining the number of people for whom these resources can provide a decent living.

(3) With the cooperation of the Public Health Service to secure adequate health coverage to reduce wasted human resources.

(4) To provide through local and state educational systems, as well as directly through Bureau operated programs, adequate educational opportunities in basic and vocational fields benefiting the beginners through adults.

(5) Specific training and guidance programs to develop greater self reliance and to equip Indians to adjust to a competitive economic society.

(6) Improvement and conservation of physical resources.

(7) Development of supplementary sources of income through establishment of payrolls on or near reservations.

(8) To advise Indians of the economic opportunities available to them and to give adequate assistance within the limits of available appropriations to all desiring to seek these opportunities.

(9) Gradual assumption of functions performed by the Bureau either by the Indians themselves or as appropriate by agencies of the local, state, or Federal government.

"A good program is tailor-made to the needs, circumstances, and aspirations of particular groups and their individual members. There is no specific formula which will apply to all Indian groups. A good program is one which results from the desires of and fits the needs of a particular group of Indians. In whole or in part the program should, if possible, be the work of the Indians themselves. A good program is always one which involves state and local representatives as active participants in its making. State universities and other institutions and organizations are able and often willing to assist in technical planning problems.

"I emphasize the important thing is for each group to have as a goal, with or without legislation, the development of the group to the point where, from a realistic point of view, special services or assistance because of Indian status will no longer be necessary."

Although the policy expressed in the memorandum of April 15, 1956, remained in force through the closing years of the decade, its actual implementation in the form of well defined, formalized, long range programs met with very limited success, partly because program planning of this



Early in 1961, President Kennedy appointed Stewart L. Udall, a native of the State of Arizona, to the position of Secretary of the Interior. Deeply interested in Indian problems, and with firsthand knowledge of their depth and complexity, the newly appointed Secretary took a cautious approach to the development of policy and program in the field of Indian affairs. As an initial step, he appointed a Task Force on Indian Affairs composed of four men, widely experienced and knowledgeable in this field, to take a fresh look at the problem area and to develop recommendations upon which the policies and programs of the new administration might be based.

W. W. Keeler of Bartlesville, Okla., oil company executive and principal chief of Oklahoma's Cherokees, was named as chairman. The other members were Philleo Nash, former lieutenant governor of Wisconsin, who was subsequently installed on September 26 as Commissioner of Indian Affairs; James Officer, a University of Arizona anthropologist, now Associate Commissioner of the Bureau; and William Zimmerman, Jr., Assistant Commissioner of the Bureau from 1933 to 1950. John O. Crow, Acting Commissioner during the period of the study and now Deputy Commissioner, consulted with the Task Force and accompanied it on field trips.

Over a period of nearly five months the Task Force members traveled about 15,000 miles and met with representatives of nearly all the important Indian tribal groups throughout the country. Fifteen days of sessions with tribal representatives were held at Oklahoma City, Okla.; Albuquerque, N. Mex.; Tempe, Ariz.; Pierre, So. Dak.; Duluth, Minn.; Spokane, Wash.; and Reno, Nev. Special visits were made in the Dakotas to the Sisseton Reservation and Wahpeton Community; in Montana to the Crow, Northern Cheyenne and Rocky Boy's Reservations and the "Hill 57" community at Great Falls; in Nevada to the Pyramid Lake Reservation; in Florida to the Seminole Reservations; and in Northern California to the Eastern Cherokee Reservation. In addition to these field activities, numerous consultations were held in Washington, D. C., both with tribal representatives and non-Indians prominent in the field of Indian affairs.

The Task Force submitted its report to Secretary Udall in early July. Three long-range goals were proposed for the Bureau of Indian Affairs: (1) maximum Indian economic self-sufficiency, (2) full participation of Indians in American life, and (3) equal citizenship privileges and responsibilities for Indians. To accomplish these aims, the Report called primarily for greater stress on developing the human and natural resources on Indian reservations and decreased emphasis on termination of Federal trust and service responsibilities for Indians.

In its more important detailed recommendations the Task Force Report favored (1) more vigorous efforts to attract industry to reservation areas, (2) an expanded program of vocational training and placement, (3) improvement of credit resources for Indian tribal organizations and enlargement of the Bureau's revolving loan fund, (4) establishment of an Advisory Board on Indian Affairs composed of both Indians and non-Indians prominent in the field, (5) negotiations with States and counties, and resort to the courts where necessary, to assure off-reservation Indians the same rights and privileges as other citizens, (6) collaboration with States and tribes to bring tribal law and order codes into conformity with Federal law, (7) cooperation with States and counties where the reservations are located, (7)

## WITH THOSE OF STATES &amp; COUNTIES WHERE THE RESERVATIONS ARE LOCATED,

- (7) acceleration in the adjudication of cases pending before the Indian Claims Commission, and (8) greater use of judgment funds to finance tribally planned development programs.

At a press conference on July 12 Secretary Udall endorsed the main outlines of the Report and established it as a basis for Indian Bureau operations under the Kennedy Administration. As this is written (11-2-61) considerable progress has already been made in implementing the Report's major recommendations.

The group reemphasized the urgent need to develop plans and programs on the basis of active collaboration with the people they are designed to benefit, pointing out that "Basically, we must not forget that ours is a program which deals with human beings. We must have faith in their abilities to help themselves and be willing to take some risks with them."

At the same time, the Task Force urged a positive approach toward realization of the objectives of the Bureau of Indian Affairs, aimed as they are at the attainment of social, economic and political parity for Indian citizens. In this regard, the study group expressed the view that the Bureau, in the recent past, had over-emphasized the objective of termination of Federal services to Indians as a primary value in itself, and they recommended that the emphasis be placed instead on development, to thus ease the fears on the part of Indian tribes that Federal withdrawal might be premature. The position taken was that developmental programs designed to assist tribal groups to advance socially, economically and politically will, when complete, obviate the need for special Federal services to Indians, and the objective of self-sufficiency can more readily be reached by emphasizing the means for its attainment rather than its end result. In this context, the Task Force report made it clear that social, political and economic parity include not only full participation in American life and enjoyment of the privileges of citizenship by Indians, but also assumption of the responsibilities of citizenship. The responsibility of the States, counties and municipalities for the provision of services to Indians, wherever the latter are entitled to such benefits, was stressed by the Task Force, and it was pointed out in the report that Federal services should not duplicate State and local programs to the extent that the latter are applicable to Indians.

The Task Force stressed the urgent need for maximum development of the resources of Indian reservations, and urged that the Bureau play an active role, in cooperation with the tribes, in the conduct of necessary surveys and the development of master plans, as well as in the provision of technical assistance and in the securing of necessary capital. The report urged early action by the Department of the Interior, designed to attack the problem of fractionated allotments in the Indian country. It was recommended that legislation be developed and passed by the Congress to accomplish transfer of such allotments to the tribes, with adequate provision for the compensation of individual heirs; or, where such land areas do not fit into tribal land consolidation programs, it was recommended that they be offered for sale through open competitive bidding.

To provide necessary developmental capital, the Task Force recommended expansion of the revolving loan program for such purposes as education, housing, individual land improvement, and small business. For major tribal programs, the establishment of a Reservation Development Loan Fund was recommended, to be administered by the Department of

*the Interior*



Although recognizing the fact that few Indians depend exclusively or primarily on arts and crafts for a livelihood, the Task Force pointed to the importance of revenue derived from this source, as well as the contribution Indian crafts work makes to Indian morale. It was strongly recommended that the promotion and development of arts and crafts be made an integral part of the educational program of the Bureau. In this connection, in the spring of 1961, the Santa Fe Boarding School was designated as the Institute of American Indian Arts.

Pointing to the fact that the educational level of Indians aged 25 years and over is only about one half that of the non-Indian population the Task Force urged that continued emphasis be placed on an educational program designed to accommodate all Indian children. The Task Force expressed its support of the policy of transferring responsibility in the field of education to the public schools whenever possible, recommending the improvement of existing physical plants and the construction of new facilities where necessary in the interest of facilitating transfer. Likewise, the Task Force stressed the need to bring Indian parents into closer participation in the conduct of school programs.

In view of the peculiar problems attaching to Indian education, and in view of rapidly changing educational policies in recent years, the Task Force recommended that an independent education survey be conducted at an early date.

In the field of welfare, the Task Force supported the long time position of the Bureau to the effect that off-reservation Indians are eligible for the same State and county services as are other inhabitants of the areas in which they live.

On September 21, 1961, Philleo Nash, the newly appointed Commissioner of the Bureau of Indian Affairs, addressed the delegates to the 18th Annual Convention of the National Congress of American Indians, at Lewiston, Idaho. Having served as a member of the Secretary's Task Force, Mr. Nash reviewed its procedures as well as its findings in considerable detail. Pointing to the fact that the study group had traveled 15,000 miles and talked with representatives of 200 organized tribes, the Commissioner observed that "although we are the authors of the report in the sense that we wrote the words down on paper, the ideas in this report are yours. To be sure, if we didn't agree with them, we wouldn't have made the recommendations."

Mr. Nash stressed the intent of the new administration to place maximum emphasis on programs designed for the development of natural and human resources on Indian reservations. "This is a developmental report," Mr. Nash told his audience, referring to the Task Force study. "This report deals with recommendations for programs that will provide maximum development and use of the natural resources which are our greatest asset. Perhaps even more important: the programs will provide for the development of people, and that, after all, is why we are in business. Ours is not a materialistic approach. We are interested in the wise use of natural resources so that the men, women and children who live on and near Indian reservations may have a better life. That means better housing, better health, more income, more education, better training, more and better opportunity for steady work at better wages."

Thus, the broad objectives of the new administration have been established, and within this pattern Indian policy and programs will take

the immediate future **SHAPE IN THE IMMEDIATE FUTURE.**

In retrospect, the history of the Office of Indian Affairs is a reflection of the development of our nation from colonial times to the present. Originally a special diplomatic service designed for the maintenance of peaceful relations between the struggling colonies and the powerful Indian Tribes surrounding them, it later became an intermediary between the Federal Government and the Tribes in the acquisition of new lands and in the problems attendant upon voluntary or forced emigration of the Indians westward. Both the demand for national expansion and the humanitarian desire to save the Indian from annihilation are reflected in the policy and practices of the past.

As the settlement of western lands shrank Tribal resources and destroyed traditional bases of livelihood, the Bureau of Indian Affairs gradually became the dispenser of charity on the reservations to prevent starvation and to exercise the duties of trusteeship assumed by the Federal Government toward its Indian wards. From a beginning in which the Bureau treated Indian Tribes as sovereign powers it rapidly became a potent factor in their internal affairs. In fact, the Bureau all but supplanted traditional Tribal organization with the personal government of politically appointed agents during the autocratic phase of its development. During the period of paternalism Bureau policy and planning ignored the cultural and other distinctions that applied to the many Indian groups and presumed to solve Indian problems by the imposition of a uniform program in relation to all Tribes.

Generally speaking, the policies, plans, procedures and attitudes adapted to the circumstances and motivations of one period were carried over to succeeding periods, and most of the vast array of laws, regulations, legal opinions and the like developed to regulate or facilitate Indian administration, especially during the autocratic phase of Bureau policy, remain in force to the present day. Even during the height of the paternalistic era there was pressure for the elimination of charity as the basis for survival of reservation Indians, and the institution of a program of education and resource development aimed at making the Indian people self-supporting. Pressures for the overthrow of the policy of paternalism culminated in the passage of the Indian Reorganization Act of 1934, under the terms of which Indian tribes organized under it gained the power of approval or veto over the disposition of all tribal assets; they were authorized to take over control of their own resources as rapidly as they could develop the leadership necessary to the direction of their own affairs; they were given the right to employ legal counsel, the right to negotiate with federal, state and local governments, and the right to be advised of all appropriation estimates affecting them before such estimates were submitted to the Bureau of the Budget and Congress. They were also assisted and encouraged in the development of representative tribal governments under tribal constitutions as an aspect of their reorganization.

In succeeding years the realization grew that the land base available to many Indian groups is insufficient in extent or quality to support the total population, and modern policy stresses not only the fullest possible development of the resources potential of Indian Reservations, but also it stresses diversification of Indian economy with a view to providing for the attainment of decent living standards on the part of our Indian citizens.



UNITED STATES DEPARTMENT OF THE INTERIOR \* \* \* \* \* BUREAU OF INDIAN AFFAIRS

## FEDERAL INDIAN POLICIES

a summary of  
major developments  
from the pre-revolutionary period  
through the 1960's

During the Presidential campaign of 1968, I pledged that my Administration would help Indians to reach goals they themselves had set. This emphasis on progress through participation on the part of the Indians is now the basis of this Administration's efforts to make progress in every area of Indian affairs.

Under the leadership of Commissioner Louis Bruce, the Bureau of Indian Affairs is now moving forward on programs of health, education, economic and social well being for America's more than 500,000 Indians.

Progress through participation means that the voice of the Indian will be heard on all questions affecting the life of the Indian. It is not this Administration's policy to tell the Indian what to do, but rather to help the Indian to do what needs to be done.

I am convinced that the coming years will be a time of progress for the American Indian, a time for which he has waited all too long.

Statement issued by President Nixon  
on September 20, 1969, from the  
White House



Message from the Commissioner of Indian Affairs

The President is very concerned that the First Americans have an opportunity to share fully in many benefits that come with life in our modern society. There is no question but what the Indian people in this country generally have not shared in the prosperity of our Nation. This is not because the Indian people do not have the same rights as other people, as generally they do except for the trust land relationship, but because they do not have the same opportunities.

In accepting the challenge of being the Commissioner of Indian Affairs, I fully realize the tremendous task which I have undertaken. There are many problems facing the Indian people, the most obvious of which, of course, is poverty. These problems have developed over 150 years. I do not think I have all the answers to these problems nor that there will be solutions found overnight for them. But I think that the Federal Government can become an efficient and effective source of aid and assistance to the Indian people.

The Nixon Administration, of which I am proud to be a part, has pledged itself to providing opportunities for Indians, both for economic development and for self-determination of policies that affect them. Progress through participation on the part of the Indians is now the goal of this Administration's efforts to make progress in every area of Indian affairs.

Vice President Agnew and Secretary of the Interior Hickel have also underscored this pledge.

I have pledged my administration to a forward-looking policy, of a Bureau of Indian Affairs totally responsive and flexible to the needs and direction of Indian people, and as supportive of Indian effort and direction as is possible. Indian involvement in all activities of the Bureau of Indian Affairs, at all levels on a continuing basis, carries top priority. Also, it is my desire to develop a climate of understanding throughout the United States which will permit the full development of the Indian people and their community without the threat of termination. All of these tasks are of equal importance and must be pursued with diligence and at once.

I am determined that my performance as Commissioner will warrant confidence, patience, and support in achieving a program which will be beneficial to all.

Louis R. Bruce

December 1969

## FOREWORD

In recent years the national conscience has been stirred by the plight of reservation Indians, whose lives and fortunes often lag years behind the times. Conditions and circumstances common in the 1930's have never lifted from the reservation communities, although the Nation as a whole is enjoying unprecedented prosperity with a gross national product today that exceeds the most optimistic hopes of that bygone era.

Most Indian people on the reservations and many of those who have drifted beyond the reservations to face the competition of an industrial and urban environment, are not yet a part of the new America. They may be even less a part of the American society today than they were before science and technology swept away a mode of life that was essentially land-based rather than product-based.

In their physical and psychological isolation from American society, Indians traditionally have relied upon the Bureau of Indian Affairs. The Bureau accepted this role with good intentions and in some cases has promoted it. In retrospect, however, the result often appears to be a dependency relationship that hinders the best efforts of providing Indians with options and opportunities available to other citizens.

Solution to the dilemma does not rest with the Federal Government alone. The fullest cooperation of all levels of Government, both State and Federal, and all the citizenry, especially including the Indian citizenry, will increasingly be necessary.

The Bureau of Indian Affairs can help establish the environment for this kind of cooperative action, but cannot do the job alone. The Indian people, together with the outer community, must determine where they are going and how they will get there.



## FEDERAL INDIAN POLICIES

### Pre-Revolution through the 1960's

Our country's first administrator of Federal Indian policies, Henry Knox, said at the time of his appointment as a Cabinet officer in George Washington's Administration:

"That the civilization of the Indians would be an operation of complicated difficulty; that it would require the highest knowledge of the human character and a steady perseverance in a wise system for a series of years, cannot be doubted. But to deny that, under a course of favorable circumstances, it could be accomplished, is to suppose the human character under the influence of such stubborn habits as to be incapable of melioration or change."

In the early colonial period the Indians represented a strong balance of power between the forces of Spain, France, and England and were therefore treated as sovereign nations until the issue of North American domination was settled.

Until 1755, the individual English colonies had no coordinated policies on Indian affairs. During that year the British developed an Indian policy designed to: (1) protect the Indians from opportunistic traders and speculators; (2) negotiate boundary lines by treaties; (3) enlist the Indians on the side of the British in the French and Indian War; and (4) exercise as much control as possible over the fur trade.

King George III in 1763 proclaimed: "The several nations or tribes of nations, with whom we are connected, should not be molested or disturbed in the possession of such parts of our dominions and territories, as, not having been ceded to, or purchased by us, are reserved to them, or any of them, as hunting grounds."

The proclamation by King George III defined the "Indian country" to be administered by two superintendents, one north and one south, and set aside "reserved lands" for the Indians. The two superintendents took on the role of diplomatic agents negotiating with the various tribes by means of a series of treaties.

The leadership of Benjamin Franklin is of historical importance to the development of this and subsequent periods of Indian affairs. He proposed, at the Albany Congress of 1754, that all colonial Indian affairs be centrally administered. The Franklin plan was a forerunner of later centrally administered British Indian policy under the two superintendents and of centralized Indian policy under the new American Government.

The outbreak of hostilities between the Americans and the British in April, 1775, pitted tribe against tribe and produced strenuous efforts for Indian alliances by both colonial and imperial governments. The young American revolutionary government attempted to win the friendship of the Indians through treaties. But most of the tribes supported George III, and even tribal neutrality was counted a success by the colonists.

The Continental Congress, in one of its first actions, named a Committee on Indian Affairs in 1775. This committee produced a report a month later which prompted the Congress to set up "three departments of Indians" -- the Northern, Middle, and Southern. The Congress continued many of the policies of Colonial times as well as creating new ones. Included among the outstanding Americans serving as commissioners of the Indian Departments were Benjamin Franklin and Patrick Henry in the Middle Department, and General Philip Schuyler in the Northern Department.

The Indian Commissioners were given authority "to treat with the Indians....in order to preserve peace and friendship with them and to prevent their taking part in the present commotions." The first negotiation was with the Six Nations (Mohawk, Oneida, Onondaga, Cayuga, Seneca, and Tuscarora) in July, 1775, and called for employment of two blacksmiths among the Indians and the opening of trade.

The first of 370 Indian treaties to be concluded during the next century was with the Delawares on September 17, 1778. This treaty held out the possibility that an Indian state might later be established as one of the states in the new country. This idea reappeared many times as an ultimate goal for Indian policy, without substantial result.

During the Revolutionary War, the Indian commissioners acted primarily as diplomatic agents, negotiating with various Indian tribes to gain their allegiance. Their work was kept under the authority of the Congress until a year after the war ended.

#### The Beginning of Forced Removal

In 1784 the Congress of the Confederation placed the administration of Indian affairs within the War Department, with the Secretary of War directed to place armed militia at the disposal of the Indian commissioners "for negotiating treaties with the Indians."



The Northwest Ordinance of 1787 was important in establishing the framework for settlement beyond the Alleghenies and in shaping Indian policy. It provided that:

"The utmost good faith shall always be observed toward the Indians; their land and property shall never be taken from them without their consent; and in their property, rights and liberty, they shall never be invaded or disturbed unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made for preventing wrongs done to them, and for preserving peace and friendship with them."

Over the next 50 years, the new nation and its government grew stronger. Laws regulating the trade between whites and Indians were added to the books, and a network of Indian agents and sub-agents was established following a report relating to military administration of trade practices with Indians. The report called for legislation "to ensure faithful disbursement of public money" and to enforce "prompt settlement of accounts."

In 1824, Secretary of War John C. Calhoun had begun to tie together all Federal Indian activities under an Indian Affairs Agency. He saw the Federal role as providing for: (1) appropriations for tribal annuities to be made to tribes for lands they had lost; (2) examination of Indian claims relating to trade laws; (3) bookkeeping; (4) correspondence with Indian superintendents and agents; and (5) administration of a fund for the civilization of Indians.

Meanwhile the systematic forced removal of Indian groups from the choice eastern lands to the western wilderness across the Mississippi had begun. Nearly all the Cherokees in the lower Appalachian area were driven across the mountains to settle in the Indian Territory. This territory, carved from the Louisiana Purchase, was created by President Thomas Jefferson, who expressed the hope that the removal of Indian groups from heavily settled eastern regions would contribute to their advancement.

The "removal" policy had been precipitated by activity in the late 1820's within the State of Georgia. The Cherokee Tribe in that State, a highly advanced civilization, had adopted an Indian constitution, modeled after the U.S. Constitution. The Georgia Legislature then nullified the Cherokee Constitution; appeals made by the Cherokees eventually resulted in a U.S. Supreme Court decision nullifying Georgia's action.

Chief Justice John Marshall's decision recognized that earlier Congresses had passed laws "which treat (Indians) as nations" and "as distinct political communities, having territorial boundaries."

The Indian Removal Act of 1830 established procedures for voluntary exchange of eastern Indian lands for new western acreage that was to be held by the tribes under perpetual guaranty from the Federal Government.

In 1834 Congress gave regular and permanent status to the Indian Affairs office and it began carrying out President Andrew Jackson's directive to remove all Indians living east of the Mississippi River to new western lands. These removal policies relied more on military force than diplomatic treaty.

The Five Civilized Tribes -- Cherokees, Chickasaws, Choctaws, Creeks, and Seminoles -- were pressured by negotiations and threat of force to move westward to the new Indian Territory. Although some members of these Tribes resisted, most became established in the new lands and were among the first citizens of Oklahoma when statehood was proclaimed.

Other Indian tribes from the northeast and Great Lakes regions also were subjected to the removal policies. Removal was justified by the Federal Government as a means of protecting the Indians from repeated encroachments of eastern white settlers. The Government policy bitterly divided the country -- in Congress, among the religious groups, in the press, and among Indians themselves.

"In the consummation of this grand and sacred object rests the sole chance of averting Indian annihilation," argued Commissioner of Indian Affairs Elbert Herring, in 1832.



Another Indian Commissioner, George Manypenny, 1854, urged the abandonment of the removal policy.

"By alternate persuasion and force," Manypenny said, "some of these tribes have been removed, step by step, from mountains to valley, and from river to plain, until they have been pushed half-way across the continent. They can go no further. On the ground they now occupy, the crisis must be met, and their future determined.

Many of those people who sympathized with the plight of the survivors of Eastern tribes who were now settled west of the Mississippi, thought they were doing these people a good turn by removing them from civilization's path until they could acquire the skills and knowledge necessary for assimilation.

#### The Start of Indian Education Programs.

A number of separate treaties with Indian tribes had set the precedent for placing responsibility for Indian education in the hands of the Government. One of the first of these treaties was with the Oneidas, Stockbridges, and Tuscaroras in 1794. Two years earlier the famed Seneca Chief, Cornplanter, visited President Washington, asking the Government to "teach our children to read and write and our women to spin and weave." A Federal directive to provide the "blessings of civilization" to Indians through treaties was issued in that year.

A "civilization fund" was contained in a law passed by Congress in 1819 which appropriated \$10,000 annually to provide elementary educational services to Indians. All funds provided by this act were channeled through religious and mission groups for the education of Indians. The Federal Government and the private mission groups combined later in the 1840's to launch the first Indian boarding school system. Not until 1860 was the first non-mission Federal Indian school started. (Congressional Acts of 1896, 1897, and 1917 eventually established that no further Federal funds for education could go to sectarian schools.)

#### Civil Administration Begins in Mid Century

Repeated efforts were made in the Jacksonian period to regularize Federal Indian administration through legislation. The War Department's head of Indian Affairs reported in 1828, that there were "fruitful sources of complaint" due to the lack of an organized system. In 1834 Congress passed a Trade and Intercourse Act setting up an Office of Indian Affairs, and modernizing trade practices as the result of a report in 1829 by two experienced Indian affairs specialists, Lewis Cass and William Clark.

Both Clark (of Lewis and Clark Expedition fame) and Cass had been territorial governors in Indian country for many years and Clark also had been superintendent of Indian affairs at St. Louis. Cass was to become Secretary of War in 1831. Their report called for new legislation "to ensure a faithful disbursement of the public money" and "to enforce a strict accountability and a prompt settlement of accounts."

Noting the increased lands to be supervised by a still-growing United States, and the need for establishing peaceable relations with the Indians, Treasury Secretary Robert J. Walker voiced the sentiment of many who advocated transfer of the Bureau of Indian Affairs from the War Department to a new Department, soon to take shape as the Department of the Interior.

Walker said: "The duties now performed by the Commissioner of Indian Affairs are most numerous and important, and must be vastly increased with the great number of tribes scattered over Texas, Oregon, New Mexico and California, and with the interesting progress of so many of the tribes in Christianity, knowledge, and civilization. These duties do not necessarily appertain to war, but to peace, and to our domestic relations with those tribes placed by the Constitution under the charge of this Government."

By 1849, with creation of the Department of the Interior, the Bureau of Indian Affairs passed from military to civil control. Its work consisted of attempts at "civilizing" the Indian people by training them for farming or trades. In 1862, Secretary of the Interior Caleb Smith recommended a "radical change in the mode of treatment of Indians" to regard them as "wards" of the Government. Consequently, the Bureau's efforts were often in conflict with military policy and it some times became the uneasy and unhappy buffer between the Indians and the U.S. Army.

#### The Call for Peace

The removal policy had succeeded in large measure with the Five Civilized Tribes because they envisioned an Indian nation, fully sovereign and federated. But many of the Plains Indians resisted all military moves to relocate them. They possessed the white man's horse and gun and fought bitterly against further encroachments on their lands and their way of life.

Tensions grew between Indians and whites in the western territories in the late 1850's and throughout the 1860's, as the railroads began moving west, culminating in a series of Indian "uprisings" and a Congressional demand that peace prevail in Indian country. After the Civil War, Congress authorized establishment of an Indian Peace Commission, comprising four civilians and three military leaders including Indian Commissioner Nathaniel G. Taylor and General William Tecumseh Sherman.

Peace Commission field trips had disclosed considerable corruption among Indian agents. Its report of 1867 stated: "The records are abundant to show that agents have pocketed the funds appropriated by the Government and driven the Indians to starvation." It blamed Indian agent corruption or incompetence for creating Indian incidents, notably the 1862 Sioux uprising in Minnesota.

Two separate actions were taken by the Federal Government to produce reforms in Indian policy. In 1869 a Board of Indian Commissioners was named and charged by Congress with the responsibility for advising the Secretary of the Interior on matters relating to Indian affairs. President Grant at



the same time requested religious organizations to nominate Indian agency superintendents. The Board of Indian Commissioners, lacking any policy-making authority, was continued until 1933, when it was abandoned by President Franklin D. Roosevelt's executive order; nominating of Indian Bureau agents by religious groups was discontinued a few years after it was begun.

In 1867 and 1868 the Indian Peace Commission negotiated the last of 370 Indian treaties. These required tribes of the Upper Great Plains, the Southwest, and the Northwest to settle on various reservations in the West. The last treaty, signed with the Nez Perce of Oregon on August 12, 1868, removed the tribe to a new reservation in Idaho.

The U.S. Congress, on March 3, 1871, finished the Indian treaty period with a clause tacked to a Congressional appropriation for the Yankton Indians: ".....hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States shall contract by treaty."

Ironically, it was a mixed-blood Seneca Indian, Eli S. Parker, said to be the grandson of the warrior Red Jacket, who presided over the Indian Bureau when the last chapter in the history of treaty-making was written. Parker was a professional engineer, recognized authority on the Iroquois League and personal secretary to General Ulysses S. Grant in the Civil War.

#### The Reservation System

Twenty years of intermittent warfare followed the signing of the last Indian treaty before the last of the Western Indians were moved to reservations. Geronimo's surrender in the southwest in 1886 and the battle of Wounded Knee in South Dakota in 1890 followed numerous Federal military victories in the southwest, Dakotas and Oregon, and marked the end of serious resistance to relocation policies. *Wounded Knee*

The reservation system brought a new set of woes to the Indians, as the Government pressured them into relinquishing customs and culture.

Chieftainship, which had been encouraged since Colonial days as a means of tribal control, was not attacked directly. Instead, chiefs were bypassed while law and order was delegated to tribal police forces and Courts of Indian Offenses. The result was a gradual breakdown of tradition upon which the Indian had always leaned heavily, with nothing to replace it.

Native religions were discouraged, some ceremonies forbidden, and Christian missionaries encouraged. Particularly vicious were the attacks upon Indian "prophets" which culminated in the battle of Wounded Knee in 1890.

Commissioner Francis Walker (1871-73) set the tone of the "forced reservation" period, which lasted until 1887, stating that, when the reservation system began, "it was expressly declared that the Indians should be made as comfortable on, and uncomfortable off, their reservations as it was within the power of the Government to make them; that such of them as

went right should be protected and fed, and such as went wrong should be harassed and scourged without intermission."

Those Indians who "went wrong" -- such as the Apaches under Cochise in the early 1870's, the Sioux led by Crazy Horse and Sitting Bull in the mid-1870's, and the Nez Perce with Chief Joseph a short while later -- were "harassed and scourged without intermission," conquered eventually and returned to reservations.

Those Indians who "went right," were, as Walker promised, "protected and fed" through a new practice of furnishing daily food rations and clothing to Indians, instituted as a by-product of the Indian peace treaties of the late 1860's and continued by the Indian Bureau until well into the 1920's.

The rations practice was the forerunner of special aids for Indians which continue to this day. The giving of rations was defended by Commissioner Walker:

"Can any principle of national morality be dearer than that when the expansion and development of a civilized race involve the rapid destruction of the only means of subsistence possessed by members of a less fortunate race, the higher is bound as a simple right to provide for the lower some substitute for the means of subsistence which it has destroyed? That substitute is, of course, best realized, not by systematic gratuities of food and clothing continued beyond a present emergency, but by directing these people to new pursuits which shall be consistent with the progress of civilization upon the continent."

There were contrary views, too. Indian Agent, V. T. McGillicuddy, on the Pine Ridge Reservation in South Dakota, later commented.

"What reason or inducement can be advanced why an Indian should go to work and earn his own living by the sweat of his brow, when an indulgent Government furnishes him more than he wants to eat and clothes him for nothing?"

The "wardship" approach prevailed, with the pace set by Secretary of the Interior Caleb Smith. Education for farming and trades became a goal.

A start in providing health services to Indians had come in 1832 through funds authorized by Congress for smallpox vaccination of certain tribes. By the 1870's health services had expanded to include medical doctors on various reservations in an effort to combat the ravages of disease that were taking a heavy toll of the Indian population.

As the 19th Century came to a close, steps had been taken to launch programs of education and land resource development. Two vocational schools -- Haskell Institute in Kansas and Chilocco Indian School in Oklahoma -- opened in 1884; and five years later a broader education program was instituted at the Carlisle Indian School in Pennsylvania.

On the land development side, some tribal groups were encouraged to enter into livestock grazing, although these enterprises were not highly successful among the nomadic groups, and overgrazing and loss of stock were common. Some irrigation of Indian lands was attempted -- as early as 1876



on the Colorado River Reservation in Arizona -- but this project was later abandoned. Even into the 20th Century, irrigation and conservation measures on Indian lands lagged behind the national efforts as a whole.

#### The Land Allotment Period -- 1887-1934

All of these Indian programs, the initial phases of the broad "civilizing" process, came at the height of a long Indian Bureau and Congressional push for helping Indians to become "self-supporting" by allowing the Indian lands to be subdivided to individual Indians through what is known as allotment in severalty -- or individual ownership of small pieces of land.

Dating back to 1633, when the General Court of Massachusetts Colony provided for Indians to receive "allotments amongst the English," there had been slowly growing advocacy of an allotment policy for Indians.

It was in the 1850's that the Federal Government reached its peak in Indian land title extinguishment and began to spell out more clearly in the next 30 years a growing preference for the allotment policy which at last was approved by Congress in 1887.

"In no former equal period of our history have so many treaties been made, or such vast accession of land obtained," Commissioner George Manypenny said in 1856. Through 52 separate treaties from 1853 to 1857 a total of 174 million acres of Indian land was acquired by the United States Government. Many allotments of land were provided through treaty to individual Indians, and for the next 30 years each succeeding Commissioner of Indian Affairs (except Francis A. Walker in the 1870's) favored the policy of subdividing the large tribal-held lands into small pieces owned individually.

The Indian Allotment Act, introduced in Congress by Senator Henry L. Dawes of Massachusetts, was passed in 1887. Its intent was to assimilate the Indian by giving him individual ownership of land, as opposed to the collective land use and possession practiced by most Indian groups. Under the plan, small pieces of tribal land -- from 40 to 160 acres -- would be allotted to Indian families or individuals. Within 25 years, in a manner similar to that of the Homestead Act, the Indian, if adjudged "competent," would be given the land to use as he saw fit and would also acquire full citizenship status. However, before the 25 years had elapsed, the Burke Act (1906) permitted those Indians adjudged "competent" to acquire ownership at once.

*This was in effect the beginning of the assimilation process.*

The result of nearly 50 years of the allotment policy was to reduce the Indian land holdings from over 140 million acres in 1886 to under 50 million acres in 1934. Thousands of Indians receiving these allotments sold them to non-Indians who had the financial means and business abilities to develop the lands.

This sale or rental of land tended to increase the Indian's dependence upon Government support. In many cases rental income was too small or

sale funds soon exhausted and the Indian was forced to turn back to the Government for assistance. In addition, the demands of this newly imposed civilization were often contrary to Indian culture and created psychological conflicts that still persist.

In the first decade of the 20th Century the Bureau of Indian Affairs embarked on further land development programs -- in establishing services of conservation, reclamation and forestry -- all designed to complement execution of the allotment policy.

#### The Road to Citizenship

The determination of Indian "competency" was carried out as part of Federal Indian policy well into the 1920's, and was highlighted by a 1917 "Declaration of Policy" by Commissioner Cato Sells and Interior Secretary Franklin Lane, which stated: "The time has come for discontinuing guardianship over all competent Indians and giving even closer attention to the incompetents that they more speedily achieve competency."

To determine whether an Indian is "as competent to transact his own business as the average white man," a practice of issuing "certification of competency" was established, and a network of "competency commissions" was created.

This approach was hailed by Commissioner Sells as indicating that "the competent Indian will no longer be treated as half ward and half citizen." Because of the growing number of Indians who obtained citizenship through allotment and because of a national appreciation for the record of Indian volunteers in World War I, the Indian Bureau began a push for full Indian citizenship. In 1924 Congress passed the Indian Citizenship Act, granting citizenship to all Indians who had not previously acquired it.

#### The Attack on the Allotment System

Increasing public agitation for reforms in the administration of Indian affairs led Interior Secretary Hubert Work in 1926 to request the Institute of Government Research (the Brookings Institution) to study the Federal Indian policies. He asked for recommendations that would "embrace the education, industrial, social and medical activities maintained among the Indians, their property rights, and their general economic conditions." An institute staff headed by Lewis Meriam produced the lengthy document in 1928 to be known as the Meriam Report which called for these basic Indian policy reforms:

1. "Establishment of a professional and scientific Division of Planning and Development to hasten agricultural advances, vocational guidance, job placement, and other aspects of economic development on the reservations.



boarding ?

2. "A material strengthening of the school and reservation forces that are in direct contact with the Indians and are responsible for developing and improving their economic and social condition through education in the broadest sense of the word" by de-emphasizing the broadening school practice of taking children out of their tribal environment and accelerating development of a day school system on the reservations.

3. "Maximum practical decentralization of authority" from the central office to the local agency offices, plus better salaries for Indian Bureau personnel and enlisting more Indians into career Indian administration.

Of the allotment law, the Meriam Report charged:

"When the Government adopted the policy of individual ownership of land on the reservations, the expectation was that the Indians would become farmers. Part of the plan was to instruct and aid them in agriculture, but this vital part was not pressed with vigor and intelligence. It almost seems as if the Government assumed that some magic in individual ownership of property would in itself prove an educational civilizing factor, but unfortunately this policy has for the most part operated in the opposite direction.

"Individual ownership in many instances permitted Indians to sell their allotments and to live for a time on the unearned income resulting from the sale. Individual ownership brought promptly all the details of inheritance, and frequently the sale of the property of the deceased Indians to whites so that the estate could be divided among the heirs. To the heirs the sale brought further unearned income, thereby lessening the necessity of self support."

The report also proposed that Indians be permitted leasing rights in order to add enough land to their own allotments to make an efficient farm or ranch. This policy would counteract the easier tendency to lease these same lands to whites, a policy which deterred active land management by Indians. Furthermore, leasing to whites "gave the Indians unearned income to permit the continuance of a life of idleness," the study concluded.

Indian Reorganization Period -- 1934 to 1961

Congress responded to the Meriam Report with passage of reform legislation in 1934 -- the Indian Reorganization Act (Wheeler-Howard Act).

It brought a halt to the process of allotment, prohibited unrestricted sales of Indian land, and provided for acquisition of additional lands by tribes and individuals. It created a foundation for tribal economic self-sufficiency by the establishment of constitutional tribal governments, the extension of credit from Federal funds, the fostering of tribal enterprises, and the institution of modern conservation and resource development practices. The keynote became cooperation between Indian tribes and the Federal Government to achieve change without forcing it.

The new Commissioner of Indian Affairs, John Collier, said of the Act:

"While the Wheeler-Howard Act marks a decisive shift of direction of American Indian policy, and endeavors to give the Indians not only a broad measure of economic assistance but also those 'national rights of man' mentioned by President Roosevelt in his letter of endorsement sent to Congress, it stops far short of the ultimate goal. It is merely a beginning in the process of liberating and rejuvenating a subjugated and exploited race living in the midst of an aggressive civilization far ahead, materially speaking, of its own."

From the perspective of two decades later, the Committee on Organization of the Executive Branch of Government (Hoover Commission) summarized the impact of the Meriam Report and the resulting 1934 Indian Reorganization Act as follows:

"In the years immediately following the Meriam Report there was marked progress in professionalizing the Indian Service through better personnel, improved methods, and higher professional standards. Indian education was modernized and a stronger and better coordinated economic program got underway. In the 1930's these activities were carried forward vigorously. The Indian Reorganization Act (IRA) has given further impetus to the economic program by authorizing enlargement of Indian lands, extending the lending function, and establishing a policy of scientific range and forest management."

The IRA also paved the way for revival of tribal organization, and establishment of tribal law.

Aside from the Wheeler-Howard Act, other significant Indian legislation of the 1930's included the Johnson-O'Malley Act of 1934 and the creation in 1935 of an Indian Arts and Crafts Board within the Department of the Interior.

The Johnson-O'Malley Act provided Federal educational funds to assist States and local districts, and brought about an expansion of the practice of educating Indian children in the public school system. The Arts and Crafts Board revived interest in native crafts as a means of livelihood for Indian people.

The Indian Extension Service program began providing modern technical assistance to Indians in the fields of conservation, irrigation, grazing and dry-farming. An Indian credit program was launched with a revolving loan fund.

But the big development of the whole period was the start of tribal self-government, with several hundred reservation tribal groups determining by popular vote to govern themselves in a democratic manner with modern



constitutions. Today's tribal council form of Indian government largely stems from this Act, although a number of Indian tribes had maintained constitutional self-government prior to 1934, and still others rejected the self-governing feature contained in the Indian Reorganization Act.

#### Effects of World War II

World War II, to a great extent, changed both the Indian way of life and Federal Indian policy directions. Nearly 70,000 Indian men and women left reservations for the first time to go into military service and defense industries. The Indian record in both instances was widely praised.

The war produced both new skills and a greater degree of cultural sophistication than had ever before been achieved by large numbers of Indians. But it also brought post-war demands for assistance in Indian vocational training and relocation, for expanded education and for reservation economic development.

The post-war period brought on the "area office" system of decentralized Indian Bureau administration. Many development projects -- roads, irrigation and building construction -- were resumed in 1946, after being stalled during the war.

The fifteen-year post-war period also saw: (1) greatly increased programs to aid education of the Nation's largest tribe, the Navajos. (A study in 1947 showed that nearly 75 percent of all Navajo children were not in school); (2) a ten-year economic development and rehabilitation fund for the Navajos and Hopis to bring much needed capital investment to this poverty-stricken region of the southwest; (3) development of Federal Indian programs of employment assistance, including vocational training and on-the-job training to Indian workers; (4) a start on Indian adult education for those Indians who had missed the elementary education now being expanded for their children; and (5) the beginnings of an Indian industrial development program to encourage private business and industry to locate in Indian areas.

#### Establishment of Indian Claims Commission

The Indian Claims Commission was created in 1946 to permit Indians to file suits against the Government. The Commission received a total of 852 claims in 370 petitions entered during the five years allowed for filing. Any "identifiable" groups of Indians within the United States or Alaska -- then still a territory -- could take their claims to this Commission. It was empowered to hear and adjudicate suits arising from claims in law or equity; tort claims; claims based on fraud, duress, unconscionable consideration, mutual or lateral mistake; claims based upon fair and honorable dealings not recognized by existing rules or law

or equity; or claims based on the taking of land without payment of the agreed compensation.

Commissioner Collier and others hoped the settlement of claims would enable the Indians to become socially and economically assimilated into the fabric of American life. By November 1969, about one-half of the claims had been adjudicated, and settlements exceeding \$305 million made. Although in some instances the judgments resulted in a per capita distribution of funds, many tribal awards have remained largely intact with the money "programmed" for community and economic development.

Congress has directed the Commission to complete the task of hearing and determining the claims before it by April 10, 1972.

#### New Trends of the 1950's

Revival of pressures for Federal termination of trusteeship responsibilities occurred with the Hoover Commission's recommendation that programs be developed to terminate "the trust status of Indian lands."

Among members of the Hoover Commission's committee on Indian affairs was John Nichols, who became Indian Affairs Commissioner in 1949.

House Concurrent Resolution 108 of the 83rd Congress in 1953 led to passage in the next few years of a number of termination bills. Introduced by Representative William H. Harrison of Wyoming and by Senator Arthur V. Watkins of Utah (who later became Chairman of the Indian Claims Commission), the termination resolution read in part:

"It is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, and to end their status as wards of the United States, and to grant them all the rights and prerogatives pertaining to American citizenship....."

On June 17, 1954 the Menominees of Wisconsin became the first tribe slated for termination of Federal trusteeship. The tribe had a large investment in forest lands and tribal sawmill. The Menominee Reservation was to be fully removed from Federal trust status on December 31, 1958, although later Congressional Acts delayed final termination until April 30, 1961.

Other tribes "terminated" by law in this period were the Klamaths and Western Oregon Indians; four small bands in Utah; the Alabama-Coushattas of Texas; the Ponca Tribe of Nebraska the Uintah and Ouray Ute Mixed Bloods of Utah; the Wyandottes, Ottawas, and Peorias of Oklahoma. Termination proceedings have been moving on a piecemeal basis under legislation passed in 1958 for the Indian rancherias throughout the State of California.

(\*NOT the Colvilles\*)



Strong opposition to termination from among some Indian tribes and others led to a statement by Interior Secretary Fred Seaton, who declared in 1958: "It would be incredible, even criminal, to send any Indian tribe out into the mainstream of American life until and unless the educational level of that tribe was one which was equal to the responsibilities which it was shouldering."

The 1950's produced several other important new legislative directions affecting Indian policy:

1. Indian lands in three States and part of two others were brought under State civil and criminal jurisdiction by an Act of August 1953;
2. The prohibition was lifted against the sale of alcoholic beverages to Indians outside Indian country and a local option system was established within reservations, also in 1953;
3. The Division of Indian Health was transferred effective July 1, 1955, from the Bureau of Indian Affairs to the U.S. Public Health Service. Notable progress has subsequently been made in reducing the Indian infant mortality rate, lengthening the Indian life span, and curtailing the severity of many illnesses.

The record in Federal-Indian relations over two decades was summarized in the late 1950's by the noted anthropologist and Pulitzer Prize winning author, the late Oliver LaFarge, as follows:

"The progress has been great, and it has been spotty. You cannot make over a race in twenty-five years, despite what the allotment theorists believed. It takes more than one generation to make the jump from a home in which no English is spoken, where the very sight of a white man is a rarity, where the thinking is the same as it was three hundred years ago, to full competence in our alien and complex way of life. If, while the Indians are struggling desperately to make the great adjustment, the last remnants of their land base are lost to them; if, as they fear, the Indian Reorganization Act will be junked some day, their struggle will be hopeless. It is the Government's responsibility to enable [Indians] to keep and use what they already have, to allow them an ordinary choice, and not the flat alternatives of migrate or starve."

New Direction in the 1960's

A "New Trail" for Indians leading to equal citizenship rights and benefits, maximum self-sufficiency, and full participation in American life, became the keynote for administration of the programs for the Bureau of Indian Affairs after the close of fiscal year 1961.

This keynote was provided in a report to the Secretary of the Interior Stewart L. Udall, by a special task force on Indian affairs, which he appointed in February 1961.

To move toward the accomplishments of these goals, the task force recommended less emphasis on the purely custodial functions of the Bureau, greater concentration of time, energy, and funds on fostering fuller development of both the human and natural resources on Indian reservations.

Probably the most important single recommendation was a shift in program emphasis away from termination of Federal trust relationship.

This was coupled, however, with a recommendation that eligibility for special services be withdrawn from Indians with substantial incomes and superior educational experience who are as competent as most non-Indians to look after their own affairs.

An administrative reorganization was accomplished -- not only in Washington but in area offices and agencies -- combining in one new Division of Economic Development all operating units directly concerned with economic development. The resources functions of the Bureau were brought into closer relationship with the industrial development work and the revolving credit program. In the Washington office, the new division also included a program planning staff and a specialist in housing. In later years, the housing activity was transferred to the Division of Community Services.

A program to improve Indian housing, a product of the 1960's, opened up Indian reservations to the financial assistance already available through Federal housing agencies to non-reservation areas. Indian tribes established local housing authorities as a first step in qualifying for Federal housing assistance under the programs of the Department of Housing and Urban Development (HUD). The Indian housing program is slowly and steadily gaining a foothold on the reservations.

To alleviate Indian unemployment, the Bureau also increased attention to job opportunities, through expanded programs in adult vocational training, voluntary relocation of Indians for employment in urban centers, industrial development on or near the reservations, and increased use of Indian labor by the Bureau on needed work in road maintenance and construction, repair and maintenance of buildings, and construction of buildings and utilities, all of which provided the Indians valuable construction training. Projects launched under the 1963 Accelerated Public Works Program on nearly 100 reservations provided useful work for thousands of tribal members and contributed importantly to the protection and development of Indian timber stands and other physical resources.

The declaration of war on poverty, first enunciated by President Johnson in his State of the Union message to Congress in January 1964, was followed by his assurances to tribal leaders that Indian poverty was to be a major target. The Bureau of Indian Affairs was fully committed in the battle to drive poverty from American Indian reservation communities.



Education and economic development were the major fronts in the war on poverty.

This period saw substantial progress in involvement of other agencies of the Federal Government in providing meaningful programs among the Indian people. They included the Departments of Labor, Commerce, Health, Education, and Welfare, Housing and Urban Development, and Office of Economic Opportunity.

The programs for the disadvantaged under the Economic Opportunity Act of 1964 have provided the Indians an opportunity to participate in and control their own programs. The heaviest activities have been in programs for community action and youth training.

*How many of these had previously been earmarked tentatively for termination?*

The Bureau, together with other Federal agencies launched selected Indian reservation programs to step-up the pace on the economic development process on 39 Indian reservations and waged a concentrated effort to stimulate economic and social change for Indians.

In 1966, the Indian people were in the forefront of public attention. That year, Robert L. Bennett, an Oneida Indian, was appointed Commissioner for the Bureau of Indian Affairs. The people-oriented approach was apparent in the stated policy of Commissioner Bennett. He espoused greater Indian involvement in decision-making and program execution. A new era of Federal-Indian relations was emerging with the Bureau taking the form of a coordinating and advisory agency, rather than the sole primary agency concerned with development of the human and economic resources of Indian communities.

Early in 1967, a 16-member National Indian Education Advisory Committee was appointed to assist in school programming and to improve communications between the schools and the Indian people they service. The Committee has devised a set of guidelines for the orderly transfer for Bureau schools to local Indian boards of education. Major financial support will continue to come from the Bureau under contracts with the Indian tribes. Indians are now participating in planning for the education of their own children, both on many public school boards and for Bureau schools.

For the first time, in the fall of 1967, 34 kindergartens were opened for Indian children under the auspices of the Bureau. These were the first to be funded by the Bureau and complemented the Head Start program of OEO. To reach those adult Indians who for various reasons had little or no education and training, the Bureau began a breakthrough effort in employment assistance with the establishment of "whole family" residential training centers, which attempt to fit the entire family to urban life.

A historic special message on goals and programs of the American Indians was sent to Congress by President Johnson in March of 1968, which proposed "a new goal -- a goal that ends the old debate about termination of Indian programs and stresses self-determination, a goal that erases old attitudes of paternalism and promotes partnership and self-help." The message continued: "Our goal must be: A standard of living for Indians equal to that of the country as a whole, freedom of choice -- an opportunity to remain in their homeland, if they choose, without surrendering their dignity, and an opportunity to move to the towns and cities of America if

they choose, equipped with skills to live in equality and dignity; full participation in the life of modern America, with a full share of economic opportunity and social justice."

Indian involvement in decision-making was made an integral part of policy planning by the issuance of an Executive Order which established a National Council on Indian Opportunity to review Federal programs for the American Indians, make broad policy recommendations, and to ensure that programs reflect the needs and desires of the Indian people, including those who live in urban areas. The Vice President was appointed as Chairman and council members include a cross-section of Indian leaders and high Government officials.

The President's message and the Senate pronouncement in Senate Concurrent Resolution 11 of the 90th Congress, clearly enunciated for the first time since 1953, a declaration of purpose toward the American Indians and the Alaska Natives. These pronouncements also took affirmative action to reverse the unilateral termination policies since House Concurrent Resolution 108 of 1953.

#### Goals of Current Administration

During the 1968 Presidential campaign, President-elect Richard Nixon gave the American people some distinct guidelines for the Federal Indian policy his administration would pursue:

1. The special relationship between the Federal Government and the Indian people and the special responsibilities of the Federal Government to the Indian people will be acknowledged.
2. The right of self-determination of the Indian people will be respected and their participation in planning their own destiny will actively be encouraged.
3. The Economic Development of Indian Reservations will be encouraged and the training of the Indian people for meaningful employment on and off the reservation will be a high priority item.
4. The Administration of Federal Programs affecting Indians will be carefully studied to provide maximum efficiency consistent with program continuity.
5. Improvement of health services to the Indian people will be a high priority effort of my administration.

Mr. Louis R. Bruce, a Sioux-Mohawk Indian of New York, was appointed Commissioner of Indian Affairs in August and entered on duty full-time in September.

The 26th Annual Convention of the National Congress of American Indians, the largest Indian organization, held in Albuquerque the second week in October, was the first major gathering of Indian people following the appointment of Commissioner Bruce. Vice President Spiro T. Agnew, Secretary of the Interior Walter J. Hickel, and Commissioner Bruce were all invited to speak at the convention and all made major statements on Indian policy.



The Indian "termination" fears which have severely damaged Indian-Federal relationship the past 19 years received special attention. The Vice President, speaking as Chairman of the National Council on Indian Opportunity, reaffirmed the remarks of President Nixon on termination delivered to the 1968 NCAI convention in Omaha. Secretary of the Interior Hickel also reiterated this position, with the further assurance that the Administration would present a united front in opposing termination threats.

President Nixon's statement to the Omaha Convention carried these comments on the position of the Administration on termination:

Termination of tribal recognition will not be a policy objective and in no case will it be imposed without Indian consent.

We must recognize that American society can allow many different cultures to flourish in harmony and we must provide an opportunity for those Indians wishing to do so to lead a useful and prosperous life in an Indian environment.

The right of self-determination of the Indian people will be respected and their participation in planning their own destiny will actively be encouraged.

I will oppose any effort to transfer jurisdiction over Indian reservations without Indian consent.

Following are excerpted remarks of the Vice President on the Federal-Indian relationship:

Indian tribes possess a unique and direct relationship with the Federal Government which is derived from several sources. First it is a legal relationship. Through treaty and law, Indian communities are entitled to certain services from the Federal Government.

It is important to remember that Federal support of Indian services is, to a great extent, legally due the Indian community. These are not services offered at the pleasure of the government but solemn obligations to a people who accepted a good faith settlement in reliance on governmental integrity.

Moreover, there is a formal basis for the special relationship between the Indians and their government. Congress, by establishing the Indian Claims Commission, acknowledged the integrity of tribes as legal entities. This created the way for the government to acknowledge debts and obligations to the Indian people.

Thus, the special efforts to offset costs of certain services in Indian communities are the rights of the communities and the legal and moral obligations of the Federal Government. But there remains a crucial distinction that has been generally ignored for the past 150 years.

Government may have the absolute duty to provide services, but does not necessarily imply that government must perform and administer those same services.

It is completely feasible that a service be funded federally but run locally \*\*\*\*\*.

2 }  
3 } → Under Commissioner Bruce, the main goals of the Bureau are to actively encourage, allow, and train Indian people to manage their own affairs under the trust relationship to get the Indians fully involved in the decisions affecting their lives; to make the Bureau more responsive to Indian needs; and to develop a climate of understanding throughout the United States which will permit the full development of Indian people and their communities without the threat of termination.

The Commissioner has instituted changes in the Bureau to give Indian youth a chance for constructive participation. Young people make up the majority of the Indian population and their destinies are the ones at stake in Bureau planning. He looks to Indian leadership also to pursue this course.

One of the major areas which concerns the Bureau immediately is a restructuring of the Bureau at all levels by redefining functions and staffing to meet Indian needs. A thorough study of the Federal trust relationship is underway to insure that the best services are made available to the Indian people while maintaining a viable trust. Several working task forces made up of both Indians and non-Indians have been created by the Commissioner to study alternatives for restructuring the Bureau; to develop an accurate portrayal of American Indians, their progress and problems; to strengthen further lines of communication among tribal, State, and local government; to undertake an impartial look at the Bureau boarding schools; to fully utilize the vast array of programs available to Indian citizens from other Departments through a closer working relationship among tribal, State, and local governments; to facilitate involvement of young Indian people in American Indian affairs, and to enhance the effectiveness of tribal and community leaders.

Development of Indian communities would be uppermost in the plans. Where possible, program funding would focus on tribal needs, with tribal groups and organizations as the grantee agencies.

President Nixon's greetings to the 26th Annual Convention of NCAI carried these words:

I welcome this opportunity to reinforce the commitment which these three leading officials of my Administration will make, and to assure your members of my unrelenting pledge to advance and insure the well-being of all our Indian citizens.

Under my direction, Secretary Hickel and Commissioner Bruce are giving highest priority to restructuring the Bureau of Indian Affairs, and to fashioning its programs to today's needs. I look forward to working with your leaders and your people, and I know that together we can help those fellow Americans who have been denied their God-given rights to build a life of dignity, decency and greater opportunity for the future.



INDIAN POPULATION:

--Approximately 452,000 of the more than 662,000 American Indians and Alaska Natives live on or near reservations, or own land allotments for which the Secretary of the Interior through the Bureau of Indian Affairs is trustee.

--Indian birth rates are about double the United States as a whole. Indian population is a young population. The median age is 17 years.

--Arizona has the largest Indian population, over 84,000, followed by Oklahoma and New Mexico.

INDIAN LANDS: There are more than 50 million acres of Indian trust lands.

--There are approximately 282 Indian reservations under United States trust administration, plus 38 other locations involving scattered pieces of land maintained in Federal trusteeship for Indians, Aleuts, and Eskimos.

--Reservations range in size from Navajo's 24,000 square miles to small rancherias in California of just a few acres. Most are located west of the Mississippi River.

INDIAN CLAIMS: The Indian Claims Commission was established in 1946 to adjudicate tribal claims against the United States. A total of 850 claims was entered. More than \$305 million has been awarded in claims judgments. The life of the Commission has been extended to April 10, 1972.

INDIAN EDUCATION: In school year 1968-69, 182,000 Indian children were enrolled in school, 119,000 in public schools, 11,000 in mission and other private schools, and 52,000 in 223 Bureau schools. Almost 5,600 Indian young people are in college or other post high school training institutions.

Many older Indians do not speak English. More than 50 Indian languages are still in use.

# ADMINISTRATORS OF U.S. FEDERAL INDIAN POLICY -- 1789 TO THE PRESENT

<u>Secretaries of War</u> <u>(1789 to 1832)</u>	<u>Year of Appointment</u>	<u>President</u>
Henry Knox*	1789	George Washington
Thomas Pickering	1795	George Washington
James McHenry	1796	George Washington and John Adams
Samuel Dexter	1800	John Adams
Henry Dearborn	1801	Thomas Jefferson
William Eustis	1809	James Madison
John Armstrong	1813	James Madison
James Monroe	1814	James Madison
William H. Crawford	1815	James Madison and James Monroe
John C. Calhoun**	1817	James Monroe
James Barbour**	1825	John Quincy Adams
Peter B. Porter**	1828	John Quincy Adams
John H. Eaton**	1829	Andrew Jackson
Lewis Cass**	1831	Andrew Jackson

\*Knox had served as "Secretary in the War Office" since 1784. Prior to that, from 1775 on, Indian affairs had been carried on by Indian Commissioners from three departments, responsible to the Continental Congress.

\*\*On March 11, 1824, Calhoun named Thomas L. McKenney, who had served from 1816-22 as Superintendent of Indian Trade under the War Department, to be the "head" of the Bureau of Indian Affairs within the War Department. McKenney served in this capacity under Secretaries Calhoun, Barbour, Porter, and Eaton, until replaced by Samuel S. Hamilton on September 30, 1830. Hamilton, in turn, was succeeded by Elbert Herring in 1831, who a year later became the first Commissioner of Indian Affairs by an Act of Congress.



Commissioners of Indian  
Affairs.

<u>(1832 to Present)</u>	<u>Year of Appointment</u>	<u>President</u>
Elbert Herring	1832	Andrew Jackson
Carey A. Harris	1836	Andrew Jackson and Martin Van Buren
T. Hartley Crawford	1838	Martin Van Buren William H. Harrison, John Tyler
William Medill	1845	James K. Polk and Zachary Taylor
Orlando Brown	1849	Zachary Taylor and Millard Fillmore
Luke Lea	1850	Millard Fillmore
George Manypenny	1853	Franklin Pierce
James W. Denver	1857	James Buchanan
Charles E. Mix	1858	James Buchanan
James W. Denver	1858	James Buchanan
Alfred B. Greenwood	1859	James Buchanan
William P. Dole	1861	Abraham Lincoln and Andrew Johnson
Dennis Cooley	1865	Andrew Johnson
Lewis V. Bogy	1866	Andrew Johnson
Nathaniel G. Taylor	1867	Andrew Johnson
Eli S. Parker	1869	Ulysses S. Grant
Francis A. Walker	1871	Ulysses S. Grant
Edward P. Smith	1873	Ulysses S. Grant
John O. Smith	1875	Ulysses S. Grant and R. B. Hayes
Ezra A. Hayt	1877	Rutherford B. Hayes
R. E. Trowbridge	1880	Rutherford B. Hayes
Hiram Price	1881	James Garfield and Chester A. Arthur
John D. C. Atkins	1885	Grover Cleveland
John H. Oberly	1888	Grover Cleveland
Thomas J. Morgan	1889	Benjamin Harrison
Daniel M. Browning	1893	Grover Cleveland
William A. Jones	1897	William McKinley and Theodore Roosevelt

Francis E. Leupp	1904
Robert G. Valentine	1909
Cato Sells	1913
Charles H. Burke	1921
Charles J. Rhoads	1929
John Collier	1933
William A. Brophy	1945
John R. Nichols	1949
Dillon S. Myer	1950
Glenn L. Emmons	1953
Philleo Nash	1961
Robert L. Bennett	1966
Louis R. Bruce	1969

Theodore Roosevelt
William Howard Taft
Woodrow Wilson
Warren G. Harding and Calvin Coolidge
Herbert Hoover
Franklin D. Roosevelt
Franklin D. Roosevelt and Harry S. Truman
Harry S. Truman
Harry S. Truman
Dwight D. Eisenhower
John F. Kennedy and Lyndon B. Johnson
Lyndon B. Johnson
Richard M. Nixon



# IMPORTANT DATES IN FEDERAL INDIAN RELATIONSHIPS

- 1633 First land allotment policy established (by General Court of Massachusetts Colony, acting to provide land allotments among Indians).
- 1754 English colonies met at Albany Congress to discuss unified colonial Indian policy.
- 1763 King George III proclamation setting aside "reserved lands" for Indians.
- 1764 Plan for Imperial Department of Indian Affairs.
- 1775 Continental Congress named Indian commissioners in north, middle, and southern departments.
- 1775 First negotiation between Indian commissioners and Indian groups (Six Nations).
- 1778 First Indian treaty signed (with Delaware, September 17).
- 1784 Congress assigns War Office to provide militia in assisting Indian commissioners negotiating Indian treaties.
- 1789 Congress gives Indian authority to War Department; later it passes first appropriations for Indian affairs and designates territorial governors as ex-officio Indian superintendents under War Department.
- 1794 First Indian treaty providing education for Indians (Oneidas, Tuscaroras and Stockbridges).
- 1796 Establishment by law of Indian trading houses, operated by government.
- 1803 Louisiana Purchase from France, vast lands inhabited by Indians.
- 1806 Creation in War Department of an Office of Superintendent of Indian Trade, to administer Federal Indian trading houses.
- 1815-25 Post-war treaties with tribes north of Ohio River resolving trading areas and beginning removal to new western lands.
- 1817-18 First Seminole War in Florida.
- 1819 Congress enacts "civilization fund" -- first Federal Indian education program.
- 1819 Final Florida boundaries resolved with England; Indian lands involved.
- 1822 Act abolishing Indian trading houses and Office of Indian Trade, also naming new Office of Superintendent of Indian Affairs at St. Louis for western lands.
- 1827 Adoption of Cherokee Constitution; Georgia legislature nullifies it.
- 1829 Cass-Clark Report in regularizing Federal Indian administration.
- 1830 Passage by Congress of Indian Removal Act.
- 1832-42 Federal Government conducts removal of "Five Civilized Tribes" from southeast States to new western territories.
- 1834 Acts creating an Office of Indian Affairs, coordinating Federal Indian administration, and modernizing Indian trade administration.
- 1845 Entry into Union of Republic of Texas.
- 1845-48 Mexican War.
- 1849 Act transferring Bureau of Indian Affairs from War Department to new Department of the Interior.

1853 Gadsden Purchase, acquiring new Indian lands from Mexico

1867-68 Indian Peace Commission negotiates final treaties with Indians (last of 370 Indian treaties on August 13, 1868 with Nez Perce).

1869 Act creating Board of Indian Commissioners (lasting until 1933).

1870-86 Federal Indian policy, backed by military support, places final Indians on reservations; practice of giving Indians food and clothing rations started.

1871 Act abolishing all Indian treaty-making.

1887 Dawes Severalty Act, establishing official land allotment policy.

1902-10 Start of Federal Indian reclamation, forestry, conservation programs.

1906 Burke Act, amending Dawes Act on allotment, describing Indian "competency."

1924 Act giving Indians citizenship and right to vote.

1924 Indian Health Division established within Indian Bureau.

1928 Meriam Report published (after 2-year study), emphasizing new Indian reforms.

1934 New Indian legislation, including Indian Reorganization Act (IRA), ending allotment policy, providing for tribal self-government, launching Indian credit program; and Johnson-O'Malley Act, spreading out Federal Indian administration to many agencies.

1935 Act setting up Indian Arts and Crafts Board (established in 1936).

1948 Hoover Commission recommends transfer of Indian Bureau to Federal Security Agency.

1953 House Concurrent Resolution 108 calling for termination of Federal trusteeship over the affairs and property of Indian tribes and groups

1954 First of several acts calling for termination of Federal trust status over Indian lands (Menominees of Wisconsin).

1954 Act transferring Indian Health Division from Indian Bureau of Public Health Service (transfer made in 1955).

1961 Interior Secretary Udall names Task Force on Indian Affairs, reporting later in year with long-range recommendations.

1961 Federal housing assistance programs opened up to Indian reservations.

1962 Interior Secretary Udall names Task Force on Alaskan Indian Affairs, reporting later in year.

1964 Economic Opportunity Act programs provide Indians opportunity to participate in and control their own programs.

1966 Appointment of Robert L. Bennett, an Oneida Indian, as Commissioner of Indian Affairs.

1968 President Johnson's special message dealing exclusively with American Indians and Alaskan Natives, a historic first.

1968 By an Executive Order, National Council on Indian Opportunity, under Chairmanship of the Vice President, established. Indian involvement in decision-making made an integral part of policy planning.

1968 Senate Concurrent Resolution 11, 90th Congress, enunciates for the first time since 1953 a declaration of purpose relating to Indian affairs.

1969 Nixon Administration pledges Indian participation in decision-making and policies affecting Indian people. Termination not a policy objective and in no case will be imposed without Indian consent

1969 Appointment of Louis R. Bruce, a Sioux-Mohawk Indian of New York, as Commissioner of Indian Affairs.



# FURTHER READINGS

- Executive Office -----Commission on Indian Affairs to the Committee on Organization of the Executive Branch of the Government (Hoover Commission) Report, Washington, 1948.
- Hodge, Frederick W. -----Handbook of American Indians North of Mexico. Washington, Government Office. 2 vols. (Original in 1905 out of print). Reprinted in 1959 by Pageant Books, Inc., New York. (An encyclopedia on the North American Indians.)
- Meriam, Lewis -----The Problem of Indian Administration (Meriam Report) Baltimore, Johns Hopkins Press, 1928. (Brookings Institution, Institute for Government Research. Studies in Indian administration.)
- Schmeckebier, Lawrence F. -----The Office of Indian Affairs. Baltimore, Johns Hopkins Press, 1927. (Brookings Institution, Institute for Government Research, Service Monographs.)
- U.S. Office of Education -----Indian Education and Civilization. Washington, Government Printing Office, 1888.
- U.S. Department of the Interior -----Commissioner of Indian Affairs. Annual Reports, 1832-1965. Washington. Government Printing Office.  
(Bureau of Indian Affairs) Task Force on Indian Affairs. Report to the Secretary of the Interior, Washington, 1961.
- (Office of the Solicitor) -----Federal Indian Law. New York. Association on American Indian Affairs, 1966. (Reprint of U.S. Government Printing Office 1958 edition, now out-of-print.)
- Aberle, S. D. & Brophy, William A.-----THE INDIAN-AMERICA'S UNFINISHED BUSINESS. Report of the Commission on the Rights, Liberties and Responsibilities of the American Indian. University of Oklahoma Press, Norman Oklahoma, 1966.