Documents of United States Indian Policy

Third Edition

Edited by
Francis Paul Prucha

University of Nebraska Press
Lincoln and London

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[*House Executive Document* no. 1, 49th Cong., 2d sess., serial 2467, pp. 81–82, 86–88.]

104. General Allotment Act (Dawes Act)

February 8, 1887

The demand of reformers that Indian reservations be allotted in severalty to individual Indians and that tribal relations be broken up was fulfilled by the Dawes Act of 1887. The law authorized the president of the United States to proceed with allotment and declared Indians who received allotments to be citizens of the United States.

An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes.

Be it enacted . . . , That in all cases where any tribe or band of Indians has been, or shall hereafter be, located upon any reservation created for their use, either by treaty stipulation or by virtue of an act of Congress or executive order setting apart the same for their use, the President of the United States be, and he hereby is, authorized, whenever in his opinion any reservation or any part thereof of such Indians is advantageous for agricultural and grazing purposes, to cause said reservation, or any part thereof, to be surveyed, or resurveyed if necessary, and to allot the lands in said reservation in severalty to any Indian located thereon in quantities as follows:

To each head of a family, one-quarter of a section;

To each single person over eighteen years of age, one-eighth of a section;

To each orphan child under eighteen years of age, one-eighth of a section; and

To each other single person under eighteen years now living, or who may be born prior to the date of the order of the President directing an allotment of the lands embraced in any reservation, one-sixteenth of a section: *Provided*, That in case there is not sufficient land in any of said reservations to allot lands to each individual of the classes above named in quantities as above provided, the lands embraced in such reservation or reservations shall be allotted to each individual of each of said classes pro rata in accordance with the provisions of this act: *And provided further*, That where the treaty or act of Congress setting apart such reservation provides for the allotment of lands in severalty in quantities in excess of those herein provided, the President, in making allotments upon such reservation, shall allot the lands to each individual Indian belonging thereon in quantity as specified in such treaty or act: *And provided further*, That when the lands allotted are only valuable for grazing purposes, an additional allotment of such grazing lands, in quantities as above provided, shall be made to each individual.

SEC. 2. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, and in such manner as to embrace the improvements of the Indians making the selection. Where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act: *Provided*, That if any one entitled to an allotment shall fail to make

a selection within four years after the President shall direct that allotments may be made on a particular reservation, the Secretary of the Interior may direct the agent of such tribe or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such Indian, which selection shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner.

SEC. 3. That the allotments provided for in this act shall be made by special agents appointed by the President for such purpose, and the agents in charge of the respective reservations on which the allotments are directed to be made, under such rules and regulations as the Secretary of the Interior may from time to time prescribe, and shall be certified by such agents to the Commissioner of Indian Affairs, in duplicate, one copy to be retained in the Indian Office and the other to be transmitted to the Secretary of the Interior for his action, and to be deposited in the General Land Office.

SEC. 4. That where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of Congress, or executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land-office for the district in which the lands are located, to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations; and when such settlement is made upon unsurveyed lands, the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions as herein provided. And the fees to which the officers of such local land-office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid them, from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior.

SEC. 5. That upon the approval of the allotments provided for in this act by the Secretary of the Interior, he shall cause patents to issue therefor in the name of the allottees, which patents shall be of the legal effect, and declare that the United States does and will hold the land thus allotted, for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, of his heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever: *Provided*, That the President of the United States may in any case in his discretion extend the period. And if any conveyance shall be made of the lands set apart and allotted as herein provided, or any contract made touching the same, before the expiration of the time above mentioned, such conveyance or contract shall be absolutely null and void: *Provided*, That the law of descent and partition in force in the State or Territory where such lands are situate shall apply thereto after patents therefor have been executed and delivered, except as herein otherwise provided; and the laws of the State of Kansas regulating the descent and partition of real estate shall, so far as practicable, apply to all lands in the Indian Territory which may be allotted in severalty under the provisions of this act: *And provided further*, That at any time after lands have been allotted to all the Indians of any tribe as herein provided, or sooner if in the opinion of the President it shall be for the best interests of said tribe, it shall be lawful for the Secretary of the Interior to negotiate with such Indian tribe for the purchase and release by said tribe, in conformity with the treaty or statute under which such reservation is held, of such portions of its reservation not allotted as such tribe shall, from time to time, consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by Congress, and the form and manner of executing such release shall also be prescribed by Congress: *Provided however*, That all lands adapted to agriculture, with

or without irrigation so sold or released to the United States by any Indian tribe shall be held by the United States for the sole purpose of securing homes to actual settlers and shall be disposed of by the United States to actual and bona fide settlers only in tracts not exceeding one hundred and sixty acres to any one person, on such terms as Congress shall prescribe, subject to grants which Congress may make in aid of education: *And provided further*, That no patents shall issue therefor except to the person so taking the same as and for a homestead, or his heirs, and after the expiration of five years occupancy thereof as such homestead; and any conveyance of said lands so taken as a homestead, or any contract touching the same, or lien thereon, created prior to the date of such patent, shall be null and void. And the sums agreed to be paid by the United States as purchase money for any portion of any such reservation shall be held in the Treasury of the United States for the sole use of the tribe or tribes of Indians; to whom such reservations belonged; and the same, with interest thereon at three per cent per annum, shall be at all times subject to appropriation by Congress for the education and civilization of such tribe or tribes of Indians or the members thereof. The patents aforesaid shall be recorded in the General Land Office, and afterward delivered, free of charge, to the allottee entitled thereto. And if any religious society or other organization is now occupying any of the public lands to which this act is applicable, for religious or educational work among the Indians, the Secretary of the Interior is hereby authorized to confirm such occupation to such society or organization, in quantity not exceeding one hundred and sixty acres in any one tract, so long as the same shall be so occupied, on such terms as he shall deem just; but nothing herein contained shall change or alter any claim of such society for religious or educational purposes heretofore granted by law. And hereafter in the employment of Indian police, or any other employes in the public service among any of the Indian tribes or bands affected by this act, and where Indians can perform the duties required, those Indians who have availed themselves of the provisions of this act and become citizens of the United States shall be preferred.

Sec. 6. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the State or Territory in which they may reside; and no Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law. And every Indian born within the territorial limits of the United States to whom allotments shall have been made under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property.

Sec. 7. That in cases where the use of water for irrigation is necessary to render the lands within any Indian reservation available for agricultural purposes, the Secretary of the Interior be, and he is hereby, authorized to prescribe such rules and regulations as he may deem necessary to secure a just and equal distribution thereof among the Indians residing upon any such reservations; and no other appropriation or grant of water by any riparian proprietor shall be authorized or permitted to the damage of any other riparian proprietor.

Sec. 8. That the provision of this act shall not extend to the territory occupied by the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, and Osage, Miamies and Peorias, and Sacs and Foxes, in the Indian Territory, nor to any of the reservations of the Seneca Nation of New York Indians in the State of New York, nor to that strip of territory in the State of Nebraska adjoining the Sioux Nation on the south added by executive order.

Sec. 9. That for the purpose of making the surveys and resurveys mentioned in section two of this act, there be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of one hundred thousand dollars, to be repaid proportionately out of the proceeds of the sales of such land as may be acquired from the Indians under the provisions of this act.

Sec. 10. That nothing in this act contained shall be so construed as to affect the right and power of Congress to grant the right of way through any lands granted to an Indian, or a tribe of Indians, for railroads or other highways, or telegraph lines, for the public use, or to condemn such lands to public uses, upon making just compensation.

Sec. 11. That nothing in this act shall be so construed as to prevent the removal of the Southern Ute Indians from their present reservation in Southwestern Colorado to a new reservation by and with the consent of a majority of the adult male members of said tribe.

[*U.S. Statues at Large*, 24:388–91.]

105. Use of English in Indian Schools

Extract from the *Annual Report of the Commissioner of Indian Affairs*

September 21, 1887

One of the chief tools in bringing white civilization to the Indians was the English language. Commissioner J. D. C. Atkins, in his annual report of 1887, argued for the exclusive use of English at all Indian schools and reprinted some of his directives.

. . . . Longer and closer consideration of the subject has only deepened my conviction that it is a matter not only of importance, but of necessity that the Indians acquire the English language as rapidly as possible. The Government has entered upon the great work of educating and citizenizing the Indians and establishing them upon homesteads. The adults are expected to assume the role of citizens, and of course the rising generation will be expected and required more nearly to fill the measure of citizenship, and the main purpose of educating them is to enable them to read, write, and speak the English language and to transact business with English-speaking people. When they take upon themselves the responsibilities and privileges of citizenship their vernacular will be of no advantage. Only through the medium of the English tongue can they acquire a knowledge of the Constitution of the country and their rights and duties thereunder.

Every nation is jealous of its own language, and no nation ought to be more so than ours, which approaches nearer than any other nationality to the perfect protection of its people. True Americans all feel that the Constitution, laws, and institutions of the United States, in their adaptation to the wants and requirements of man, are superior to those of any other country; and they should understand that by the spread of the English language will these laws and institutions be more firmly established and widely disseminated. Nothing so surely and perfectly stamps upon an individual a national characteristic as language. So manifest and important is this that nations the world over, in both ancient and modern times, have ever imposed the strictest requirements upon their public schools as to the teaching of the national tongue. Only English has been allowed to be taught in the public schools in the territory acquired by this country from Spain, Mexico, and Russia, although the native populations spoke another tongue. All are familiar with the recent prohibitory order of the German Empire forbidding the teaching of the French language in either public or private schools in Alsace and Lorraine. Although the population is almost universally opposed to German rule, they are firmly held to German political allegiance by the military hand of the Iron Chancellor. If the Indians were in Germany or France or any other civilized country, they should be instructed in the language there used. As they are in an English-speaking country, they must be taught the language which they must use in transacting business with the people of this country. No unity or community of feeling can be established among different peoples unless they are brought to speak the same language,

land of such reservation, in quantity as follows: To each head of a family not more than six hundred and forty acres nor less than one hundred and sixty acres of pasture or grazing land, and in addition thereto not exceeding twenty acres, as he shall deem for the best interest of the allottee, of arable land in some suitable locality; to each single person over twenty-one years of age not less than eighty nor more than six hundred and forty acres of pasture or grazing land and not exceeding ten acres of such arable land.

SEC. 5. That upon the approval of the allotments provided for in the preceding section by the Secretary of the Interior he shall cause patents to issue therefor in the name of the allottees, which shall be of the legal effect and declare that the United States does and will hold the land thus allotted for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in the case of his decease, of his heirs according to the laws of the State of California, and that at the expiration of said period the United States will convey the same by patent to the said Indian, or his heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever. And if any conveyance shall be made of the lands set apart and allotted as herein provided, or any contract made touching the same, before the expiration of the time above mentioned, such conveyance or contract shall be absolutely null and void: *Provided*, That these patents, when issued, shall override the patent authorized to be issued to the band or village as aforesaid, and shall separate the individual allotment from the lands held in common, which proviso shall be incorporated in each of the village patents.

SEC. 6. That in cases where the lands occupied by any band or village of Indians are wholly or in part within the limits of any confirmed private grant or grants, it shall be the duty of the Attorney-General of the United States, upon request of the Secretary of the Interior, through special counsel or otherwise, to defend such Indians in the rights secured to them in the original grants from the Mexican Government, and in an act for the government and protection of Indians passed by the legislature of the State of California April twenty-second, eighteen hundred and fifty, or to bring any suit, in the name of the United States, in the Circuit Court of the United States for California, that may be found necessary to the full protection of the legal or equitable rights of any Indian or tribe of Indians in any of such lands.

SEC. 7. [Pay of commissioners.]

SEC. 8. [Authorization for irrigation systems and railroad rights of way.]

[*U.S. Statutes at Large*, 26:712–14.]

112. Amendment to the Dawes Act

February 28, 1891

Four years after its passage, the Dawes Act was amended to provide for equal allotments to all Indians and for the leasing of allotments under certain conditions.

An act to amend and further extend the benefits of the act approved February eighth, eighteen hundred and eighty-seven, entitled "An act to provide for the allotment of land in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States over the Indians, and for other purposes."

Be it enacted . . ., That section one of the act entitled "An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," approved February eighth, eighteen hundred and eighty-seven, be, and the same is hereby, amended so as to read as follows:

"SEC 1. That in all cases where any tribe or band of Indians have been, or shall hereafter be, located upon any reservation created for their use, either by treaty stipulation or by virtue of an Act of Congress or Executive order setting apart the same for their use, the President of the United States be, and he hereby is, authorized, whenever in his opinion any reservation, or any part thereof, of such Indians is advantageous for agricultural or grazing purposes, to cause said reservation, or any part thereof, to be surveyed, or resurveyed, if necessary, and to allot to each Indian located thereon one-eighth of a section of land: *Provided*, That in case there is not sufficient land in any of said reservations to allot lands to each individual in quantity as above provided the land in such reservation or reservations shall be allotted to each individual pro rata, as near as may be, according to legal subdivisions: *Provided further*, That where the treaty or act of Congress setting apart such reservation provides for the allotment of lands in severalty to certain classes in quantity in excess of that herein provided the President, in making allotments upon such reservation, shall allot the land to each individual Indian of said classes belonging thereon in quantity as specified in such treaty or act, and to other Indians belonging thereon in quantity as herein provided: *Provided further*, That where existing agreements or laws provide for allotments in accordance with the provisions of said act of February eighth, eighteen hundred and eighty-seven, or in quantities substantially as therein provided, allotments may be made in quantity as specified in this act, with the consent of the Indians, expressed in such manner as the President, in his discretion, may require: *And provided further*, That when the lands allotted, or any legal subdivision thereof, are only valuable for grazing purposes, such lands shall be allotted in double quantities."

SEC 2. That where allotments have been made in whole or in part upon any reservation under the provisions of said act of February eighth, eighteen hundred and eighty-seven, and the quantity of land in such reservation is sufficient to give each member of the tribe eighty acres, such allotments shall be revised and equalized under the provisions of this act: *Provided*, That no allotment heretofore approved by the Secretary of the Interior shall be reduced in quantity.

SEC. 3. That whenever it shall be made to appear to the Secretary of the Interior that, by reason of age or other disability, any allottee under the provisions of said act, or any other act or treaty can not personally and with benefit to himself occupy or improve his allotment or any part thereof the same may be leased upon such terms, regulations and conditions as shall be prescribed by such Secretary, for a term not exceeding three years for farming or grazing, or ten years for mining purposes: *Provided*, That where lands are occupied by Indians who have bought and paid for the same, and which lands are not needed for farming or agricultural purposes, and are not desired for individual allotments, the same may be leased by authority of the Council speaking for such Indians, for a period not to exceed five years for grazing, or ten years for mining purposes in such quantities and upon such terms and conditions as the agent in charge of such reservation may recommend, subject to the approval of the Secretary of the Interior.

SEC. 4. That where any Indian entitled to allotment under existing laws shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land office for the district in which the lands are located, to have the same allotted to him or her and to his or her children, in quantities and manner as provided in the foregoing section of this amending act for Indians residing upon reservations; and when such settlement is made upon unsurveyed lands the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions provided in the act to which this is an amendment. And the fees to which the officers of such local land office would have been entitled had such lands been entered upon the general laws for the disposition of the public lands shall be paid to them from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior.

SEC. 5. That for the purpose of determining the descent of land to the heirs of any deceased Indian under the provisions of the fifth section of said act, whenever any male and female Indian shall have co-habited together as husband and wife, according to the custom and manner of Indian life the

issue of such co-habitation shall be, for the purpose aforesaid, taken and deemed to be the legitimate issue of the Indians so living together, and every Indian child, otherwise illegitimate, shall for such purpose be taken and deemed to be the legitimate issue of the father of such child. . . .

[*U.S. Statutes at Large*, 26:794–96.]

113. Civil Service Classifications in the Indian Service

April 13, 1891

The application of civil service rules to the Indian service began with the classification of four groups of employees in 1891.

DEPARTMENT OF THE INTERIOR,
Washington, April 13, 1891.

By direction of the President of the United States and in accordance with the third clause of section 6 of an act entitled "An act to regulate and improve the civil service of the United States," approved January 16, 1883—

It is ordered, That all physicians, school superintendents and assistant superintendents, school-teachers, and matrons in the Indian service be, and they are hereby, arranged in the following classes, without regard to salary or compensation:

Class 1. Physicians.

Class 2. School superintendents and assistant superintendents.

Class 3. School-teachers.

Class 4. Matrons.

Provided, That no person who may be required by law to be appointed to an office by and with the advice and consent of the Senate, and that no person who may be employed merely as a laborer or workman or in connection with any contract schools, shall be considered as within this classification, and no person so employed shall be assigned to the duties of a classified place.

It is further ordered, That no person shall be admitted to any place not excepted from examination by the civil-service rules in any of the classes above designated until he or she shall have passed an appropriate examination under the United States Civil Service Commission and his or her eligibility has been certified to by said Commission or the appropriate board of examiners.

JOHN W. NOBLE, *Secretary*.

EXECUTIVE MANSION, *April 13, 1891.*

The SECRETARY OF THE INTERIOR:

I approve of the within classification, and if you see no reason to suggest any further modification you will please put it in force.

BENJ. HARRISON.

[James D. Richardson, comp., *Messages and Papers of the Presidents*, 9:173].

114. Army Officers as Indian Agents

July 13, 1892

One way around political appointment of Indian agents was the use of army officers as agents. This was directed in 1892 by the Indian appropriation act.

An Act making appropriations for the current and contingent expenses of th Indian Department. . . .

. . . . *Provided*, That from and after the passage of this act the President shall detail officers of the United States Army to act as Indian agents at all Agencies where vacancies from any cause may hereafter occur, who, while acting as such agents, shall be under the orders and direction of the Secretary of the Interior, except at agencies where, in the opinion of the President, the public service would be better promoted by the appointment of a civilian. . . .

[*U.S. Statutes at Large*, 27:120–21.]

115. Rules for Indian Courts

August 27, 1892

Rules for the courts of Indian offenses drawn up in 1883, when the courts were instituted, were reissued with some modifications in 1892 by Commissioner of Indian Affairs Thomas J. Morgan.

1. *Districting reservation.*—Whenever it shall appear to the Commissioner of Indian Affairs that the best interests of the Indians on any Indian reservation will be subserved thereby, such reservation shall be divided into three or more districts, each of which shall be given a name by which it shall thereafter be designated and known. As far as practicable the county lines established by the laws of the State or Territory within which the reservation is located shall be observed in making the division, provided that each district shall include, as nearly as can be, an equal proportion of the total Indian population on the reservation. All mixed bloods and white persons who are actually and lawfully members, whether by birth or adoption, of any tribe residing on the reservation shall be counted as Indians. Where the lands of the reservation have not been surveyed, or where it is not practicable to observe the State or Territory county lines on the reservation, the lines of the district shall be defined by such natural boundaries as will enable the Indians to readily ascertain the district in which they reside.

2. *Appointment of judges.*—There shall be appointed by the Commissioner of Indian Affairs for each district a person from among the Indians of the reservation who shall be styled "judge of the Indian court." The judges must be men of intelligence, integrity, and good moral character, and preference shall be given to Indians who read and write English readily, wear citizens' dress, and engage in civilized pursuits, and no person shall be eligible to such appointment who is a polygamist.

Each judge shall be appointed for the term of one year, subject, however, to earlier removal from office for cause by the Commissioner of Indian Affairs; but no judge shall be removed before the expiration of his term of office until the charges against him, with proofs, shall have been presented in writing to the Commissioner of Indian Affairs, and until he shall have been furnished a copy thereof and given opportunity to reply in his own defense, which reply shall also be in writing and be accompanied by such counter proofs as he may desire to submit.

3. *District courts.*—Each judge shall reside within the district to which he may be assigned and shall keep an office open at some convenient point to be designated by the Commissioner of Indian Affairs; and he shall hold court at least one day in each week for the purpose of investigating and trying any charge of offense or misdemeanor over which the judges of the Indian court have jurisdiction as provided in these regulations: *Provided*, That appeals from his judgment or decision may be taken to the Indian court in general term, at which all the judges on the reservation shall sit together.

4. *Offenses.*—For the purpose of these regulations the following shall be deemed to constitute *offenses*, and the judges of the Indian court shall severally have jurisdiction to try and punish for the same when committed within their respective districts.

(a) Dances, etc.—Any Indian who shall engage in the sun dance, scalp dance, or war dance, or any other similar feast, so called, shall be deemed guilty of an offense, and upon conviction thereof shall be punished for the first offense by the withholding of his rations for not exceeding ten days or by imprisonment for not exceeding ten days; and for any subsequent offense under this clause he shall be punished by withholding his rations for not less than ten nor more than thirty days, or by imprisonment for not less than ten nor more than thirty days.

(b) Plural or polygamous marriages.—Any Indian under the supervision of a United States Indian agent who shall hereafter contract or enter into any plural or polygamous marriage shall be deemed guilty of an offense, and upon conviction thereof shall pay a fine of not less than twenty nor more than fifty dollars, or work at hard labor for not less than twenty nor more than sixty days, or both, at

with the tribes for allotment of their lands. This Commission to the Five Civilized Tribes was generally known as the Dawes Commission, since Henry L. Dawes served as its first chairman.

An Act making appropriations for current and contingent expenses . . . .

. . . SEC. 16. The President shall nominate and, by and with the advice and consent of the Senate, shall appoint three commissioners to enter into negotiations with the Cherokee Nation, the Choctaw Nation, the Chickasaw Nation, the Muscogee (or Creek) Nation; the Seminole Nation, for the purpose of the extinguishment of the national or tribal title to any lands within that Territory now held by any and all of such nations or tribes, either by cession of the same or some part thereof to the United States, or by the allotment and division of the same in severalty among the Indians of such nations or tribes, respectively, as may be entitled to the same, or by such other method as may be agreed upon between the several nations and tribes aforesaid, or each of them, with the United States, with a view to such an adjustment, upon the basis of justice and equity, as may, with the consent of such nations or tribes of Indians, so far as may be necessary, be requisite and suitable to enable the ultimate creation of a State or States of the Union which shall embrace the lands within said Indian Territory.

The commissioners so appointed shall each receive a salary, to be paid during such time as they may be actually employed, under direction of the President, in the duties enjoined by this act, at the rate of five thousand dollars per annum, and shall also be paid their reasonable and proper expenses incurred in prosecution of the objects of this act, upon accounts therefor to be rendered to and allowed by the Secretary of the Interior from time to time. That such commissioners shall have power to employ a secretary, a stenographer, and such interpreter or interpreters as may be found necessary to the performance of their duties, and by order to fix their compensation, which shall be paid, upon the approval of the Secretary of the Interior, from time to time, with their reasonable and necessary expenses, upon accounts to be rendered as aforesaid; and may also employ, in like manner and with the like approval, a surveyor or other assistant or agent, which they shall certify in writing to be necessary to the performance of any part of their duties.

Such commissioners shall, under such regulations and directions as shall be prescribed by the President, through the Secretary of the Interior, enter upon negotiation with the several nations, of Indians as aforesaid in the Indian Territory, and shall endeavor to procure, first, such allotment of lands in severalty to the Indians belonging to each such nation, tribe, or band, respectively, as may be agreed upon as just and proper to provide for each such Indian a sufficient quantity of land for his or her needs, in such equal distribution and apportionment as may be found just and suited to the circumstances; for which purpose, after the terms of such an agreement shall have been arrived at, the said commissioners shall cause the lands of any such nation or tribe or band to be surveyed and the proper allotment to be designated; and, secondly, to procure the cession, for such price and upon such terms as shall be agreed upon, of any lands not found necessary to be so allotted or divided, to the United States; and to make proper agreements for the investment or holding by the United of such moneys as may be paid or agreed to be paid to such nation or tribes or bands, or to any of the Indians thereof, for the extinguishment of their [titles] therein. But said commissioners shall, however, have power to negotiate any and all such agreements as, in view of all the circumstances affecting the subject, shall be found requisite and suitable to such an arrangement of the rights and interests and affairs of such nations, tribes, bands, or Indians, or any of them, to enable the ultimate creation of a Territory of the United States with a view to the admission of the same as a state in the Union.

The commissioners shall at any time, or from time to time, report to the Secretary of the Interior their transactions and the progress of their negotiations, and shall at any time, or from time to time, if separate agreements shall be made by them with any nation, tribe or band, in pursuance of the authority hereby conferred, report the same to the Secretary of the Interior for submission to Congress for its consideration and ratification.

For the purpose aforesaid there is hereby appropriated, out of any money in the Treasury of the United States, the sum of fifty thousand dollars, to be immediately available.

Neither the provisions of this section nor the negotiations or agreements which may be had or made thereunder shall be held in any way to waive or impair any right of sovereignty which the Government of the United States has over or respecting said Indian Territory or the people thereof, or any other right of the Government relating to said Territory, its lands, or the people thereof.

[*U.S. Statutes at Large*, 27:645–46.]

118. Report of the Dawes Commission

November 20, 1894

The Dawes Commission met little support for its work among the Five Civilized Tribes. Its report of 1894 contained severe criticism of conditions in the Indian Territory and expressed the views and attitudes of those who wished to destroy the national existence of the Five Civilized Tribes.

. . . . The barrier opposed at all times by those in authority in the tribes, and assuming to speak for them as to any change in existing conditions, is what they claim to be "the treaty situation." They mean by this term that the United States is under treaty obligations not to interfere in their internal policy, but has guaranteed to them self-government and absolute exclusion of white citizens from any abode among them; that the United States is bound to isolate them absolutely. It can not be doubted that this was substantially the original governing idea in establishing the Five Tribes in the Indian Territory, more or less clearly expressed in the treaties, which are the basis of whatever title and authority they at present have in the possession of that Territory, over which they now claim this exclusive jurisdiction. To that end the United States, in different treaties and patents executed in pursuance of such treaties, conveyed to the several tribes the country originally known as the "Indian Territory," of which their present possessions are a part only, and agreed to the establishment by them therein of governments of their own. The United States also agreed to exclude all white persons from their borders.

These treaties, however, embraced stipulations equally clear, that these tribes were to hold this territory for the use and enjoyment of all Indians belonging to their respective tribes, so that every Indian, as is expressed in some of the treaties, "shall have an equal right with every other Indian in each and every portion of the territory," and the further stipulation that their laws should not conflict with the Constitution of the United States. These were executory provisions to be observed in the future by both sides. Without regard to any observance of them on their part, the Indians claim that these treaties are irrevocably binding on the United States. These stipulations naturally grew out of the situation of the country at the time they were made, and of the character of the Indians with whom they were made. The present growth of the country and its present relations to this territory were not thought of or even dreamed of by either party when they entered into these stipulations. These Indians were then at a considerably advanced stage of civilization, and were thought capable of self-government, in conformity with the spirit if not the forms of the National Government, within whose limits they were to remain. It was not altogether unreasonable, therefore, to conclude that it would be possible, as it was by them desirable, that these Indians could have set apart to them a tract of country so far remote from white civilization and so isolated that they could work out the problem of their own preservation under a government of their own, and that not only with safety to the Union but with altogether desirable results to themselves.

For quite a number of years after the institution of this project it seemed successful, and

the Indians under it made favorable advance toward its realization. But within the last few years all the conditions under which it was inaugurated have undergone so complete a change that it has become no longer possible. It is hardly necessary to call attention to the contrast between the present conditions surrounding this Territory and those under which it was set apart. Large and populous States of the Union are now on all sides of it, and one-half of it has been constituted a Territory of the United States. These States and this Territory are teeming with population and increasing in numbers at a marvelous rate. The resources of the Territory itself have been developed to such a degree and are of such immense and tempting value that they are attracting to it an irresistible pressure from enterprising citizens. The executory conditions contained in the treaties have become impossible of execution. It is no longer possible for the United States to keep its citizens out of the Territory. Nor is it now possible for the Indians to secure to each individual Indian his full enjoyment in common with other Indians of the common property of the Territory.

The impossibility of enforcing these executory provisions has arisen from a neglect on both sides to enforce them. This neglect is largely the result of outside considerations for which neither is responsible and of the influence of forces which neither can control. These executory conditions are not only impossible of execution, but have ceased to be applicable or desirable. It has been demonstrated that isolation is an impossibility, and that if possible, it could never result in the elevation or civilization of the Indian. It has been made clear that under its operations, imperfectly as it has been carried out, its effect has been to retard rather than to promote civilization, to impair rather than strengthen the observance of law and order and regard for human life and human rights or the protection or promotion of a virtuous life. To such a degree has this sad deterioration become evident that to-day a most deplorable and dangerous condition of affairs exist in the Territory, causing widespread alarm and demanding most serious consideration.

All the functions of the so-called governments of these five tribes have become powerless to protect the life or property rights of the citizen. The courts of justice have become helpless and paralized. Violence, robbery, and murder are almost of daily occurrence, and no effective measures of restraint or punishment are put forth to suppress crime. Railroad trains are stopped and their passengers robbed within a few miles of populous towns and the plunder carried off with impunity in the very presence of those in authority. A reign of terror exists, and barbarous outrages, almost impossible of belief, are enacted, and the perpetrators hardly find it necessary to shun daily intercourse with their victims. We are now informed that, within the territory of one of these tribes, there were 53 murders during the month of September and the first twenty-four days of October last, and not a single person brought to trial.

In every respect the present condition of affairs demonstrates that the permission to govern themselves, under the Constitution of the United States, which was originally embraced in the treaty, has proved a failure. So likewise, has the provision that requires the United States to exclude white citizens from the Territory. The course of procedure by the governments of the Five Tribes has largely contributed to this result, and they are quite as much responsible as the United States for the fact that there are 250,000 white people residing in the Territory. These citizens of the United States have been induced to go there in various ways and by various methods by the Indian governments themselves. These governments consented to the construction of a number of railways through the Territory, and thereby consented that they bring into the Territory all that is necessary in the building and operation of such railroads—the necessary depots, stations, and the inevitable towns which their traffic was sure to build up, and the large building which white men alone could develop and which these railroads were sure to stimulate and make profitable.

Besides these, they have, by their laws, invited men from the border States to become their employés in the Territory, receiving into their treasuries a monthly tax for the privilege of such employment. They have also provided by law for the intermarriage of white persons with their citizens and adopted them into their tribes. By operation of these laws large numbers of white people have become adopted citizens, participating in the

benefits of citizenship. A single instance of such marriage has enabled one white man under the laws to appropriate to his exclusive use 50,000 acres of valuable land. They have, by their legislation, induced citizens of the United States to come in from all sides and under leases and other agreements with private citizens, sanctioned by their own laws, farmed out to them large ranges of their domain, as well as inexhaustible coal deposits within their respective borders, and other material interests which civilized white men alone could turn to profit. In some sections of the Territory the production of cotton has proved so feasible and profitable that white men have been permitted to come in by thousands and cultivate it and build trading marts and populous towns for the successful operation of this branch of trade alone.

In a single town of 5,000 white inhabitants, built there by their permission and also for the profit of the Indian, there were during last year marketed 40,000 bales of cotton. They have also sold off to the United States one-half of their original territory, to be opened up to white settlement on their western borders, in which, with their consent thus obtained, 300,000 white citizens have made their homes, and a Territorial government by this means has been erected in the midst of their own territory, which is forbidden by one of the executory provisions of the treaty. The day of isolation has passed. Not less regardless have they been of the stipulations in their title that they should hold their territory for the common and equal use of all their citizens. Corruption of the grossest kind, openly and unblushingly practiced, has found its way into every branch of the service of the tribal governments. All branches of the governments are reeking with it, and so common has it become that no attempt at concealment is thought necessary. The governments have fallen into the hands of a few able and energetic Indian citizens, nearly all mixed blood and adopted whites, who have so administered their affairs and have enacted such laws that they are enabled to appropriate to their own exclusive use almost the entire property of the Territory of any kind that can be rendered profitable and available.

In one of these tribes, whose whole territory consists of but 3,040,000 acres of land, within the last few years laws have been enacted under the operation of which 61 citizens have appropriated to themselves and are now holding for pasturage and cultivation 1,237,000 acres. This comprises the arable and greater part of the valuable grazing lands belonging to that tribe. The remainder of that people, largely the full-bloods who do not speak the English language, are excluded from the enjoyment of any portion of this land, and many of them occupy the poor and hilly country where they get a scanty living from such portions as they are able to turn to any account. This class of persons in the Territory are making little if any progress in civilization. They are largely dependent on those in control of public affairs, whose will they register at the polls and with whose bidding, in a large measure, they comply without question. Those holding power by these means oppose any change and ask only to be let alone.

In another of these tribes, under similar legislation, vast and rich deposits of coal of incalculable value have been appropriated by the few, to the exclusion of the rest of the tribe and to the great profit of those who operate them and appropriate their products to their individual use. Large and valuable plants for mining coal have been established by capitalists under leases by which, together with "discoverer's claims" authorized by the tribal governments, these coal lands are covered, and under the workings of which the rightful owners are being despoiled of this valuable property with very little or no profit to them; and it is clear that this property should be restored to the common domain and protected to the common people, and the mines worked under a system just and equitable to all who have rights therein.

The vast pine forests heretofore spoken of, which are of incalculable value, if not indispensable, in the future development of the country and the building up of homes and improvements of the agricultural lands, are being spoliated and laid waste by attempts, under laws enacted for that purpose, to grant to a few, mostly adopted white citizens, the right to cut and market for their own use whatever timber they can turn to their own profit. This is an irreparable destruction of one of the most essential elements of the progress of the country in the future and should be at once arrested.

Towns of considerable importance have been built by white persons under leases obtained from Indians claiming the right to appropriate the common property to these uses. Permanent improvements of great value have thus been made by white citizens of the United States, induced and encouraged thereto by the tribal governments themselves, and have become immovable fixtures which can not be taken away. However difficult the problem of adjusting rights thus involved, nothing can be more clear than that the step can not be retraced. Towns built under such inducements can not be removed nor their structures razed to the ground, nor can the places they occupy be restored to the conditions originally contemplated by the treaties. Ruinous as any such attempt would be to those thus induced to expend their money in building these towns, it would not be less ruinous to the Indians themselves to be, by any such attempt, forced back to the methods of life existing before the coming of these white men. The original idea of a community of property has been entirely lost sight of and disregarded in every branch of the administration of their affairs by the governments which have been permitted to control this Territory under the treaty stipulations which are now being invoked, by those who are in this manner administering them, as a protection for their personal holdings and enterprises.

The large payments of moneys to the Indians of these tribes within the last few years have been attended by many and apparently well-authenticated complaints of fraud, and those making such payments, with others associated with them in the business, have, by unfair means and improper use of the advantages thus afforded them, acquired large fortunes, and in many instances private persons entitled to payments have received but little benefit therefrom. And worse still is the fact that the places of payments were thronged with evil characters of every possible caste, by whom the people were swindled, defrauded, robbed, and grossly debauched and demoralized. And in case of further payments of money to them the Government should make such disbursements to the people directly, through one of its own officers.

We feel it our duty to here suggest that any measures looking to any change of affairs in this Territory should embrace special, strict, and effective provisions for protection of the Indian and other citizens from the introduction, manufacture, or sale of intoxicants of any kind in the Territory, with penalties therefor and for failure by officers to enforce same, sufficiently severe to cause their perfect execution. A failure to thus protect these Indians will, in a measure, work their extinction at no distant day.

It is a deplorable fact, which should not be overlooked by the Government, that there are thousands of white children in this territory who are almost wholly without the means of education, and are consequently growing up with no fitting preparation for useful citizenship. A matter of so much concern to the country should not be disregarded.

When the treaties were reaffirmed in 1866, a provision was made for the adoption and equality of rights of the freedmen, who had theretofore been slaves in the tribes, upon terms provided in the treaties. The Cherokees and Choctaws have appeared to comply with the letter of the prescribed terms, although very inadequately and tardily, and the Chickasaws at one time took some steps toward complying with these terms, but now deny that they ever adopted the freedmen, and are endeavoring to retrace the steps originally taken. They now treat the whole class as aliens without any legal right to abide among them, or to claim any protection under their laws. They are shut out of the schools of the tribe, and from their courts, and are granted no privileges of occupancy of any part of the land for a home, and are helplessly exposed to the hostilities of the citizen Indian and the personal animosity of the former master. Peaceable, law-abiding, and hard-working, they have sought in vain to be regarded as a part of the people to whose wealth their industry is daily contributing a very essential portion. They number in that tribe about 4,000, while the Chickasaws number 3,500. The United States is bound by solemn treaty to place these freedmen securely in the enjoyment of their rights as Chickasaw Indians, and can not with honor ignore the obligation. . . .

The condition of the freedmen in the Choctaw and Cherokee tribes is little better than that of those among the Chickasaws, although they have been adopted according to

the requirements of the treaties. They are yet very far from the enjoyment of all the rights, privileges, and immunities to which they are entitled under the treaties. In the Choctaw tribe, the 40 acres to which they are entitled for a home has not been set apart to them and no one has any title to a single foot of land he may improve or occupy. Whenever his occupancy of land is in the way of any citizen Indian he is at once, by means sufficiently severe and threatening, compelled to leave his improvements. He consequently has no abiding place, and what he is enabled to get from the soil for his support, he is compelled to gather either furtively or by the most absolute subserviency to the will, caprices, or exactions of his former master. But meager provision is made for the schooling of his children, and but little participation in the management of the government of which he is a citizen is permitted him. He is nevertheless moral, industrious, and frugal, peaceable, orderly, and obedient to the laws, taking no part in the crimes which have of late filled the country with alarm and put in peril the lives and property of law-abiding citizens. A number of these sought an interview with us on one occasion, but were, as we were informed, warned by a prominent Indian citizen that if they called upon us they would be killed, which warning they heeded.

In the Cherokee tribe the schools provided for the freedmen are of very inferior and inefficient character, and practically their children are growing up in deplorable ignorance. They are excluded from participation in the per capita distribution of all funds, and are ignored in almost all respects as a factor in the government of a people of whose citizenship they are by the treaties in all respects made a part. Yet in this tribe the freedmen are conspicuous for their morality, industrial and frugal habits, and for peaceable and orderly lives.

Justice has been utterly perverted in the hands of those who have thus laid hold of the forms of its administration in this Territory and who have inflicted irreparable wrongs and outrages upon a helpless people for their own gain. The United States put the title to a domain of countless wealth and unmeasured resources in these several tribes or nationalities, but it was a conveyance in trust for specific uses, clearly indicated in the treaties themselves, and for no other purpose. It was for the use and enjoyment in common by each and every citizen of his tribe, of each and every part of the Territory, thus tersely expressed in one of the treaties: "To be held in common, so that each and every member of either tribe shall have an equal undivided interest in the whole." The tribes can make no other use of it. They have no power to grant it to anyone, or to grant to anyone an exclusive use of any portion of it. These tribal governments have wholly perverted their high trusts, and it is the plain duty of the United States to enforce the trust it has so created and recover for its original uses the domain and all the gains derived from the perversions of the trust or discharge the trustee.

The United States also granted to these tribes the power of self-government, not to conflict with the Constitution. They have demonstrated their incapacity to so govern themselves, and no higher duty can rest upon the Government that granted this authority than to revoke it when it has so lamentably failed.

In closing this report we may be permitted to add that we have observed with pain and deep regret that the praiseworthy efforts of the Christian church, and of benevolent associations from different parts of the country, so long continued among the tribes, are being counteracted and rendered in a large measure nugatory by the untoward influences and methods now in force among them tending directly to destroy and obliterate the beneficial effects of their good work.

[*Senate Miscellaneous Document* no. 24, 53d Cong., 3d sess., serial 3281, pp. 8–12.]

119. Extension of Civil Service Rules

Extract from the *Annual Report of the Commissioner of Indian Affairs*

September 15, 1896

In 1896 most employees of the Indian service were placed under civil service rules, leaving only the agents and a few others outside the system. Commissioner Daniel M. Browning reported on the status of the service in his annual report for 1896.

. . . . The classified service has been extended over almost every branch of the Indian work.

By direction of the President, in accordance with the third clause of section 6 of the civil-service act of January 16, 1883, the Department, March 30, 1896, amended the classification of the employees of the Department of the Interior so as to include therein "all clerks, assistant clerks, issue clerks, property clerks, and other clerical positions and storekeepers at Indian agencies and Indian schools."

Another Department order of same date amended the classification of the Indian service so as to include therein "all physicians, school superintendents, assistant superintendents, supervisors of schools, day school inspectors, school-teachers, assistant teachers, industrial teachers, teachers of industries, disciplinarians, kindergarten teachers, matrons, assistant matrons, farmers, seamstresses and nurses * * * without regard to salary or compensation, all subject to competitive examination for original appointment." Physicians, superintendents, teachers, and matrons were already in the classified service; but all persons employed in any of the other positions named were on March 30 also brought within its limits.

May 6, 1896, the President still further enlarged the scope of the classified service by including therein "all officers and employees, of whatever designation, except persons merely employed as laborers or workmen and persons who have been nominated for confirmation by the Senate, however or for whatever purpose employed, whether compensated by fixed salary or otherwise, who are serving in or are on detail from * * * the Indian service."

Recognizing the disadvantage under which the Indian labors in competing with his more favored white brother, permission was given for the appointment of Indians, without examination or certification by the Civil Service Commission, to all positions except those of superintendent, teacher, teacher of industries, kindergartner, and physician; and for those positions Indians could be selected upon noncompetitive examination, which should consist of such tests of fitness as should be approved by the Department and not disapproved by the Commission.

An abstract of all persons in the field in the Indian service June 30, 1896, except school employees, arranged with reference to their relations to the civil-service classification, gives the following items:

White persons in the classified service:

Agency employees classified by compensation—		
Salary less than $720 per annum	80	
Salary $720 or less than $840	164	
Salary $840 or less than $900	29	
Salary $900 or less than $1,000	112	
Salary $1,000 or less than $1,200	58	
Salary $1,200 or less than $1,400	74	
Salary $1,400 or less than $1,600	2	
Salary $1,600 or less than $1,800	1	
Salary $1,800 or less than $2,000	2	
Salary $2,000 or less than $2,500	3	
Salary $2,500 and over	2	
		527
Special agents, commissioners, surveying engineers, and physicians to L'Anse Indians		14
Presidential appointments		11
Total white persons in the classified service		552

White persons in the unclassified service:

Confirmed by the Senate: 38 agents, 5 inspectors, 5 commissioners to Five Civilized Tribes	48	
Military officers acting as agents	17	
Physicians paid for occasional services	3	
Transportation agents	3	
Employed at agencies at compensation below classification	12	
Total white persons in the unclassified service	83	
Total white persons	635	
Indians in excepted places	1,356	
Indians in positions having salaries below classification	78	
Total Indian employees	1,434	

The total of salaries paid to white persons employed at agencies was $546,670; to officials, such as inspectors, special agents, commissioners, etc., not located at agencies, $104,815. Salaries paid to Indians aggregated $258,140, nearly half the amount paid to white employees at agencies.

Whenever it has been found practicable to employ Indians it has been the policy of this office to give them the preference, and in the large majority of cases they have been found faithful and earnest, entering heartily into the work of advancing their own people. There are Indian employees at every agency except two; one of these is a very small agency and the other has only two employees. One agency has 107 Indians employed, one has 76, another 72, two have 51, twenty-two have over 20, and nineteen have from 10 to 20 Indians on their employee rolls. Of course a large number are policemen and judges of the courts of Indian offenses, but the number holding other positions is not small, and steadily increases.

As stated, none of the above figures refer to employees in schools. Under the orders referred to the entire school service was classified, thus bringing under the operation of civil-service rules 2,070 superintendents, teachers, etc., employed in the various schools, whose aggregate salaries amounted last year to nearly one million dollars. This included 705 Indians, about 34 per cent of the total number of school employees. The statement in detail is as follows:

Whites in the classified service:

Salary less than $720	979	
Salary $720 or less than $840	206	
Salary $840 or less than $900	39	
Salary $900 or less than $1,000	44	
Salary $1,000 or less than $1,200	42	
Salary $1,200 or less than $1,400	26	
Salary $1,400 or less than $1,600	27	
Salary $1,800 or less than $2,000	1	
		1,364

Whites in the unclassified service:

Confirmed by Senate	1	
Total white persons	1,365	
Indians in excepted places	705	

The salaries paid white school employees amounted to $849,645. Those paid Indians amounted to $148,766. The classes graduating from the various nonreservation schools are fast furnishing material with which to fill school positions of importance and responsibility which require special training as well as aptitude. The first normal class, which was graduated last June, will be referred to hereafter.

The recognition of the merit system in the Indian service is a long step forward, and will undoubtedly elevate its standard, improve its morale, and promote its efficiency. The removal of all partisan influence from appointments will give added dignity to the positions and increase the zeal of those engaged in the work. . . .

[*House Document* no. 5, 54th Cong., 2d sess., serial 3489, pp. 3–5.]

120. Curtis Act

June 28, 1898

With the Curtis Act, Congress accomplished by legislation what the Dawes Commission has been unable to do by negotiation—effectively destroy the tribal governments in the Indian Territory. This long and detailed act provided for establishment and regulation of townsites, for management of leases of mineral rights, and for other technical matters. Printed here are several key sections, which authorized the Dawes Commission to draw up rolls and allot the lands to Indians on the rolls, prohibited aggrandizement of lands, and abolished the tribal courts.

An Act for the protection of the people of the Indian Territory, and for other purposes.

. . . . SEC. 11. That when the roll of citizenship of any one of said nations or tribes is fully completed as provided by law, and the survey of the lands of said nation or tribe is also completed, the commission heretofore appointed under Acts of Congress, and known as the "Dawes Commission," shall proceed to allot the exclusive use and occupancy of the surface of all the lands of said nation or tribe susceptible of allotment among the citizens thereof, as shown by said roll, giving to each, so far as possible, his fair and equal share thereof, considering the nature and fertility of the soil, location, and value of same; but all oil, coal, asphalt, and mineral deposits in the lands of any tribe are reserved to such tribe, and no allotment of such lands shall carry the title to such oil, coal, asphalt, or mineral deposits; and all town sites shall also be reserved to the several tribes, and shall be set apart by the commission heretofore mentioned as incapable of allotment. There shall also be reserved from allotment a sufficient amount of lands now occupied by churches, schools, parsonages, charitable institutions, and other public buildings for their present actual and necessary use, and no more, not to exceed five acres for each school and one acre for each church and each parsonage, and for such new schools as may be needed; also sufficient land for burial grounds where necessary. When such allotment of the lands of any tribe has been by them completed, said commission shall make full report thereof to the Secretary of the Interior for his approval: *Provided*, That nothing herein contained shall in any way affect any vested legal rights which may have been heretofore granted by Act of Congress, nor be so construed as to confer any additional rights upon any parties claiming under any such Act of Congress: *Provided further*, That whenever it shall appear that any member of a tribe is in possession of lands, his allotment may be made out of the lands in his possession, including his home if the holder so desires. . . .

SEC. 17. That it shall be unlawful for any citizen of any one of said tribes to inclose or in any manner, by himself or through another, directly or indirectly, to hold possession of any greater amount of lands or other property belonging to any such nation or tribe than that which would be his approximate share of the lands belonging to such nation or tribe and that of his wife and his minor children as per allotment herein provided; and any person found in such possession of lands or other property in excess of his share and that of his family, as aforesaid, or having the same in any manner inclosed, at the expiration of nine months after the passage of this Act, shall be deemed guilty of a misdemeanor. . . .

SEC. 19. That no payment of any moneys on any account whatever shall hereafter be made by the United States to any of the tribal governments or to any officer thereof for disbursement, but payments of all sums to members of said tribes shall be made under direction of the Secretary of the Interior by an officer appointed by him; and per capita payments shall be made direct to each individual in lawful money of the United States, and the same shall not be liable to the payment of any previously contracted obligation. . . .

SEC. 26. That on and after the passage of this Act the laws of the various tribes or nations of Indians shall not be enforced at law or in equity by the courts of the United States in the Indian Territory. . . .

SEC. 28. That on the first day of July, eighteen hundred and ninety-eight, all tribal courts of Indian Territory shall be abolished, and no officer of said courts shall thereafter have any authority whatever to do or perform any act theretofore authorized by any law in connection with said courts, or to receive any pay for same; and all civil and criminal causes then pending in any such court shall be transferred to the United States court in said Territory by filing with the clerk of the court the original papers in the suit: *Provided*, That this section shall not be in force as to the Chickasaw, Choctaw, and Creek tribes or nations until the first day of October, eighteen hundred and ninety-eight. . . .

[*U.S. Statutes at Large*, 30:497–98, 502, 504–05.]

121. Stephens v. Cherokee Nation

May 15, 1899

Suits brought against the determination of property rights by the Dawes Commission tested the constitutionality of the Curtis Act. The Supreme Court upheld the act in all its provisions.

. . . . We repeat that in view of the paramount authority of Congress over the Indian tribes, and of the duties imposed on the Government by their condition of dependency, we cannot say that Congress could not empower the Dawes Commission to determine, in the manner provided, who were entitled to citizenship in each of the tribes and make out correct rolls of such citizens, an essential preliminary to effective action in promotion of the best interests of the tribes. It may be remarked that the legislation seems to recognize, especially the act of June 28, 1898, a distinction between admission to citizenship merely and the distribution of property to be subsequently made, as if there might be circumstances under which the right to a share in the latter would not necessarily follow from the concession of the former. But in any aspect, we are of opinion that the constitutionality of these acts in respect of the determination of citizenship cannot be successfully assailed on the ground of the impairment or destruction of vested rights. The lands and moneys of these tribes are public lands and public moneys, and are not held in individual ownership, and the assertion by any particular applicant that his right therein is so vested as to preclude inquiry into his status involves a contradiction in terms.

The judgments in these cases were rendered before the passage of the act of June 28, 1898, commonly known as the Curtis Act, and necessarily the effect of that act was not considered. As, however, the provision for an appeal to this court was made after the passage of the act, some observations upon it are required, and, indeed, the inference is not unreasonable that a principal object intended to be secured by an appeal was the testing of the constitutionality of this act, and that may have had controlling weight in inducing the granting of the right to such appeal.

The act is comprehensive and sweeping in its character, and notwithstanding the abstract of it in the statement prefixed to this opinion, we again call attention to its provisions. The act gave jurisdiction to the United States courts in the Indian Territory in their respective districts to try cases against those who claimed to hold lands and tenements as members of a tribe and whose membership was denied by the tribe, and authorized their removal from the same if the claim was disallowed; and provided for the allotment of lands by the Dawes Commission among the citizens of any one of the tribes as shown by the roll of citizenship when fully completed as provided by law, and according to a survey also fully completed; and "that if the person to whom an allotment shall have been made shall be declared, upon appeal as herein provided for, by any of the courts of the United States in or for the aforesaid Territory, to have been illegally accorded rights of citizenship, and for that or any other reason declared to be not entitled to any allotment, he shall be ousted and ejected from said lands." . . .

For reasons already given we regard this act in general as not obnoxious to constitutional objection, but in so holding we do not intend to intimate any opinion as to the effect that changes made thereby, or by the agreements referred to, may have, if any, on the status of the several applicants, who are parties to these appeals.

The elaborate opinions of the United States court in the Indian Territory . . . consider the subject in all its aspects, and set forth the various treaties, tribal constitutions and laws, and the action of many tribal courts, commissions and councils which assumed to deal with it, but we have not been called on to go into these matters, as our conclusion is that we are confined to the question of constitutionality merely.

As we hold the entire legislation constitutional, the result is that all the

Judgments must be affirmed.

[174 *U.S. Reports*, 445, 488–89, 491–92.]

and Indian tribal property, we may not specially consider the contentions pressed upon our notice that the signing by the Indians of the agreement of October 6, 1892, was obtained by fraudulent misrepresentations and concealment, that the requisite three-fourths of adult male Indians had not signed, as required by the twelfth article of the treaty of 1867, and that the treaty as signed had been amended by Congress without submitting such amendments to the action of the Indians, since all these matters, in any event, were solely within the domain of the legislative authority and its action is conclusive upon the courts. . . .

[187 *U.S. Reports*, 553, 564–68.]

125. Indian Commissioner Leupp on Indian Policy

Extract from the *Annual Report of the Commissioner of Indian Affairs*

September 30, 1905

Commissioner Francis E. Leupp, in his first annual report, outlined his views on a proper Indian policy. While stressing the concept of self-support advanced by his predecessor, he also recommended preservation of elements of Indian culture.

. . . . Assuming the responsibilities of the commissionership in the very middle of the fiscal year, I have endeavored to gather up the threads of the work of my immediate predecessor and weave them into a consistent fabric, with only such new features of design as changeful passing conditions seemed to demand. For whatever in this report bears the stamp of novelty, but has not yet earned the seal of accomplishment, I shall crave your indulgence on the plea that the field of Indian affairs is presenting every day fresh problems for solution, and that, there being no precedents to guide us in solving these, we are necessarily driven to experiment. But in order that the general end toward which my efforts are directed may be the more clearly understood, I beg respectfully to lay before you one of the fruits of my twenty years' study of the Indian face to face and in his own home, as well as of his past and present environment, in the form of a few

OUTLINES OF AN INDIAN POLICY.

The commonest mistake made by his white wellwishers in dealing with the Indian is the assumption that he is simply a white man with a red skin. The next commonest is the assumption that because he is a non-Caucasian he is to be classed indiscriminately with other non-Caucasians, like the negro, for instance. The truth is that the Indian has as distinct an individuality as any type of man who ever lived, and he will never be judged aright till we learn to measure him by his own standards, as we whites would wish to be measured if some more powerful race were to usurp dominion over us.

Suppose, a few centuries ago, an absolutely alien people like the Chinese had invaded our shores and driven the white colonists before them to districts more and more isolated, destroyed the industries on which they had always subsisted, and crowned all by disarming them and penning them on various tracts of land where they could be fed and clothed and cared for at no cost to themselves, to what condition would the white Americans of today have been reduced? In spite of their vigorous ancestry they would surely have lapsed into barbarism and become pauperized. No race on earth could overcome, with forces evolved from within themselves, the effect of such treatment. That our red brethren have not been wholly ruined by it is the best proof we could ask of the sturdy traits of character inherent in them. But though not ruined, they have suffered serious deterioration, and the chief problem now before us is to prevent its going any further. To that end we must reckon with several facts.

First, little can be done to change the Indian who has already passed middle life. By virtue of that very quality of steadfastness which we admire in him when well applied, he is likely to remain an Indian of the old school to the last. With the younger adults we can do something here and there, where we find one who is not too conservative; but our main hope lies with the youthful generation, who are still measurably plastic. The picture which rises in the minds of most Eastern white persons when they read petitions in which Indians pathetically describe themselves as "ignorant" and "poor," is that of a group of red men hungry for knowledge and eager for a chance to work and earn their living like white men. In actual life and in his natural state, however, the Indian is suspicious of the white race—we can hardly blame him for that—and wants nothing to do with us; he clings to the ways of his ancestors, insisting that they are better than ours; and he resents every effort of the Government either to educate his children or to show him how he can turn an honest dollar for himself by other means than his grandfathers used—or an appropriation from the Treasury. That is the plain truth of the situation, strive as we may to gloss it with poetic fancies or hide it under statistical reports of progress. The task we must set ourselves is to win over the Indian children by sympathetic interest and unobtrusive guidance. It is a great mistake to try, as many good persons of bad judgment have tried, to start the little ones in the path of civilization by snapping all the ties of affection between them and their parents, and teaching them to despise the aged and nonprogressive members of their families. The sensible as well as the humane plan is to nourish their love of father and mother and home—a wholesome instinct which nature planted in them for a wise end—and then to utilize this affection as a means of reaching through them the hearts of the elders.

Again, in dealing with these boys and girls it is of the utmost importance not only that we start them aright, but that our efforts be directed to educating rather than merely instructing them. The foundation of everything must be the development of character. Learning is a secondary consideration. When we get to that, our duty is to adapt it to the Indian's immediate and practical needs. Of the 30,000 or 40,000 Indian children of school age in the United States, probably at least three-fourths will settle down in that part of the West which we still style the frontier. Most of these will try to draw a living out of the soil; a less—though, let us hope, an ever increasing—part will enter the general labor market as lumbermen, ditchers, miners, railroad hands, or what not. Now, if anyone can show me what advantage will come to this large body of manual workers from being able to reel off the names of the mountains in Asia, or extract the cube root of 123456789, I shall be deeply grateful. To my notion, the ordinary Indian boy is better equipped for his life struggle on a frontier ranch when he can read the simple English of the local newspaper, can write a short letter which is intelligible though maybe ill-spelled, and knows enough of figures to discover whether the storekeeper is cheating him. Beyond these scholastic acquirements his time could be put to its best use by learning how to repair a broken harness, how to straighten a sprung tire on his wagon wheel, how to fasten a loose horseshoe without breaking the hoof, and how to do the hundred other bits of handy tinkering which are so necessary to the farmer who lives 30 miles from a town. The girl who has learned only the rudiments of reading, writing and ciphering, but knows also how to make and mend her clothing, to wash and iron, and to cook her husband's dinner will be worth vastly more as mistress of a log cabin than one who has given years of study to the ornamental branches alone.

Moreover, as fast as an Indian of either mixed or full blood is capable of taking care of himself, it is our duty to set him upon his feet and sever forever the ties which bind him either to his tribe, in the communal sense, or to the Government. This principle must become operative in respect to both land and money. We must end the un-American absurdity of keeping one class of our people in the condition of so many undivided portions of a common lump. Each Indian must be recognized as an individual and so treated, just as each white man is. Suppose we were to enact a law every year, one paragraph of which should be applicable solely to persons with red hair, another solely to persons with round chins, another solely to persons with Roman noses? Yet this would be no more illogical in principle than our annual Indian legislation making one sweeping provision for all Osages, another for all Pawnees, another for all Yankton Sioux, as if these several tribes were not composed of men and women and children with as diverse human characteristics as any equal groups of Germans or Italians. Thanks to the late Senator

Henry L. Dawes of Massachusetts, we have for eighteen years been individualizing the Indian as an owner of real estate by breaking up, one at a time, the reservations set apart for whole tribes and establishing each Indian as a separate landholder on his own account. Thanks to Representative John F. Lacey of Iowa, I hope that we shall soon be making the same sort of division of the tribal funds. At first, of course, the Government must keep its protecting hand on every Indian's property after it has been assigned to him by book and deed; then, as one or another shows himself capable of passing out from under this tutelage he should be set fully free and given "the white man's chance," with the white man's obligations to balance it.

Finally, we must strive in every way possible to make the Indian an active factor in the upbuilding of the community in which he is going to live. The theory, too commonly cherished on the frontier, that he is a sort of necessary nuisance surviving from a remote period, like the sagebrush and the giant cactus, must be dispelled, and the way to dispel it is to turn him into a positive benefit. To this end I would, for instance, teach him to transact all of his financial business that he can in his nearest market town, instead of looking to the United States Treasury as the only source of material blessings. Any money of his which he can not use or is not using for his own current profit I should prefer to deposit for him, in reasonably small parcels, in local banks which will bond themselves sufficiently for its safe-keeping, so that the industries of the neighborhood will have the use of it, and everybody thereabout will be the better off for such prosperity as may come to an Indian depositor. On like grounds of reasoning I should encourage every proper measure which points toward absolving the Indian from his obsolete relation to the licensed trader and teaches him to make his purchases from those merchants who will ask of him the fairest price, whether near the agency or at a distance. In short, our aim ought to be to keep him moving steadily down the path which leads from his close domain of artificial restraints and artificial protection toward the broad area of individual liberty enjoyed by the ordinary citizen.

Incidentally to this programme, I should seek to make of the Indian an independent laborer as distinguished from one for whom the Government is continually straining itself to find something to do. He can penetrate a humbug, even a benevolent humbug, as promptly as the next man; and when he sees the Government inventing purely fictitious needs to be supplied and making excuses of one kind and another to create a means of employment for him, he despises the whole thing as a fraud, like the white man whom some philanthropist hires to carry a pile of bricks from one side of the road to the other and then back again. The employment bureau recently organized for the Indians in the Southwest is designed to gather up all the able-bodied Indians who, through the pinch of hunger it may be, have been moved to think that they would like to earn some money, and plant them upon ranches, upon railroads, in mines—wherever in the outer world, in short, there is an opening for a dollar to be got for a day's work. The clerk who has been placed in charge of the bureau is to supervise their contracts with their employers, see that their wages are paid them when due, and look out for them if they fall ill. For the rest, the Indians engaged are to be required to stand on their own feet like other men, and to understand that for what comes to them hereafter they will have themselves to thank.

Some one has styled this a policy of shrinkage, because every Indian whose name is stricken from a tribal roll by virtue of his emancipation reduces the dimensions of our red-race problem by a fraction—very small, it may be, but not negligible. If we can thus gradually watch our body of dependent Indians shrink, even by one member at a time, we may congratulate ourselves that the final solution is indeed only a question of a few years.

The process of general readjustment must be gradual, but it should be carried forward as fast as it can be with presumptive security for the Indian's little possessions; and I should not let its educative value be obscured for a moment. The leading strings which have tied the Indian to the Treasury ever since he began to own anything of value have been a curse to him. They have kept him an economic nursling long past the time when he ought to have been able to take a few steps alone. The tendency of whatever crude training in

money matters he has had for the last half century has been toward making him an easy victim to such waves of civic heresy as swept over the country in the early nineties. That is not the sort of politics into which we wish the Indian to plunge as he assumes the responsibilities of citizenship. . . . .

I like the Indian for what is Indian in him. I want to see his splendid inherited physique kept up, because he glories, like his ancestors, in fresh air, in freedom, in activity, in feats of strength. I want him to retain all his old contempt for hunger, thirst, cold, and danger when he has anything to do. I love the spirit of manly independence which moved a copper-colored sage once to beg that I would intercede with the Great Father and throttle a proposal to send rations to his people, because it would pauperize their young men and make them slaves to the whites. I have no sympathy with the sentiment which would throw the squaw's bead bag into the rubbish heap and set her to making lace. Teach her lace making, by all means, just as you would teach her bread making, as an addition to her stock of profitable accomplishments; but don't set down her beaded moccasins as merely barbarous, while holding up her lace handkerchief as a symbol of advanced civilization.

The Indian is a natural warrior, a natural logician, a natural artist. We have room for all three in our highly organized social system. Let us not make the mistake, in the process of absorbing them, of washing out of them whatever is distinctly Indian. Our aboriginal brother brings, as his contribution to the common store of character, a great deal which is admirable, and which needs only to be developed along the right line. Our proper work with him is improvement, not transformation. . . .

[*Report of the Commissioner of Indian Affairs, 1905*, pp. 1–5, 12.]

126. Burke Act

May 8, 1906

The Dawes Act was significantly amended in 1906. Discretion was authorized in the length of the trust period for allotments, and citizenship was to be granted at the end, rather than at the beginning, of the trust period.

An Act To amend section six of an Act approved February eighth, eighteen hundred and eighty-seven, entitled "An Act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes."

Be it enacted . . . , That section six of an Act approved February eighth, eighteen hundred and eighty-seven, entitled "An Act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," be amended to read as follows:

"SEC. 6. That at the expiration of the trust period and when the lands have been conveyed to the Indians by patent in fee, as provided in section five of this Act, then each and every allottee shall have the benefit of and be subject to the laws, both civil and criminal, of the State or Territory in which they may reside; and no Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law. And every Indian born within the territorial limits of the United States to whom allotments shall have been made and who has received a patent in fee simple under the provisions of this Act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up within said limits his residence, separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other

property: *Provided*, That the Secretary of the Interior may, in his discretion, and he is hereby authorized, whenever he shall be satisfied that any Indian allottee is competent and capable of managing his or her affairs at any time to cause to be issued to such allottee a patent in fee simple, and thereafter all restrictions as to sale, incumbrance, or taxation of said land shall be removed and said land shall not be liable to the satisfaction of any debt contracted prior to the issuing of such patent: *Provided further*, That until the issuance of fee-simple patents all allottees to whom trust patents shall hereafter be issued shall be subject to the exclusive jurisdiction of the United States: *And provided further*, That the provisions of this Act shall not extend to any Indians in the Indian Territory."

That hereafter when an allotment of land is made to any Indian, and any such Indian dies before the expiration of the trust period, said allotment shall be cancelled and the land shall revert to the United States, and the Secretary of the Interior shall ascertain the legal heirs of such Indian, and shall cause to be issued to said heirs and in their names, a patent in fee simple for said land, or he may cause the land to be sold as provided by law and issue a patent therefor to the purchaser or purchasers, and pay the net proceeds to the heirs, or their legal representatives, of such deceased Indian. The action of the Secretary of the Interior in determining the legal heirs of any deceased Indian, as provided herein, shall in all respects be conclusive and final.

[*U.S. Statutes at Large*, 34:182–83.]

127. Indian Commissioner Leupp on the Burke Act

Extract from the *Annual Report of the Commissioner of Indian Affairs*

September 30, 1906

Praise of the Burke Act and arguments in its favor appeared in the annual report of Commissioner Francis E. Leupp in 1906.

. . . . The general allotment act of February 8, 1887 (24 Stat. L., 388), better known as the Dawes law, was the crystallization of the resolve of our Government that the tribal relations of the Indian should cease. The power conferred by it to segregate the lands occupied by the Indians and have them taken in severalty has been exercised to as great an extent as conditions have seemed to warrant. By its provisions the lands allotted in severalty were to be held in trust for twenty-five years, and the Indians were to become citizens of the United States and of the several States at the instant of the approval of their allotments.

The citizenship provision is in the sixth section of the act; and as many allotments were made under treaties and special acts the terms of this section were so drawn as to include all allotments under any law or treaty. Thus a large number of Indians were made citizens, and a still larger number have since that time been placed theoretically on the same footing with their white neighbors. . . .

Like his white neighbor, the Indian is of more than one sort, ranging from good degrees of intelligence, industry, and thrift to the depths of helplessness, ignorance, and vice. Experience has proved that Indians of the former class do better when allowed to run their own business than when the Government tries to run it for them, but that citizenship and the jurisdiction of the local courts are of no advantage to Indians of the latter class, because the community, as a rule, does not interest itself to compel the proper exercise of police or judicial powers in behalf of these poor people. The very cost of resorting to law for the enforcement of a right or the redress of a wrong is in some places prohibitive as far as they are concerned.

Such conditions made plain the need of some law which would enable the Indian Office to manage the affairs of the helpless class with undisputed authority, but, on the other hand, to remove from the roll of wards and dependants the large and increasing number of Indians who no longer need any supervision from a bureau in Washington. To this need came a response from Representative Charles H. Burke, of South Dakota, who last winter introduced in the Congress a measure which, with some modification, became law on May 8. . . .

The Burke law materially modifies the Dawes law. It postpones the acquisition of citizenship until the termination of the trust as to all allotments made after May 8, 1906, and declares that the allottees shall be subject to the exclusive jurisdiction of the United States until they acquire citizenship. To nullify the injustice which such a general provision might inflict upon Indians capable of taking their places in the State as citizens, a very comprehensive proviso confers authority on the Secretary of the Interior to terminate the trust period by issuing a patent in fee whenever he is satisfied of the competency of an allottee to manage his own affairs. Fortunately this power is broad enough to cover all allotments, no matter when made. . . .

The important points in the Burke law are those relating to citizenship and fee-simple patents. Twenty-five years is not too long a time for most Indians to serve their apprenticeship in civic responsibilities. Meanwhile, also, the new community amid which he is thrown will presumptively have become more settled and better fitted for enlightened local self-government. The police powers of the Indian establishment are ample to control the Indian wards of the Government as long as no question of jurisdiction can be raised, and the noncitizen Indian can be better protected thereby from the class who make prey of the helpless, ignorant, or vicious. . . .

The power vested in the Secretary of the Interior to end the trust period by issuing patents in fee simple, thereby making citizens of the allottees, is a very important one, if not the most important relating to Indians that has been vested in the Department; and it is logically correct and in harmony with the spirit of the body of our law. The only way in which an intelligent and self-dependent Indian could obtain relief from the shackles of wardship before the enactment of the Burke law was by special legislation, and the evils of encouraging that practice in any direction are too obvious to call for rehearsal here. The usual accompaniment of graft and blackmail is enough to condemn a resort to such procedure for any purpose which it is practicable to effect by other means.

While on this subject, I trust I may be pardoned if I volunteer a few thoughts as to the policy to be pursued in exercising the power to issue patents in fee. Any Indian who is earning a livelihood at any honorable occupation, if he wishes to own his lands in fee, should have the privilege at once, because a man who has worked for his own support for any length of time will generally have some idea of the value of his land. Under ordinary conditions I would rather see an Indian who is working as a section hand on a railroad get his land free from governmental control than one who has no fixed calling, no matter what may be the relative scholastic education of the two. I know full-blood Indians who can not speak or write a word of English, but are making their way creditably as farmers or freighters or boatmen, who would better deserve their patents in fee than one who takes a job as interpreter at $10 per month rather than cultivate his allotment. It is no sign of an Indian's fitness to manage his own affairs that he employs some one to get his patent issued; if he does not know that the agent or superintendent is paid by the Government to do such work for him, it is open to question whether he knows enough to conduct his everyday business.

In short, I would make industry the primary test and use this as a lever to force Indians to earn their bread by labor. There is no danger of proceeding too slowly; the spirit of the times will not permit any stagnation. The legislation of recent years shows conclusively that the country is demanding an end of the Indian question and it is right. The Burke law, wisely administered, will accomplish more in this direction than any other single factor developed in a generation of progress. When it is supplemented by other legislation which will enable their pro rata shares of the tribal moneys to be paid, principal and interest, to competent Indians, the beginning of the end will be at hand. Such Indians, owning their land in fee, and receiving their portions of the tribal property without restriction can not by any course of action maintain a claim for further consideration. Through such measures the grand total of the nation's wards will be diminished daily and at a growing ratio.

The various agents and superintendents have been advised of the provisions of the Burke Act and instructed how to proceed under it. On receipt of an application they

are to post a notice of it as conspicuously as possible, giving the allottee's name and the description of the land, announcing that at the expiration of thirty days the Indian Office will consider the application with a view of recommending to the Secretary of the Interior the issue of the patent desired, and urging that any person acquainted with the applicant and aware of any fact which would tend to show that the patent ought not to issue will make it known forthwith.

Experience may show that other safeguards are necessary. Many applications have already been received, and doubtless a large number of patents will be distributed during the coming year. . . .

[*House Document* no. 5, 59th Cong., 2d sess., serial 5118, pp. 27–31.]

128. Lacey Act

March 2, 1907

The Dawes Act and the Burke Act provided for the allotment of reservation lands to individual Indians, but they did not affect communally owned trust funds. In 1907, in a bill introduced to Congressman John F. Lacey of Iowa, Congress made provision for the allotment of tribal funds to certain classes of Indians.

An Act Providing for the allotment and distribution of Indian tribal funds.

Be it enacted . . . , That the Secretary of the Interior is hereby authorized, in his discretion, from time to time, to designate any individual Indian belonging to any tribe or tribes whom he may deem to be capable of managing his or her affairs, and he may cause to be apportioned and allotted to any such Indian his or her pro rata share of any tribal or trust funds on deposit in the Treasury of the United States to the credit of the tribe or tribes of which said Indian is a member, and the amount so apportioned and allotted shall be placed to the credit of such Indian upon the books of the Treasury, and the same shall thereupon be subject to the order of such Indian: *Provided*, That no apportionment or allotment shall be made to any Indian until such Indian has first made an application therefor: *Provided further*, That the Secretaries of the Interior and of the Treasury are hereby directed to withhold from such apportionment and allotment a sufficient sum of the said Indian funds as may be necessary or required to pay any existing claims against said Indians that may be pending for settlement by judicial determination in the Court of Claims or in the Executive Departments of the Government, at time of such apportionment and allotment.

SEC. 2. That the Secretary of the Interior is hereby authorized to pay an Indian who is blind, crippled, decrepit, or helpless from old age, disease, or accident, his or her share, or any portion thereof, of the tribal trust funds in the United States Treasury belonging to the tribe of which such Indian is a member, and of any other money which may hereafter be placed in the Treasury for the credit of such tribe and susceptible of division among its members, under such rules, regulations, and conditions as he may prescribe.

[*U.S. Statutes at Large*, 34:1221–22.]

129. Indian Commissioner Leupp on Reservation Schools

Extract from the *Annual Report of the Commissioner of Indian Affairs*

September 30, 1907

Nonreservation Indian schools like that at Carlisle, Pennsylvania, operated on the principle of taking the Indian child out of his reservation environment and training him for the white man's world. The principle won the support of many reformers, but it was directly challenged by Commissioner Francis E. Leupp, who urged instead the enlarging of the system of day schools on the reservations.

. . . . To the attentive reader of my reports for the last two years it must have been plain that their argument pointed toward a marked change in the Indian educational establishment, always in the direction of greater simplicity and a more logical fitness to the end for which it was designed. Such a change must be almost as slow in its complete accomplishment as the upbuilding of the structure whose plans are to be modified. No one hand can bring it all about; the official term, the powers and the resources of no one commissioner are extensive enough to do more than set the machinery in motion and point out to his successors, the Congress, and the public the reasons for his course, trusting that such an appeal to the national common sense will bear fruit in the continuation at least of the general features of his policy.

I entered office with a purpose, which I have kept steadily in view, to enlarge the system of day-school instruction as opposed to the increase of the boarding schools, and among the boarding schools the preference of those on the reservations to those at a distance. The subject has been so fully discussed that no elaborate rehearsal of the argument is called for here. Briefly stated, it pivots on the question whether we are to carry civilization to the Indian or carry the Indian to civilization, and the former seems to me infinitely the wiser plan. To plant our schools among the Indians means to bring the older members of the race within the sphere of influence of which every school is a center. This certainly must be the basis of any practical effort to uplift a whole people. For its demonstration we do not have to look beyond the border line of our experience with Caucasian communities, where it is obvious that the effect upon the character as well as the intelligence of any neighborhood of having abundant school facilities close at hand is by no means confined to the generation actually under the teachers' daily care.

Though the day-school system is the ideal mechanism for the uplifting of the Indians, we can not yet wholly dispense with boarding schools, because so many tribes still continue the nomadic or semi-nomadic habits which would require the continual moving of the day schools from place to place in order to keep near a sufficient number of families for their support. In other cases a tribe which has had its lands allotted to its members individually has become so scattered over a large area that the distances the pupils would have to come and go would be prohibitive of their regular daily attendance at any school or schools, no matter how carefully located with regard to the convenience of the greatest number of possible patrons. In such instances the difficulties of the situation are reduced to a minimum by a resort to the reservation boarding school, where the children are within easy enough reach of their parents to enable the latter to see them at rather frequent intervals.

But boarding schools, conducted on the basis on which the Government conducts those established for the benefit of the Indians, are an anomaly in our American scheme of popular instruction. They furnish gratuitously not only tuition—the prime object of their existence—but food, clothing, and permanent shelter during the whole period of a pupil's attendance. In plain English, they are simply educational almshouses, with the unfortunate feature, from the point of view of our ostensible purpose of cultivating a spirit of independence in the Indians, that the charitable phase is obtrusively pushed forward as an attraction instead of wearing the stamp which makes the almshouse wholesomely repugnant to Caucasian sentiment. This tends steadily to foster in the Indian an ignoble willingness to accept unearned privileges; nay, more, from learning to accept them he presently comes, by a perfectly natural evolutionary process, to demand them as rights and to heap demand upon demand. The result is that in certain parts of the West the only conception his white neighbors entertain of an Indian is that of a beggar as aggressive as he is shameless.

Was ever a worse wrong perpetrated upon a weaker by a stronger race? If so, history has failed to record it. Scores of books have been written within the last generation assailing our white civilization for its disregard of the rights of the Indian, seeking their illustrations in the unjustifiable wars opened upon him; in the frauds practiced upon him by unscrupulous traders, contractors, and Government functionaries; in the absorption of his lands, a few thousand acres at a time, at prices which look small indeed beside the

valuations at which the same lands have been held since white enterprise has developed them; and yet the authors of these works have been so hypnotized by their abhorrence of such merely physical iniquities that they have overlooked entirely the vastly greater moral damage wrought upon the same victim under the guise of a benevolent desire to civilize him—at long range. As if self-reliance were not at the very foundation of our own civilization! The evils of war, of graft, big and little, of business frauds and all other forms of bad faith are capable of remedy in the same monetary terms in which we measure and remedy evils among our own race; but what compensation can we offer him for undermining his character, and doing it by a method so insidious and unfair?

Unhappily our generation can not go back and make over from the start the conditions which have come down to us by inheritance. We can, however, do the next best thing, and avoid extending or perpetuating the errors for which we are not responsible, and we can improve every available opportunity for reducing their burden. Just as we have undertaken to free the Indian from the shackles which the reservation system has imposed upon his manhood, so we should recognize it as a duty to free him from the un-American and pauperizing influences which still invest his path to civilization through the schools. The rudiments of an education, such as can be given his children in the little day school, should remain within their reach, just as they are within the reach of the white children who must be neighbors and competitors of the Indian children in their joint struggle for a livelihood. Indeed, this being a reciprocal obligation the right of the child, red or white, to enough instruction to enable him to hold his own as a citizen, and the right of the Government to demand that every person who handles a ballot shall have his intelligence trained to the point that reading, writing, and simple ciphering will train it—I believe in compelling the Indian parent, whether he wishes to or not, to give his offspring this advantage. My interpretation of the duty laid upon me by the statute in this regard has carried me even to the use of physical force and arms in the few instances where reasoning and persuasion failed and the Indians have defied the Government.

For a little while still, as I have said, the reservation boarding schools must stay for lack of something adequate to take their places; but as fast as one of these can be replaced with day schools the change should be made, and I am pleased to have been able, in my short term of office, to give this movement its start. For the continuance of our 25 nonreservation schools there is no longer any excuse. We spend on these now nearly $2,000,000 a year, which is taken bodily out of the United States Treasury and is, in my judgment, for the most part a mere robbery of the taxladen Peter to pay the nontaxladen Paul and train him in false, undemocratic, and demoralizing ideas. The same money, spent for the same number of years on expanding and strengthening the Indians' home schools, would have accomplished a hundredfold more good, unaccompanied by any of the harmful effects upon the character of the race. . . .

[*Reports of the Department of the Interior, Administrative Reports 1907*, 2:17–20.]

130. Winters v. United States

January 6, 1908

Water rights of Indians are a vital issue as Indians seek economic development of their reservations, and the basic document on Indian water rights is this 1908 Supreme Court decision, which decreed that where land was reserved for an Indian tribe, there was an implied reservation of the water necessary for the irrigation or other development of the reservation and that the tribe was not subject to the prior-appropriation rule of the state. This right to water was amplified in Arizona *v.* California *(1963).*

This suit was brought by the United States to restrain appellants and others from constructing or maintaining dams or reservoirs on the Milk River in the State of Montana, or in any manner preventing the water of the river or its tributaries from flowing to the Fort Belknap Indian Reservation. . . .

Under the just and reasonable construction of this agreement with the Indians [establishing the Fort Belknap Reservation], considered in the light of all the circumstances and of its express purpose, the Indians did not thereby cede or relinquish to the United States the right to appropriate the waters of Milk River necessary to their use for agricultural and other purposes upon the reservation, but retained this right, as an appurtenance to the land which they retained, to the full extent in which it had been vested in them under former treaties, and the right thus retained and vested in them under the agreement of 1888, at a time when Montana was still a Territory of the United States, could not be divested under subsequent legislation either of the Territory or of the State. . . .

The case, as we view it, turns on the agreement of May, 1888, resulting in the creation of Fort Belknap Reservation. In the construction of this agreement there are certain elements to be considered that are prominent and significant. The reservation was a part of a very much larger tract which the Indians had the right to occupy and use and which was adequate for the habits and wants of a nomadic and uncivilized people. It was the policy of the Government, it was the desire of the Indians, to change those habits and to become a pastoral and civilized people. If they should become such the original tract was too extensive, but a smaller tract would be inadequate without a change of conditions. The lands were arid and, without irrigation, were practically valueless. And yet, it is contended, the means of irrigation were deliberately given up by the Indians and deliberately accepted by the Government. The lands ceded, were, it is true, also arid; and some argument may be urged, and is urged, that with their cession there was the cession of the waters, without which they would be valueless, and "civilized communities could not be established thereon." And this, it is further contended, the Indians knew, and yet made no reservation of the waters. We realize that there is a conflict of implications, but that which makes for the retention of the waters is of greater force than that which makes for their cession. The Indians had command of the lands and the waters—command of all their beneficial use, whether kept for hunting, "and grazing roving herds of stock," or turned to agriculture and the arts of civilization. Did they give up all this? Did they reduce the area of their occupation and give up the waters which made it valuable or adequate? And, even regarding the allegations of the answer as true, that there are springs and streams on the reservation flowing about 2,900 inches of water, the inquiries are pertinent. If it were possible to believe affirmative answers, we might also believe that the Indians were awed by the power of the Government or deceived by its negotiators. Neither view is possible. The Government is asserting the rights of the Indians. But extremes need not be taken into account. By a rule of interpretation of agreements and treaties with the Indians, ambiguities occurring will be resolved from the standpoint of the Indians. And the rule should certainly be applied to determine between two inferences, one of which would support the purpose of the agreement and the other impair or defeat it. On account of their relations to the Government, it cannot be supposed that the Indians were alert to exclude by formal words every inference which might militate against or defeat the declared purpose of themselves and the Government, even if it could be supposed that they had the intelligence to foresee the "double sense" which might some time be urged against them.

Another contention of appellants is that if it be conceded that there was a reservation of the waters of Milk River by the agreement of 1888, yet the reservation was repealed by the admission of Montana into the Union, February 22, 1889, c. 180, 25 Stat. 676, "upon an equal footing with the original States." The language of counsel is that "any reservation in the agreement with the Indians, expressed or implied, whereby the waters of Milk River were not to be subject of appropriation by the citizens and inhabitants of said State, was repealed by the act of admission." But to establish the repeal counsel rely substantially upon the same argument that they advance against the intention of the agreement to reserve the waters. The power of the Government to reserve the waters and exempt them from appropriation under the

state laws is not denied, and could not be. . . . That the Government did reserve them we have decided, and for a use which would be necessarily continued through years. This was done May 1, 1888, and it would be extreme to believe that within a year Congress destroyed the reservation and took from the Indians the consideration of their grant, leaving them a barren waste took from them the means of continuing their old habits, yet did not leave them the power to change to new ones. . . .

[207 *U.S. Reports*, 565, 573, 575–77.]

131. Buy Indian Act

June 25, 1910

A desire to provide self-support for Indians by giving them preference in employment led to this item in a miscellaneous collection of enactments dealing with Indian property. The provision was used later in the century to stimulate Indian economic development.

An Act to provide for determining the heirs of deceased Indians, for the disposition and sale of allotments of deceased Indians, for the leasing of allotments, and for other purposes.

. . . .

SEC. 23. That hereafter the purchase of Indian supplies shall be made in conformity with the requirements of section thirty-seven hundred and nine of the Revised Statutes of the United States: *Provided*, That so far as may be practicable Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of the Interior. . . .

[*U.S. Statutes at Large*, 36:861.]

132. Indian Commissioner Valentine on Indian Health

Extract from the *Annual Report of the Commissioner of Indian Affairs*

November 1, 1910

In the twentieth century the Indian Office became increasingly aware of the serious health conditions existing among the Indians. Commissioner Robert Valentine in his annual report of 1910 indicated some of the problems and a method of attacking them.

. . . . The Indian Service in its health work is not aiming merely to more effectively care for and cure those that are sick. The reduction of the death rate is not its primary interest. It is working rather to increase the vitality of the Indian race and to establish for it a new standard of physical well-being. The work is being scientifically developed along lines which have already been successfully tried out by modern preventive medicine. The principal features of this work as it is now organized are: (1) An intensive attack upon the two diseases that most seriously menace the health of the Indians—trachoma and tuberculosis; (2) preventive work on a large scale, by means of popular education along health lines and more effective sanitary inspection; (3) increased attention to the physical welfare of the children in the schools, so that the physical stamina of the coming generation may be conserved and increased. . . .

Systematic efforts are being made to educate the Indians in the schools and on the reservations as to the best methods of treating and preventing the spread of tuberculosis, trachoma, and other infectious and contagious diseases. A manual on tuberculosis, its cause, prevention, and treatment has been published by the medical supervisor and distributed throughout the service. A series of illustrated lectures for a traveling health exhibit are being prepared. A special physician

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exhibit will be sent to the different schools and reservations. One of the most important results of this educational work will be that it will instruct the employees at the schools and agencies of the Indian Service as to the methods of preventing disease, and in this way unite the entire service in the health campaign.

Increased attention is being given to sanitary inspection. It is planned, wherever possible, to have a house-to-house inspection by a physician of all Indian homes on a reservation. This will make it possible not only to accurately learn the extent of disease and provide for proper treatment, but it will also make it possible for instruction to be given the Indians as to how they may improve the sanitary conditions of their homes, and thereby prevent disease in future. A beginning in this work was made last year on the White Earth Reservation, where the need was pressing. Two special physicians were authorized to carry on the work. More than 200 homes were visited and 1,266 persons examined. Of this number 690 had trachoma and 164 tuberculosis in its various forms. Only 25 per cent of the homes visited were considered sanitary. This work will be vigorously followed up during the present year until the

reservation is covered. Arrangements
been made with the Bureau of Animal
try to make an inspection and test for
tuberculosis of all of the diary herds in the service. The sanitary inspection of the equipment and methods for the production and handling of the milk supply is included. This work is now in progress.

The medical supervisor is having the schools in the service systematically inspected with special attention to ventilation, disinfection, and personal hygiene. He has recommended, where practicable, the construction of screened porches for sleeping quarters for pupils whose physical condition is not up to the standard. All pupils presented for admission to a boarding school are given a thorough physical examination. If a child is found to be affected with any disease that would probably be made worse by attending school or that would endanger the health of the other pupils he is not admitted. Three of the reservations where the greater number of day schools are located, namely, Cheyenne River, Pine Ridge, and Rosebud, have a day-school physician, who makes regular visits to each of the day schools under his supervision to look after the health of the pupils and to see that proper hygienic and sanitary conditions are maintained in the schools. . . .

[*Reports of the Department of the Interior; Administrative Reports, 1910*, 2:9–11.]

133. Indian Commissioner Sells, A Declaration of Policy

Extract from the *Annual Report of the Commissioner of Indian Affairs*

October 15, 1917

Commissioner Cato Sells worked to free the Indians from federal guardianship. In 1917 he issued a new statement of policy, which would speed up declarations of competence for individual Indians and force them out into the white man's society.

A DECLARATION OF POLICY.

A careful study of the practical effects of governmental policies for determining the wardship of the Indians of this country is convincing that the solution is individual and not collective. Each individual must be considered in the light of his own environment and capacity for larger responsibilities and privileges.

While ethnologically a preponderance of white blood has not heretofore been a criterion of competency, nor even now is it always a safe standard, it is almost an axiom that an Indian who has a larger proportion of white blood than Indian partakes more of the characteristics of the former than of the latter. In thought and action, so far as the business world is concerned, he approximates more closely to the white blood ancestry.

On April 17, 1917, there was announced a declaration of policy for Indian affairs, as follows:

DECLARATION OF POLICY IN THE ADMINISTRATION OF INDIAN AFFAIRS.

During the past four years the efforts of the administration of Indian affairs have been largely concentrated on the following fundamental activities—the betterment of health conditions of Indians, the suppression of the liquor traffic among them, the improvement of their industrial conditions, the further development of vocational training in their schools, and the protection of the Indians' property. Rapid progress has been made along all these lines, and the work thus reorganized and revitalized will go on with increased energy. With these activities and accomplishments well under way, we are now ready to take the next step in our administrative program.

The time has come for discontinuing guardianship of all competent Indians and giving even closer attention to the incompetent that they may more speedily achieve competency.

Broadly speaking, a policy of greater liberalism will henceforth prevail in Indian administration to the end that every Indian, as soon as he has been determined to be as competent to transact his own business as the average white man, shall be given full control of his property and have all his lands and moneys turned over to him, after which he will no longer be a ward of the Government.

Pursuant to this policy, the following rules shall be observed:

1. *Patents in fee.*—To all able-bodied adult Indians of less than one-half Indian blood, there will be given as far as may be under the law full and complete control of all their property. Patents in fee shall be issued to all adult Indians of one-half or more Indian blood who may, after careful investigation, be found competent, provided, that where deemed advisable patents in fee shall be withheld for not to exceed 40 acres as a home.

Indian students, when they are 21 years of age, or over, who complete the full course of instruction in the Government schools, receive diplomas and have demonstrated competency will be so declared.

2. *Sale of lands.*—A liberal ruling will be adopted in the matter of passing upon applications for the sale of inherited Indian lands where the applicants retain other lands and the proceeds are to be used to improve the homesteads or for other equally good purposes. A more liberal ruling than has hitherto prevailed will hereafter be followed with regard to the applications of noncompetent Indians for the sale of their lands where they are old and feeble and need the proceeds for their support.

3. *Certificates of competency.*—The rules which are made to apply in the granting of patents in fee and the sale of lands will be made equally applicable in the matter of issuing certificates of competency.

4. *Individual Indian moneys.*—Indians will be given unrestricted control of all their individual Indian moneys upon issuance of patents in fee or certificates of competency. Strict limitations will not be placed upon the use of funds of the old, the indigent, and the invalid.

5. *Pro-rata shares–trust funds.*—As speedily as possible their pro rata shares in tribal trust or other funds shall be paid to all Indians who have been declared competent, unless the legal status of such funds prevents. Where practicable the pro rata shares of incompetent Indians will be withdrawn from the Treasury and placed in banks to their individual credit.

6. *Elimination of ineligible pupils from the Government Indian schools.*—In many of our boarding schools Indian children are being educated at Government expense whose parents are amply able to pay for their education and have public school facilities at or near their homes. Such children shall not hereafter be enrolled in Government Indian schools supported by gratuity appropriations, except on payment of actual per capita cost and transportation.

These rules are hereby made effective, and all Indian Bureau administrative officers at Washington and in the field will be governed accordingly.

This is a new and far-reaching declaration of policy. It means the dawn of 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 carrying out this policy, I cherish the hope that all real friends of the Indian race will lend their aid and hearty cooperation.

CATO SELLS,
Commissioner.

Approved:
FRANKLIN K. LANE,
Secretary.

The cardinal principle of this declaration revolves around this central thought—that an Indian who is as competent as an ordinary white man to transact the ordinary affairs of life should be given untrammeled control of his property and assured his personal rights in every particular so that he may have the opportunity of working out his own destiny. The practical application of this principle will relieve from the guardianship of the Government a very large number of Indians who are qualified to mingle on a plane of business equality with the white people. It will also begin the reduction of expenditures, and afford a better opportunity for closer attention to those who will need our protecting care for some years longer.

A vitally important result also will be obtained in placing a true ideal before those Indians remaining under guardianship. It will be a strong motive for endeavoring to reach the goal of competency, and prove a material incentive to a sincere effort for that end.

This new declaration of policy is calculated to release practically all Indians who have one-half or more white blood, although there will be exceptions in the case of those who are manifestly incompetent. It will also give like freedom from guardianship to those having more than one-half Indian blood when, after careful investigation, it is determined that they are capable of handling their own affairs. This latter class, however, will be much more limited since only about 40 per cent of the Indians of the country speak the English language and the large majority of this latter class still greatly need the protecting arm of the Government. . . .

[*Annual Report of the Commissioner of Indian Affairs, 1917*, pp. 3–5.]

134. Citizenship for World War I Veterans

November 6, 1919

Indians who served in the military or naval establishments during World War I could be granted citizenship at their request.

An Act Granting citizenship to certain Indians.

Be it enacted . . ., That every American Indian who served in the Military or Naval Establishments of the United States during the war against the Imperial German Government, and who has received or who shall hereafter receive an honorable discharge, if not now a citizen and if he so desires, shall, on proof of such discharge and after proper identification before a court of competent jurisdiction, and without other examination except as prescribed by said court, be granted full citizenship with all the privileges pertaining thereto, without in any manner impairing or otherwise affecting the property rights, individual or tribal, of any such Indian or his interest in tribal or other Indian property.

[*U.S. Statutes at Large*, 41:350.]

135. Authorization of Appropriations and Expenditures for Indian Affairs (Snyder Act)

November 2, 1921

In order to expedite legislation for Indian welfare, Congress in 1921 passed an act that gave general authorization for categories of Indian expenditures. While the law itself provided no funds, it continued to be used as the basis for appropriating money, and it stated the kinds of activities authorized for the Bureau of Indian Affairs.

compensation as to the Attorney General shall seem meet and proper.

SEC. 14. That all suits which may be brought by persons or corporations other than the pueblos hereinbefore named and the inhabitants thereof, commonly known and accepted by the pueblo as Pueblo Indians, involving any right, title, interest, benefit, use, possession, or right of possession, of any such person or corporation, to any lands falling or included within the exterior boundary lines of any of the pueblo grants in this act enumerated and specified shall be commenced within five years from the date of the passage and approval of this act; otherwise the same shall be forever barred, and said persons or corporations shall lose all rights and benefits by this act provided.

SEC. 15. That surveys of lands within pueblo grants and reservations held and occupied by persons not Indian, or corporations, as heretofore made under the supervision of the surveyor general for New Mexico, and plats and field notes of which have been filed in his office, shall be accepted as prima facie evidence of the boundaries of lands therein described.

SEC. 16. That in cases where lands within such grants, or any part or parcel thereof, shall at the trial be shown not to have been held and occupied by the claimants, non-Indian, for the period fixed by section 8 of this act for the acquiring of title under the provisions hereof, but have been purchased, or acquired by inheritance, used and cultivated, or purchased, or acquired by inheritance, held, occupied, or otherwise used for pastoral purposes under fence, in good faith by the claimant, the court shall make a special finding determining the boundaries of the tract so purchased, acquired, held and occupied, used and cultivated, in good faith, as well as also the value of the land without improvement, and shall report such finding to the Secretary of the Interior, and the claimant, if the Secretary of the Interior shall approve an application made by the claimant for said land, may purchase the same at the value found by the court, and the purchase price shall be held in trust and expended for the pueblo under such rules and regulations as shall be from time to time prescribed for the benefit of the pueblo within whose grant any such tract of land shall be situated.

[*Congressional Record*, 62:12324–25.]

137. Indian Citizenship Act

June 2, 1924

In 1924 Congress granted citizenship to all Indians born within the United States who were not yet citizens.

An Act To authorize the Secretary of the Interior to issue certificates of citizenship to Indians.

Be it enacted . . ., That all non-citizen 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.

[*U.S. Statutes at Large*, 43:253.]

138. Pueblo Lands Board

June 7, 1924

The vigorous opposition of reformers to the Bursum Bill of 1922 led to the creation of a special board to adjudicate the land controversies in New Mexico between the whites and the Pueblo Indians.

An Act To quiet the title to lands within Pueblo Indian land grants, and for other purposes.

Be it enacted . . ., That in order to quiet title to various lots, parcels, and tracts of land of the State of New Mexico for which claim shall be made by or on behalf of the Pueblo Indians of said State as hereinafter provided, the United States of America, in its sovereign capacity as guardian of said Pueblo Indians shall by its Attorney General, file in the District Court of the United States for the District of New Mexico, its bill or bills of complaint with a prayer for discovery of the nature of any claim or claims of any kind whatsoever adverse to the claim of said Pueblo Indians, as hereinafter determined.

SEC. 2. That there shall be, and hereby is, established a board to be known as "Pueblo Lands Board" to consist of the Secretary of the Interior, the Attorney General, each of whom may act through an assistant in all hearings, investigations, and deliberations in New Mexico, and a third member to be appointed by the President of the United States. The board shall be provided with suitable quarters in the city of Santa Fe, New Mexico, and shall have power to require the presence of witnesses and the production of documents of subpoena, to employ a clerk who shall be empowered to administer oaths and take acknowledgements, shall employ such clerical assistance, interpreters, and stenographers with such compensation as the Attorney General shall deem adequate, and it shall be provided with such necessary supplies and equipment as it may require on requisitions to the Department of Justice. The compensation and allowance for travel and expenses of the member appointed by the President shall be fixed by the Attorney General.

It shall be the duty of said board to investigate, determine, and report and set forth by metes and bounds, illustrated where necessary by field notes and plats, the lands within the exterior boundaries of any land granted or confirmed to the Pueblo Indians of New Mexico by any authority of the United States of America, or any prior sovereignty, or acquired by said Indians as a community by purchase or otherwise, title to which the said board shall find not to have been extinguished in accordance with the provisions of this Act, and the board shall not include in their report any claims of non-Indian claimants who, in the opinion of said board after investigation, hold and occupy such claims of which they have had adverse possession, in accordance with the provisions of section 4 of this Act: *Provided, however*, That the board shall be unanimous in all decisions whereby it shall be determined that the Indian title has been extinguished.

The board shall report upon each pueblo as a separate unit and upon the completion of each report one copy shall be filed with the United States District Court for the District of New Mexico, one with the Attorney General of the United States, one with the Secretary of the Interior, and one with the Board of Indian Commissioners.

[Details of procedures and bases of land rights.]

[*U.S. Statutes at Large*, 43:636–37.]

139. Meriam Report

1928

In 1928 the Institute for Government Research (Brookings Institution) published The Problem of Indian Administration. *This large volume was the report of a survey made at the request of Secretary of the Interior Hubert Work and was popularly known as the Meriam Report, or Meriam Survey, from Lewis Meriam, who directed the survey staff. It was a monumental work, which set forth the economic and social conditions of the Indians and presented detailed recommendations for solutions to the problems discovered. It became a guide for governmental action in regard to the Indians for more than twenty years.*

. . . . The fundamental requirement is that the task of the Indian Service be recognized as primarily educational, in the broadest sense of that word, and that it be made an efficient educational agency, devoting its main energies to the social and economic advancement of the Indians, so that they may be absorbed into the prevailing civilization or be fitted to live in the presence of that civilization at least in accordance with

a minimum standard of health and decency.

To achieve this end the Service must have a comprehensive, well-rounded educational program, adequately supported, which will place it at the forefront of organizations devoted to the advancement of a people. This program must provide for the promotion of health, the advancement of productive efficiency, the acquisition of reasonable ability in the utilization of income and property, guarding against exploitation, and the maintenance of reasonably high standards of family and community life. It must extend to adults as well as to children and must place special emphasis on the family and the community. Since the great majority of the Indians are ultimately to merge into the general population, it should cover the transitional period and should endeavor to instruct Indians in the utilization of the services provided by public and quasi public agencies for the people at large in exercising the privileges of citizenship and in making their contribution in service and in taxes for the maintenance of the government. It should also be directed toward preparing the white communities to receive the Indian. By improving the health of the Indian, increasing his productive efficiency, raising his standard of living, and teaching him the necessity for paying taxes, it will remove the main objections now advanced against permitting Indians to receive the full benefit of services rendered by progressive states and local governments for their populations. By actively seeking coöperation with state and local governments and by making a fair contribution in payment for services rendered by them to untaxed Indians, the national government can expedite the transition and hasten the day when there will no longer be a distinctive Indian problem and when the necessary governmental services are rendered alike to whites and Indians by the same organization without discrimination.

In the execution of this program scrupulous care must be exercised to respect the rights of the Indian. This phrase "rights of the Indian" is often used solely to apply to his property rights. Here it is used in a much broader sense to cover his rights as a human being living in a free country. Indians are entitled to unfailing courtesy and consideration from all government employees. They should not be subjected to arbitrary action. Recognition of the educational nature of the whole task of dealing with them will result in taking the time to discuss with them in detail their own affairs and to lead rather than force them to sound conclusions. The effort to substitute educational leadership for the more dictatorial methods now used in some places will necessitate more understanding of and sympathy for the Indian point of view. Leadership will recognize the good in the economic and social life of the Indians in their religion and ethics, and will seek to develop it and build on it rather than to crush out all that is Indian. The Indians have much to contribute to the dominant civilization, and the effort should be made to secure this contribution, in part because of the good it will do the Indians in stimulating a proper race pride and self respect. . . .

At the outset of this report the effort will be made to state briefly the position taken by the survey staff with respect to certain fundamental matters of general policy in Indian affairs. Subsequent sections will deal fairly minutely with the subjects of organization and management, health, education, economic condition, family and community life, and legal aspects of the problem. Each of these sections rests on substantially the same assumptions regarding the general policies which should govern in the conduct of Indian affairs. If these assumptions are sound, as the survey staff believes they are, the findings and recommendations in these detailed sections follow logically and more or less inevitably. If these fundamental statements of policy are acceptable, one may differ here and there with respect to matters of detail but not with general principles. The best course therefore seems to be to present these assumptions as clearly as possible at the outset, so that they may be definitely understood, in order that those who wish to take issue on fundamentals may do so at the beginning. In this way it is hoped that thinking and discussion may be considered as fundamentals and the details of practice and procedure as details, highly important though they are and vital in giving effect to general policies.

The Object of Work with or for the Indians. The object of work with or for the Indians is to fit them either to merge into the social and economic life of the prevailing civilization

as developed by the whites or to live in the presence of that civilization at least in accordance with a minimum standard of health and decency. The first of these alternatives is apparently so clear on its face as to require no further explanation. The second, however, demands some further explanation.

Some Indians proud of their race and devoted to their culture and their mode of life have no desire to be as the white man is. They wish to remain Indians, to preserve what they have inherited from their fathers, and insofar as possible to escape from the ever increasing contact with and pressure from the white civilization. In this desire they are supported by intelligent, liberal whites who find real merit in their art, music, religion, form of government, and other things which may be covered by the broad term culture. Some of these whites would even go so far, metaphorically speaking, as to enclose these Indians in a glass case to preserve them as museum specimens for future generations to study and enjoy, because of the value of their culture and its picturesqueness in a world rapidly advancing in high organization and mass production. With this view as a whole if not in its extremities, the survey staff has great sympathy. It would not recommend the disastrous attempt to force individual Indians or groups of Indians to be what they do not want to be, to break their pride in themselves and their Indian race, or to deprive them of their Indian culture. Such efforts may break down the good in the old without replacing it with compensating good from the new.

The fact remains, however, that the hands of the clock cannot be turned backward. These Indians are face to face with the predominating civilization of the whites. This advancing tide of white civilization has as a rule largely destroyed the economic foundation upon which the Indian culture rested. This economic foundation cannot be restored as it was. The Indians cannot be set apart away from contacts with the whites. The glass case policy is impracticable.

Even among the Rio Grande Pueblos, the Hopis, and the Zunis, where more of the old culture apparently remains than among any other group, the Indians are by no means unanimous in their desire for the preservation of every detail of the old. Some pueblos, notably Laguna, taken as a whole seem to be seeking and finding the white man's path. Even in the most conservative pueblos individual Indians will be found who have no desire for a glass case existence, who want to take their place in the white civilization, to make their living in a distinctly white industrial pursuit, to dwell in a house with modern sanitary conveniences, to dress like a white man, to have their wives in childbirth attended by skilled physicians in a hospital, to have the doctor in illness as the white man does, to have for their children the educational equipment needful for advance in the white civilization, and to spend their earnings for automobiles and other things made possible by the white man's mass production. These Indians are as much entitled to direct their lives according to their desires as are the conservative Indians. It would be as unjust and as unwise to attempt to force them back to the old or to withhold guidance in the achievement of the new ends they seek as it would be to attempt to force the ones who love the old into the new.

The position taken, therefore, is that the work with and for the Indians must give consideration to the desires of the individual Indians. He who wishes to merge into the social and economic life of the prevailing civilization of this country should be given all practicable aid and advice in making the necessary adjustments. He who wants to remain an Indian and live according to his old culture should be aided in doing so. The question may be raised "Why aided? Just leave him alone and he will take care of himself." The fact is, however, as has been pointed out, that the old economic basis of his culture has been to a considerable extent destroyed and new problems have been forced upon him by contacts with the whites. Adjustments have to be made, economic, social and legal. Under social is included health. The advent of white civilization has forced on the Indians new problems of health and sanitation that they, unaided, can no more solve than can a few city individuals solve municipal problems. The presence of their villages in close proximity to white settlements make the health and sanitary conditions in those villages public questions of concern to the entire section. Both the Indians and their white neighbors are concerned in having those Indians who want to stay Indians and preserve their culture, live

according to at least a minimum standard of health and decency. Less than that means not only that they themselves will go through a long drawn out and painful process of vanishing. They must be aided for the preservation of themselves.

Whichever way the individual Indian may elect to face, work in his behalf must be designed not to do for him but to help him to do for himself. The whole problem must be regarded as fundamentally educational. However much the early policy of rationing may have been necessary as a defensive, preventive war measure on the part of the whites, it worked untold harm to the Indians because it was pauperizing and lacked any appreciable educational value. Anything else done for them in a way that neglects educating them to do for themselves will work in the same direction. Controlling the expenditure of individual Indian money, for example, is pauperizing unless the work is so done that the Indian is being educated to control his own. In every activity of the Indian Service the primary question should be, how is the Indian to be trained so that he will do this for himself. Unless this question can be clearly and definitely answered by an affirmative showing of distinct educational purpose and method the chances are that the activity is impeding rather than helping the advancement of the Indian. . . .

[Lewis Meriam et al., *The Problem of Indian Administration* (Baltimore: Johns Hopkins Press, 1928), pp. 21–22, 86–89.]

140. Johnson-O'Malley Act

April 16, 1934

Congress in 1934 authorized contracts with states whereby the federal government would pay for educational, medical, and other services provided Indians by the states.

An Act Authorizing the Secretary of the Interior to arrange with States or Territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes.

Be it enacted . . . , That the Secretary of the Interior is hereby authorized, in his discretion, to enter into a contract or contracts with any State or Territory having legal authority so to do, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the qualified agencies of such State or Territory, and to expend under such contract or contracts moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State.

Sec. 2. That the Secretary of the Interior, in making any contract herein authorized with any State or Territory, may permit such State or Territory to utilize for the purpose of this Act, existing school buildings, hospitals, and other facilities, and all equipment therein or appertaining thereto, including livestock and other personal property owned by the Government, under such terms and conditions as may be agreed upon for their use and maintenance.

Sec. 3. That the Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations, including minimum standards of service, as may be necessary and proper for the purpose of carrying the provisions of this Act into effect: *Provided*, That such minimum standards of service are not less than the highest maintained by the State or Territories with which said contract or contracts, as herein provided, are executed.

Sec. 4. That the Secretary of the Interior shall report annually to the Congress any contract or contracts made under the provisions of this Act, and the moneys expended thereunder.

Sec. 5. That the provisions of this Act shall not apply to the State of Oklahoma.

[*U.S. Statutes at Large*, 48:596.]

141. Wheeler-Howard Act (Indian Reorganization Act)

June 18, 1934

The culmination of the reform movement of the 1920s led by John Collier was the Wheeler-Howard Act of 1934. This important legislation reversed the policy of allotment and encouraged tribal organization.

An Act to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes.

Be it enacted . . . , That hereafter no land of any Indian reservation, created or set apart by treaty or agreement with the Indians, Act of Congress, Executive order, purchase, or otherwise, shall be allotted in severalty to any Indian.

Sec. 2. The existing periods of trust placed upon any Indian lands and any restriction on alienation thereof are hereby extended and continued until otherwise directed by Congress.

Sec. 3. The Secretary of the Interior, if he shall find it to be in the public interest, is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public land laws of the United States: *Provided, however*, That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this Act: . . . .

Sec. 4. Except as herein provided, no sale, devise, gift, exchange or other transfer of restricted Indian lands or of shares in the assets of any Indian tribe or corporation organized hereunder, shall be made or approved: *Provided, however*, That such lands or interests may, with the approval of the Secretary of the Interior, be sold, devised, or otherwise transferred to the Indian tribe in which the lands or shares are located or from which the shares were derived or to a successor corporation; and in all instances such lands or interests shall descend or be devised, in accordance with the then existing laws of the State, or Federal laws where applicable, in which said lands are located or in which the subject matter of the corporation is located, to any member of such tribe or of such corporation or any heirs of such member: *Provided further*, That the Secretary of the Interior may authorize voluntary exchanges of lands of equal value and the voluntary exchange of shares of equal value whenever such exchange, in his judgment, is expedient and beneficial for or compatible with the proper consolidation of Indian lands and for the benefit of cooperative organizations.

Sec. 5. The Secretary of the Interior is hereby authorized, in his discretion, to acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments whether the allottee be living or deceased, for the purpose of providing land for Indians.

For the acquisition of such lands, interests in land, water rights, and surface rights, and for expenses incident to such acquisition, there is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, a sum not to exceed $2,000,000 in any one fiscal year: . . . .

The unexpended balances of any appropriations made pursuant to this section shall remain available until expended.

Title to any lands or rights acquired pursuant to this Act shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

Sec. 6. The Secretary of the Interior is directed to make rules and regulations for the operation and management of Indian forestry units on the principle of sustained-yield management, to restrict the number of livestock grazed on Indian range units to the estimated carrying capacity of such ranges, and to promulgate such other rules

and regulations as may be necessary to protect the range from deterioration, to prevent soil erosion, to assure full utilization of the range, and like purposes.

SEC. 7. The Secretary of the Interior is hereby authorized to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by this Act, or to add such lands to existing reservations: *Provided*, That lands added to existing reservations shall be designated for the exclusive use of Indians entitled by enrollment or by tribal membership to residence at such reservations.

SEC 8. Nothing contained in this Act shall be construed to relate to Indian holdings of allotments or homesteads upon the public domain outside of the geographic boundaries of any Indian reservation now existing or established hereafter.

SEC. 9. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary, but not to exceed $250,000 in any fiscal year, to be expended at the order of the Secretary of the Interior, in defraying the expenses of organizing Indian chartered corporations or other organizations created under this Act.

SEC. 10. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of $10,000,000 to be established as a revolving fund from which the Secretary of the Interior, under such rules and regulations as he may prescribe, may make loans to Indian chartered corporations for the purpose of promoting the economic development of such tribes and of their members, and may defray the expenses of administering such loans. Repayment of amounts loaned under this authorization shall be credited to the revolving fund and shall be available for the purposes for which the fund is established. A report shall be made annually to Congress of transactions under this authorization.

SEC. 11. There is hereby authorized to be appropriated, out of any funds in the United States Treasury not otherwise appropriated, a sum not to exceed $250,000 annually, together with any unexpended balances of previous appropriations made pursuant to this section, for loans to Indians for the payment of tuition and other expenses in recognized vocational and trade schools: *Provided*, That not more than $50,000 of such sum shall be available for loans to Indian students in high schools and colleges. Such loans shall be reimbursable under rules established by the Commissioner of Indian Affairs.

SEC 12. The Secretary of the Interior is directed to establish standards of health, age, character, experience, knowledge, and ability for Indians who may be appointed, without regard to civil-service laws, to the various positions maintained, now or hereafter, by the Indian Office, in the administration of functions or services affecting any Indian tribe. Such qualified Indians shall hereafter have the preference to appointment to vacancies in any such positions.

SEC. 13. The provisions of this Act shall not apply to any of the Territories, colonies, or insular possessions of the United States, except that sections 9, 10, 11, 12, and 16, shall apply to the Territory of Alaska: *Provided*, That Sections 2, 4, 7, 16, 17, and 18 of this Act shall not apply to the following-named Indian tribes, the members of such Indian tribes, together with members of other tribes affiliated with such named tribes located in the State of Oklahoma, as follows: Cheyenne, Arapaho, Apache, Comanche, Kiowa, Caddo, Delaware, Wichita, Osage, Kaw, Otoe, Tonkawa, Pawnee, Ponca, Shawnee, Ottawa, Quapaw, Seneca, Wyandotte, Iowa, Sac and Fox, Kickapoo, Pottawatomi, Cherokee, Chickasaw, Choctaw, Creek, and Seminole. Section 4 of this Act shall not apply to the Indians of the Klamath Reservation in Oregon.

SEC. 14. [Special provisions regarding Sioux allotments.]

SEC. 15. Nothing in this Act shall be construed to impair or prejudice any claim or suit of any Indian tribe against the United States. It is hereby declared to be the intent of Congress that no expenditures for the benefit of Indians made out of appropriations authorized by this Act shall be considered as offsets in any suit brought to recover upon any claim of such Indians against the United States.

SEC. 16. Any Indian tribe, or tribes, residing on the same reservation, shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, which shall become effective when ratified by a majority vote of the adult members of the tribe, or of the adult Indians residing on such reservation, as the case may be, at a special election authorized and called by the Secretary of the Interior under such rules and regulations as he may prescribe. Such constitution and bylaws when ratified as aforesaid and approved by the Secretary of the Interior shall be revocable by an election open to the same voters and conducted in the same manner as hereinabove provided. Amendments to the constitution and bylaws may be ratified and approved by the Secretary in the same manner as the original constitution and bylaws.

In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local Governments. The Secretary of the Interior shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Bureau of the Budget and the Congress.

SEC. 17. The Secretary of the Interior may, upon petition by at least one-third of the adult Indians, issue a charter of incorporation to such tribe: *Provided*, That such charter shall not become operative until ratified at a special election by a majority vote of the adult Indians living on the reservation. Such charter may convey to the incorporated tribe the power to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate, and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange therefor interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law, but no authority shall be granted to sell, mortgage, or lease for a period exceeding ten years any of the land included in the limits of the reservation. Any charter so issued shall not be revoked or surrendered except by Act of Congress.

SEC. 18. This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, shall vote against its application. It shall be the duty of the Secretary of the Interior, within one year after the passage and approval of this Act, to call such an election which election shall be held by secret ballot upon thirty days' notice.

SEC. 19. The term "Indian" as used in this Act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation and shall further include all other persons of one-half or more Indian blood. For the purposes of this Act, Eskimos and other aboriginal peoples of Alaska shall be considered Indians. The term "tribe" wherever used in this Act shall be construed to refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation. The words "adult Indians" wherever used in this Act shall be construed to refer to Indians who have attained the age of twenty-one years.

[*U.S. Statutes at Large*, 48:984–88.]

142. Indian Commissioner Collier on the Wheeler-Howard Act

Extract from the *Annual Report of the Commissioner of Indian Affairs* 1934

Commissioner John Collier, the architect of the policy embodied in the Wheeler-Howard Act, described and praised the act in his annual report of 1934.

. . . In the last paragraph of the Commissioner's annual report for 1933 it was stated:

If we can relieve the Indian of the unrealistic and fatal allotment system, if we can provide

An Act To create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes.

Be it enacted . . . , That there is hereby created and established an Indian Claims Commission, hereafter referred to as the Commission.

SEC. 2. The Commission shall hear and determine the following claims against the United States on behalf of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska: (1) claims in law or equity arising under the Constitution, laws, treaties of the United States, and Executive orders of the President; (2) all other claims in law or equity, including those sounding in tort, with respect to which the claimant would have been entitled to sue in a court of the United States if the United States was subject to suit; (3) claims which would result if the treaties, contracts, and agreements between the claimant and the United States were revised on the ground of fraud, duress, unconscionable consideration, mutual or unilateral mistake, whether of law or fact, or any other ground cognizable by a court of equity; (4) claims arising from the taking by the United States, whether as the result of a treaty of cession or otherwise, of lands owned or occupied by the claimant without the payment for such lands of compensation agreed to by the claimant; and (5) claims based upon fair and honorable dealings that are not recognized by any existing rule of law or equity. No claim accruing after the date of the approval of this Act shall be considered by the Commission.

All claims hereunder may be heard and determined by the Commission notwithstanding any statute of limitations or laches, but all other defenses shall be available to the United States.

In determining the quantum of relief the Commission shall make appropriate deductions for all payments made by the United States on the claim, and for all other offsets, counterclaims, and demands that would be allowable in a suit brought in the Court of Claims under section 145 of the Judicial Code (36 Stat. 1136; 28 U.S.C. sec. 250), as amended; the Commission may also inquire into and consider all money or property given to or funds expended gratuitously for the benefit of the claimant and if it finds that the nature of the claim and the entire course of dealings and accounts between the United States and the claimant in good conscience warrants such action, may set off all or part of such expenditures against any award made to the claimant, except that it is hereby declared to be the policy of Congress that monies spent for the removal of the claimant from one place to another at the request of the United States, or for agency or other administrative, educational, health or highway purposes, or for expenditures made prior to the date of the law, treaty or Executive Order under which the claim arose, or for expenditures made pursuant to the Act of June 18, 1934 (48 Stat. 984), save expenditures made under section 5 of that Act, or for expenditures under any emergency appropriation or allotment made subsequent to March 4, 1933, and generally applicable throughout the United States for relief in stricken agricultural areas, relief from distress caused by unemployment and conditions resulting therefrom, the prosecution of public work and public projects for the relief of unemployment or to increase employment, and for work relief (including the Civil Works Program) shall not be a proper offset against any award. . . .

SEC. 10. Any claim within the provisions of this Act may be presented to the Commission by any member of an Indian tribe, band, or other identifiable group of Indians as the representative of all its members; but wherever any tribal organization exists, recognized by the Secretary of the Interior as having authority to represent such tribe, band, or group, such organization shall be accorded the exclusive privilege of representing such Indians, unless fraud, collusion, or laches on the part of such organization be shown to the satisfaction of the Commission. . . .

SEC. 13. (a) As soon as practicable the Commission shall send a written explanation of the provisions of this Act to the recognized head of each Indian tribe and band, and to any other identifiable groups of American Indians existing as distinct entities, residing within the territorial limits of the United States and Alaska, and to the superintendents of all Indian agencies, who shall promulgate the same, and shall request that a detailed statement of all claims be sent to

the Commission, together with the names of aged or invalid Indians from whom depositions should be taken immediately and a summary of their proposed testimonies. . . .

SEC. 14. The Commission shall have the power to call upon any of the departments of the Government for any information it may deem necessary, and shall have the use of all records, hearings, and reports made by the committees of each House of Congress, when deemed necessary in the prosecution of its business.

At any hearing held hereunder, any official letter, paper, document, map, or record in the possession of any officer or department, or court of the United States or committee of Congress (or a certified copy thereof), may be used in evidence insofar as relevant and material, including any deposition or other testimony of record in any suit or proceeding in any court of the United States to which an Indian or Indian tribe or group was a party, and the appropriate department of the Government of the United States shall give to the attorneys for all tribes or groups full and free access to such letters, papers, documents, maps, or records as may be useful to said attorneys in the preparation of any claim instituted hereunder, and shall afford facilities for the examination of the same and, upon written request by said attorneys, shall furnish certified copies thereof.

SEC. 15. Each such tribe, band, or other identifiable group of Indians may retain to represent its interests in the presentation of claims before the Commission an attorney or attorneys at law, of its own selection, whose practice before the Commission shall be regulated by its adopted procedure. The fees of such attorney or attorneys for all services rendered in prosecuting the claim in question, whether before the Commission or otherwise, shall, unless the amount of such fees is stipulated in the approved contract between the attorney or attorneys and the claimant, be fixed by the Commission at such amount as the Commission, in accordance with standards obtaining for prosecuting similar contingent claims in courts of law, finds to be adequate compensation for services rendered and results obtained, considering the contingent nature of the case, plus all reasonable expenses incurred in the prosecution of the claim; but the amount so fixed by the Commission, exclusive of reimbursements for actual expenses, shall not exceed 10 per centum of the amount recovered in any case. . . .

The Attorney General or his assistants shall represent the United States in all claims presented to the Commission. . . .

[*U.S. Statutes at Large*, 60:1049–56.]

146. Definition of "Indian Country"

June 25, 1948

"Indian Country" became a technical term with a specific legal definition when applied to law enforcement or tribal authority over lands. See Document 235 for its application by the Supreme Court to lands in Alaska in 1998.

An Act to revise, codify, and enact into positive law, Title 18 of the United States Code, entitled "Crimes and Criminal Procedure."

. . . .

CHAPTER 53.—INDIANS

. . . .

§ 1151. INDIAN COUNTRY DEFINED

The term "Indian country," as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

. . . .

[*U.S. Statutes at Large*, 62:683, 757.]

147. House Concurrent Resolution 108

August 1, 1953

In the Eighty-third Congress a fundamental change was made in Indian policy. House Concurrent Resolution 108 declared it to be the policy of the United States to abolish federal supervision over the tribes as soon as possible and to subject the Indians to the same laws, privileges, and responsibilities as other citizens of the United States. As a result of this resolution the government began the process of "termination," which aroused strong opposition on the part of the Indians.

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 Potowatamie 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 States 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.

[*U.S. Statutes at Large*, 67:B132.]

148. Public Law 280

August 15, 1953

Tribal self-determination and tribal relations with the federal government were significantly changed by Public Law 280 of the Eighty-third Congress, which extended state jurisdiction over offenses committed by or against Indians in the Indian country.

An Act To confer jurisdiction on the States of California, Minnesota, Nebraska, Oregon, and Wisconsin, with respect to criminal offenses and civil causes of action committed or arising on Indian reservations within such States, and for other purposes.

. . . . SEC. 2. Title 18, United States Code, is hereby amended by inserting in chapter 53 thereof immediately after section 1161 a new section, to be designated as section 1162, as follows:

"§1162. State jurisdiction over offenses committed by or against Indians in the Indian country

"(a) Each of the States listed in the following table shall have jurisdiction over offenses committed by or against Indians in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over offenses committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country as they have elsewhere within the State:

"State of	Indian country affected
California	All Indian country within the State
Minnesota	All Indian country within the State, except the Red Lake Reservation
Nebraska	All Indian country within the State
Oregon	All Indian country within the State, except the Warm Springs Reservation
Wisconsin	All Indian country within the State, except the Menominee Reservation

"(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof. . . ."

[*U.S. Statutes at Large*, 67:588–90.]

149. Termination of the Menominee Indians

June 17, 1954

The Menominee Indians of Wisconsin were one of the tribes to feel the effects of the termination policy. In 1954 Congress provided for the withdrawal of federal jurisdiction from the tribe, although the law did not take final effect until 1961. After tremendous outcry against the termination policy, the Menominee action was reversed in 1973.

An Act To provide for a per capita distribution of Menominee tribal funds and authorize the withdrawal of the Menominee Tribe from Federal jurisdiction.

Be it enacted . . . , That the purpose of this Act is to provide for orderly termination of Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin.

SEC. 2. For the purposes of the Act—

(a) "Tribe" means the Menominee Indian Tribe of Wisconsin;

(b) "Secretary" means the Secretary of the Interior.

SEC. 3. At midnight of the date of enactment of this Act the roll of the tribe maintained pursuant to the Act of June 15, 1934 (48 Stat. 965), as amended by the Act of July 14, 1939 (53 Stat. 1003), shall be closed and no child born thereafter shall be eligible for enrollment: *Provided*, That applicants for enrollment in the tribe shall have three months from the date the roll is closed in which to submit applications for enrollments: *Provided further*, That the tribe shall have three months thereafter in which to approve or disapprove any application for enrollment: *Provided further*, That any applicant whose application is not approved by the tribe within six months from the date of enactment of this Act may, within three months thereafter, file with the Secretary an appeal from the failure of the tribe to approve his application or from the disapproval of his application, as the case may be. The decision of the Secretary

on such appeal shall be final and conclusive. When the Secretary has made decisions on all appeals, he shall issue and publish in the Federal Register a Proclamation of Final Closure of the roll of the tribe and the final roll of the members. Effective upon the date of such proclamation, the rights or beneficial interests of each person whose name appears on the roll shall constitute personal property and shall be evidenced by a certificate of beneficial interest which shall be issued by the tribe. Such interests shall be distributable in accordance with the laws of the State of Wisconsin. Such interests shall be alienable only in accordance with such regulations as may be adopted by the tribe.

Sec.. 4. Section 6 of the Act of June 15, 1934 (48 Stat. 965, 966) is hereby repealed.

Sec. 5. The Secretary is authorized and directed, as soon as practicable after the passage of this Act, to pay from such funds as are deposited to the credit of the tribe in the Treasury of the United States $1,500 to each member of the tribe on the rolls of the tribe on the date of the Act. Any other person whose application for enrollment on the rolls of the tribe is subsequently approved, pursuant to the terms of section 3 hereof, shall, after enrollment, be paid a like sum of $1,500: *Provided*, That such payments shall be made first from any funds on deposit in the Treasury of the United States to the credit of the Menominee Indian Tribe drawing interest at the rate of 5 per centum, and thereafter from the Menominee judgment fund, symbol 14X7142.

Sec. 6. The tribe is authorized to select and retain the services of qualified management specialists, including tax consultants, for the purpose of studying industrial programs on the Menominee Reservation and making such reports or recommendations, including appraisals of Menominee tribal property, as may be desired by the tribe, and to make other studies and reports as may be deemed necessary and desirable by the tribe in connection with the termination of Federal supervision as provided for hereinafter. Such reports shall be completed not later than December 31, 1957. Such specialists are to be retained under contracts entered into between them and authorized representatives of the tribe, subject to approval by the Secretary. Such amounts of Menominee tribal funds as may be required for this purpose shall be made available by the Secretary.

Sec. 7. The tribe shall formulate and submit to the Secretary a plan or plans for the future control of the tribal property and service functions now conducted by or under the supervision of the United States, including, but not limited to, services in the fields of health, education, welfare, credit, roads, and law and order. The Secretary is authorized to provide such reasonable assistance as may be requested by officials of the tribe in the formulation of the plan or plans heretofore referred to, including necessary consultations with representatives of Federal departments and agencies, officials of the State of Wisconsin and political subdivisions thereof, and members of the tribe: *Provided*, That the responsibility of the United States to furnish all such supervision and services to the tribe and to the members thereof, because of their status as Indians, shall cease on December 31, 1958, or on such earlier date as may be agreed upon by the tribe and the Secretary.

Sec. 8. The Secretary is hereby authorized and directed to transfer to the tribe, on December 31, 1958, or on such earlier date as may be agreed upon by the tribe and the Secretary, the title to all property, real and personal, held in trust by the United States for the tribe: *Provided, however*, That if the tribe obtains a charter for a corporation or otherwise organizes under the laws of a State or of the District of Columbia for the purpose, among any others, of taking title to all tribal lands and assets and enterprises owned by the tribe or held in trust by the United States for the tribe, and requests such transfer to be made to such corporation or organization, the Secretary shall make such transfer to such corporation or organization.

Sec. 9. No distribution of the assets made under the provisions of this Act shall be subject to any Federal or State income tax: *Provided*, That so much of any cash distribution made hereunder as consists of a share of any interest earned on funds deposited in the Treasury of the United States pursuant to the Supplemental Appropriation Act, 1952 (65 Stat. 736, 754), shall not by virtue of this Act be exempt from individual income tax in the hands of the recipients for the year in which paid. Following any distribution of assets made under the provisions of this Act,

such assets and any income derived therefrom in the hands of any individual, or any corporation or organization as provided in section 8 of this Act, shall be subject to the same taxes, State and Federal, as in the case of non-Indians, except that any valuation for purposes of Federal income tax on gains or losses shall take as the basis of the particular taxpayer the value of the property on the date title is transferred by the United States pursuant to section 8 of this Act.

Sec. 10. When title to the property of the tribe has been transferred, as provided in section 8 of this Act, the Secretary shall publish in the Federal Register an appropriate proclamation of that fact. Thereafter individual members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction. Nothing in this Act shall affect the status of the members of the tribe as citizens of the United States.

Sec. 11. Prior to the transfer pursuant to section 8 of this Act, the Secretary shall protect the rights of members of the tribe who are less than eighteen years of age, non compos mentis, or in the opinion of the Secretary in need of assistance in conducting their affairs, by causing the appointment of guardians for such members in courts of competent jurisdiction, or by such other means as he may deem adequate.

Sec. 12. The Secretary is authorized and directed to promulgate such rules and regulations as are necessary to effectuate the purposes of this Act.

Sec. 13. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

[*U.S. Statutes at Large*, 68:250–52.]

150. Transfer of Indian Health Services

August 5, 1954

In order to provide better health facilities for the Indians, hospitals and health care were transferred from the Bureau of Indian Affairs to the Public Health Service of the Department of Health, Education, and Welfare.

An Act To transfer the maintenance and operation of hospital and health facilities for Indians to the Public Health Service, and for other purposes.

Be it enacted . . . , That all functions, responsibilities, authorities, and duties of the Department of the Interior, the Bureau of Indian Affairs, Secretary of the Interior, and the Commissioner of Indian Affairs relating to the maintenance and operation of hospital and health facilities for Indians, and the conservation of the health of Indians, are hereby transferred to, and shall be administered by, the Surgeon General of the United States Public Health Service, under the supervision and direction of the Secretary of Health, Education, and Welfare: *Provided*, That hospitals now in operation for a specific tribe or tribes of Indians shall not be closed prior to July 1, 1956, without the consent of the governing body of the tribe or its organized council.

Sec. 2. Whenever the health needs of the Indians can be better met thereby, the Secretary of Health, Education, and Welfare is authorized in his discretion to enter into contracts with any State, Territory, or political subdivision thereof, or any private nonprofit corporation, agency or institution providing for the transfer by the United States Public Health Service of Indian hospitals or health facilities, including initial operating equipment and supplies.

It shall be a condition of such transfer that all facilities transferred shall be available to meet the health needs of the Indians and that such health needs shall be given priority over those of the non-Indian population. No hospital or health facility that

has been constructed or maintained for a specific tribe of Indians, or for a specific group of tribes, shall be transferred by the Secretary of Health, Education, and Welfare to a non-Indian entity or organization under this Act unless such action has been approved by the governing body of the tribe, or by the governing bodies of a majority of the tribes, for which such hospital or health facility has been constructed or maintained: *Provided*, That if, following such transfer by the United States Public Health Service, the Secretary of Health, Education, and Welfare finds the hospital or health facility transferred under this section is not thereafter serving the need of the Indians, the Secretary of Health, Education, and Welfare shall notify those charged with management thereof, setting forth needed improvements, and in the event such improvements are not made within a time to be specified, shall immediately assume management and operation of such hospital or health facility.

SEC. 3. The Secretary of Health, Education, and Welfare is also authorized to make such other regulations as he deems desirable to carry out the provisions of this Act. . . .

[*U.S. Statutes at Large*, 68:674].

151. Relocation of Indians in Urban Areas

Extract from the *Annual Report of the Commissioner of Indian Affairs*

1954

The progress of the relocation policy, initiated in the 1950s to move Indians from the reservations to urban areas, was described optimistically by Commissioner of Indian Affairs Glenn L. Emmons in 1954.

. . . . During the 1954 fiscal year, 2,163 Indians were directly assisted to relocate under the Bureau's relocation program. This included 1,649 persons in over 400 family groups, and 514 unattached men and women. In addition, over 300 Indians left reservations without assistance to join relatives and friends who had been assisted to relocate. At their destination, Bureau Relocation Offices assisted this group also to adjust to the new community. The total number of relocations represented a substantial increase over relocations during the previous fiscal year.

Of the 2,163 Indians assisted to relocate, financial assistance, to cover all or part of the costs of transportation to the place of relocation and short-term temporary subsistence, were provided to 1,637 Indians, in addition to relocation services. This number included 1,329 persons in over 300 family groups, and 308 unattached men and women. An additional 526 Indians, including 320 in approximately 100 family groups and 206 unattached men and women, were assisted to relocate without financial assistance, but were provided relocation services only. These services included counseling and guidance prior to relocation, and assistance in establishing residence and securing permanent employment in the new community.

In addition to the above-mentioned persons who were assisted to relocate, Bureau Relocation Offices assisted a number of Indian workers to secure employment which did not involve relocation, and cooperated with public employment offices and the Railroad Retirement Board in recruitment of Indians for temporary and seasonal work. However, in order to concentrate on providing relocation services, placement activities which do not involve relocation have been progressively decreased and responsibility for such placement activities has been largely left to established employment agencies. In recognition of this emphasis, and following the recommendation of the survey team for the Bureau of Indian Affairs, the name of the former Branch of Placement and Relocation was changed during the year to the Branch of Relocation.

Approximately 54 percent of the Indians assisted to relocate came from 3 northern areas (Aberdeen, Billings, and Minneapolis), and 46 percent came from 4 southern areas (Anadarko, Gallup, Muskogee, and Phoenix). They went to 20 different States. The Los Angeles and Chicago metropolitan areas continued to be the chief centers of relocation.

On the reservations there was continued interest in relocation throughout the year. Relocation assistance funds were used up in almost every area, and at the end of the year there was a backlog of applications for relocation. Letters from relocated Indians to friends and relatives back on the reservation, describing their experiences and new standards of living, served to stimulate interest as did a decrease in employment opportunities in the vicinity of some of the reservations and a marked decrease in railroad employment.

There was a slight tightening of the labor market during part of the year. However, through intensive efforts on the part of field relocation offices, it was still possible to assure permanent types of employment to almost all qualified workers who requested assistance in settling away from reservations. Field relocation offices followed a policy of securing employment for Indians in diversified industries and with a large number of employers. This policy proved of great benefit when industrial disputes developed in certain industries on the west coast.

To adjust to changes in the labor market which reduced employment in military installations and certain Government projects, the field relocation office formerly located in Salt Lake City was transferred to Oakland, Calif., effective June 1.

The Chicago Field Relocation Office, in recognition of the needs of the growing number of relocatees in that city and in accordance with the Bureau policy of encouraging the development of non-Bureau facilities for Indians, assisted in the establishment of an All-Tribes American Indian Center in Chicago. This center raised its own funds, and under the directorship of a board composed almost entirely of Indians, began providing opportunities for Indian relocatees to meet, engage in social and recreational programs, exchange experiences, and assist each other. Its operations were completely independent of the Bureau. . . .

[*Annual Report of the Secretary of the Interior, 1954*, pp. 242–43.]

152. Senator Watkins on Termination Policy

May 1957

The principal congressional promoter of the termination policy was Senator Arthur V. Watkins of Utah. In an article published in 1957 he gave a clear statement of the policy and of the arguments for it.

Virtually since the first decade of our national life the Indian, as tribesman and individual, was accorded a status apart. Now, however, we think constructively and affirmatively of the Indian as a fellow American. We seek to assure that in health, education, and welfare, in social, political, economic, and cultural opportunity, he or she stands as one with us in the enjoyment and responsibilities of our national citizenship. It is particularly gratifying to know that recent years of united effort, mutual planning, and Indian self-appraisal truly have begun to bear increasing fruit.

One facet of this over-all development concerns the freeing of the Indians from special federal restrictions on the property and the person of the tribes and their members. This is not a novel development, but a natural outgrowth of our relationship with the Indians. Congress is fully agreed upon its accomplishment. By unanimous vote in both the Senate and the House of Representatives termination of such special federal supervision has been called for as soon as possible. . . .

A little more than two years ago—June 17, 1954—President Dwight D. Eisenhower signed a bill approved by the Eighty-third Congress that signified a landmark in Indian legislative history. By this measure's terms an Indian tribe and its members, the Menominee of Wisconsin, were assured that after a brief transition period they would at last have full control of their own affairs and would possess all of the attributes of complete American citizenship. This was a most worthy moment in our history. We should all dwell upon its deep meaning. Considering the lengthy span of our Indian relationship, the recency of this event is significant.

Obviously, such affirmative action for the great majority of Indians has just begun. Moreover, it should be noted that the foundations laid are solid.

Philosophically speaking, the Indian wardship problem brings up basically the questionable merit of treating the Indian of today as an Indian, rather than as a fellow American citizen. Now, doing away with restrictive federal supervision over Indians, as such, does *not* affect the retention of those cultural and racial qualities which people of Indian descent would wish to retain; many of us are proud of our ancestral heritage, but that does not nor should it alter our status as American citizens. The distinction between abolishment of wardship and abandonment of the Indian heritage is vitally important. . . .

Unfortunately, the major and continuing Congressional movement toward full freedom was delayed for a time by the Indian Reorganization Act of 1934, the Wheeler-Howard Act. Amid the deep social concern of the depression years, Congress deviated from its accustomed policy under the concept of promoting the general Indian welfare. In the postdepression years Congress—realizing this change of policy—sought to return to the historic principles of much earlier decades. Indeed, one of the original authors of the Act was desirous of its repeal. We should recall, however, that war years soon followed in which Congress found itself engrossed in problems first of national defense and then of mutual security. As with many other major projects, action was thus delayed. . . .

We may admit the it-takes-time view, but we should not allow it to lull us into inaction. Freedom of action for the Indian as a full-fledged citizen—that is the continuing aim. Toward this end Congress and the Administration, state and local governments, Indian tribes and members, interested private agencies, and individual Americans as responsible citizens should all be united and work constantly. The legislatively set target dates for Indian freedom serve as significant spurs to accomplishment. Congress steadily continues to inform itself, to seek out, delimit, and assist those Indians most able to profit immediately by freedom from special supervision, and it acts primarily to speed the day for all Indian tribes and members to be relieved of their wardship status. A basic purpose of Congress in setting up the Indian Claims Commission was to clear the way toward complete freedom of the Indians by assuring a final settlement of all obligations—real or purported—of the federal government to the Indian tribes and other groups. . . .

The basic principle enunciated so clearly and approved unanimously by the Senate and House in House Concurrent Resolution 108 of the Eighty-third Congress continues to be the over-all guiding policy of Congress in Indian affairs. In view of the historic policy of Congress favoring freedom for the Indians, we may well expect future Congresses to continue to indorse the principle that "as rapidly as possible" we should end the status of Indians as wards of the government and grant them all of the rights and prerogatives pertaining to American citizenship.

With the aim of "equality before the law" in mind our course should rightly be no other. Firm and constant consideration for those of Indian ancestry should lead us all to work diligently and carefully for the full realization of their national citizenship with all other Americans. Following in the footsteps of the Emancipation Proclamation of ninety-four years ago, I see the following words emblazoned in letters of fire above the heads of the Indians—*THESE PEOPLE SHALL BE FREE!*

[*Annals of the American Academy of Political and Social Science* 311 (May 1957): 47–50, 55. Reprinted with permission.]

153. Secretary of the Interior Seaton on Termination Policy

September 18, 1958

The first significant break in the termination policy of the federal government came in a radio speech made by Secretary of the Interior Fred A. Seaton in Flagstaff, Arizona, September 18, 1958. Seaton rejected termination without full consent of the Indians concerned.

. . . . On August 1, 1953, House Concurrent Resolution No. 108 was adopted expressing the sense of the Congress of the United States to be that of ending the wardship status of Indian tribes as rapidly as possible. Certain additional provisions applied to Indian tribes located in the States of California, Florida, New York, and Texas, and to some other tribes in other States, with relation to the earliest possible elimination of Federal control over their persons and properties.

This stands as the most recent congressional declaration upon the subject.

Since that time—that is since 1953—the pros and cons of public opinion relative to congressional policy on Indian affairs have been given wide expression in the press and in other media throughout the country. Some people have interpreted these statements to mean that it is the intention of Congress and the Department of the Interior to abandon Indian groups regardless of their ability to fend for themselves.

In my opinion, the stated intentions of the Congress to free Indian tribes from Federal supervision, and to eliminate the need for the special services rendered by the Bureau of Indian Affairs to Indian citizens, is more than adequately counterbalanced in the congressional resolution itself. I now refer you to such qualifying phrases as, and I quote, "at the earliest possible time," and "at the earliest practicable date." The intent is clear, I believe. What the Congress intended was to state an objective, not an immediate goal.

Just today I discussed that matter with Senator Barry Goldwater, of Arizona, who tells me that his memory of the debate is very clear and that what I have said to you was, in his opinion, the intent of the Congress. If the resolution in any way lent itself to varied interpretation, and evidently it did in the minds of some people, the subsequently expressed policies of the Department of the Interior and the Bureau of Indian Affairs, as well as the actions of Congress itself since 1953, should place the national policy statement on Indian affairs in a clear perspective.

To be specific, my own position is this: 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.

Now, ladies and gentlemen, it is absolutely unthinkable to me as your Secretary of the Interior that consideration would be given to forcing upon an Indian tribe a so-called termination plan which did not have the understanding and acceptance of a clear majority of the members affected. Those tribes which have thus far sought to end their Federal wardship status have, in each instance, demonstrated their acceptance of the plan prior to action by the Congress. I shall continue to insist this be the case and I hope and believe that Congress and its leaders will pursue the same course. To make my position perfectly clear, as long as I am Secretary of the Interior, I shall be dedicated to preserving the principle which I have just enunciated.

I further believe the Commissioner of Indian Affairs tried to make the position of the Congress and the Department of the Interior clear when in the fall of 1953, he stated, and I quote, "We want to give the Indians the same opportunities for advancement—the same freedom and responsibility for the management of their properties—as have other American citizens." Then Mr. Emmons continued, "I know that there are some tribes which 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." He then added he recognized that in many areas there is a real need for a continuation of the trusteeship and will be for a span of years. And so it seems to me the intent has never been one of precipitating Indian groups into a position for which they were unprepared.

True enough, Indian groups can continue to exist as cultural islands in the midst of our national populations, isolated from the main group by language and custom, and living at standards far below those of the average American citizen. They can do this. In fact, many of them have done so for many years. But let me put this question to you: "Does the majority of the population of such tribes prefer to live in that manner, or does it do so because there seems to be no other choice? Or does it do so because there is no general awareness of the alternatives?" I believe the

majority of our Indian citizens are as desirous and capable of exercising all of the duties and responsibilities of citizenship as are the rest of us, provided they have equal opportunities with their fellow citizens. And having said that, I want to add this: 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. . . .

[*Congressional Record*, 105:3105.]

154. Williams v. Lee

January 12, 1959

In this case the Supreme Court, reversing a decision of the Arizona Supreme Court, protected the authority of tribal courts. The legal historian Charles F. Wilkinson says the case "opened the modern era of federal Indian law" and that "its paradigm of exclusive tribal judicial jurisdiction is a leading example of the special rules that the Court has recognized during the modern era to protect tribal government in Indian country."

. . . .

Respondent, who is not an Indian, operates a general store in Arizona on the Navajo Indian Reservation under a license required by federal statute. He brought this action in the Supreme Court of Arizona against petitioners, a Navajo Indian and his wife who live on the Reservation, to collect for goods sold them there on credit. Over petitioners' motion to dismiss on the ground that jurisdiction lay in the tribal court rather than in the state court, judgment was entered in favor of respondent. The Supreme Court of Arizona affirmed, holding that since no Act of Congress expressly forbids their doing so Arizona courts are free to exercise jurisdiction over civil suits by non-Indians against Indians though the action arises on an Indian reservation. . . . Because this was a doubtful determination of the important question of state power over Indian affairs, we granted certiorari. . . .

There can be no doubt that to allow the exercise of state jurisdiction here would undermine the authority of the tribal courts over Reservation affairs and hence would infringe on the right of the Indians to govern themselves. It is immaterial that respondent is not an Indian. He was on the Reservation and the transaction with an Indian took place there. . . . The cases in this Court have consistently guarded the authority of Indian governments over their reservations. Congress recognized this authority in the Navajos in the Treaty of 1868, and has done so ever since. If this power is to be taken away from them, it is for Congress to do it. . . .

[358 *U.S. Reports*, 217–18, 223.]

155. Native American Church v. Navajo Tribal Council

November 17, 1959

The Native American Church undertook action to enjoin enforcement of an ordinance of the Navajo tribal council which made it an offense to use peyote. The plaintiff argued that the ordinance violated the freedom of religion clause of the First Amendment. The United States Court of Appeals, Tenth Circuit, held that the First Amendment did not bind the tribal council even though its laws had an impact on forms of religious worship.

. . . . No law is cited and none has been found which undertakes to subject the Navajo tribe to the laws of the United States with respect to their internal affairs, such as police powers and ordinances passed for the purposes of regulating the conduct of the members of the tribe on the reservation. It follows that the Federal courts are without jurisdiction over matters involving purely penal ordinances passed by the Navajo legislative body for the regulation of life on the reservation.

But it is contended that the First Amendment to the United States Constitution applies to Indian nations and tribes as it does to the United States and to the States. It is, accordingly, argued that the ordinance in question violates the Indians' rights of religious freedom and freedom of worship guaranteed by the First Amendment. No case is cited and none has been found where the impact of the First Amendment, with respect to religious freedom and freedom of worship by members of the Indian tribes, has been before the court. . . .

The First Amendment applies only to Congress. It limits the powers of Congress to interfere with religious freedom or religious worship. It is made applicable to the States only by the Fourteenth Amendment. Thus construed, the First Amendment places limitations upon the action of Congress and of the States. But as declared in the decisions hereinbefore discussed, Indian tribes are not states. They have a status higher than that of states. They are subordinate and dependent nations possessed of all powers as such only to the extent that they have expressly been required to surrender them by the superior sovereign, the United States. The Constitution is, of course, the supreme law of the land, but it is nonetheless part of the laws of the United States. Under the philosophy of the decisions, it, as any other law, is binding upon Indian nations only where it expressly binds them, or is made binding by treaty or some act of Congress. No provision in the Constitution makes the First Amendment applicable to Indian nations nor is there any law of Congress doing so. It follows that neither, under the Constitution or the laws of Congress, do the Federal courts have jurisdiction of tribal laws or regulations, even though they may have an impact to some extent on forms of religious worship.

[272 *Federal Reporter*, 2d series, 131, 134–35.]

156. A Program for Indian Citizens

January 1961

The private Commission on the Rights, Liberties, and Responsibilities of the American Indian, established in 1957 by the Fund for the Republic, published a summary report in 1961. The report was one of a number of prominent statements urging new attention to Indian wishes. The first section, printed here, dealt with Indian values. Other sections discussed termination, economic development, tribal government, education, health, and the Bureau of Indian Affairs. A final report was published in 1966, entitled The Indian: America's Unfinished Business.

INDIAN VALUES AND ATTITUDES

INTRODUCTION

The Indian himself should be the focus of all government policy affecting him. Money, land, education, and technical assistance are to be considered only as means to an end: on the one hand, that of restoring the Indian's pride of origin and faith in himself—a faith undermined by years of political and economic dependence on the Federal government; on the other, the arousing of a desire to share in the benefits of modern civilization. These are deeply human considerations. If neglected, they will defeat the best-intentioned of government plans.

To encourage pride in Indianness is not to turn back the clock. On the contrary, it is to recognize that the United States policy has hitherto failed to use this vital factor effectively as a force for assimilation and for enriching American culture. As a result, Indians who have already entered the dominant

society have generally disdained their historic background, drawing away from it as though ashamed. Instead of serving as a bridge to enable others to move freely between the two worlds, they have too often interpreted their heritage imperfectly to the majority race and have proved useless in explaining their adopted culture to their own people. Only men who have a foot in each way of life and an appreciation of both can effectively lessen the gap which divides the two and thus cross-fertilize both.

No program imposed from above can serve as a substitute for one willed by Indians themselves. Nor is their mere consent to a plan to be taken as sufficient. Such "consent" may be wholly passive, representing a submission to the inevitable, or it may be obtained without their full understanding or before they are either able or willing to shoulder unfamiliar responsibilities. What is essential is to elicit their own initiative and intelligent cooperation.

While emphasis should as hitherto be put on fitting Indian youth for its new opportunities and responsibilities, we yet must not dismiss the old Indian culture as being necessarily a barrier to change. In their society and in their religion, Indians believe they have values worth preserving. These are sometimes stated in mystical terms and, if related to the Supreme Being, are sometimes kept secret. Nonetheless they exist. Two examples out of many involve their idea of unity and their reverence for Mother Earth.

Unity is evidenced by the individual's voluntarily working with the community of which he is a part. He gives his strength and help to perpetuate the traditional culture. Cohesion is also furthered in many tribes by a veneration for elders and reliance on their wisdom. Status as well as personal security is often gained by service. Conversely, the pattern of sinking self into the group tends to discourage competitiveness or a pride in the possession of material objects for their monetary value. This complex of attitudes is perhaps one of the reasons for the improvidence of many Indians. Since ideals, however, are not consistently achieved, exceptions to the norm are found in every group.

The spiritual attachment to nature, an essential aspect of many pre-Columbian cultures, has brought the Indian into an intimate accord with the elements. This appears strikingly evident in the Indian attitude toward land. Land is believed to be part of a benevolent mother and, like her, vital to life. Among Indian tribes it was generally considered to be not a merchantable product but one the user had the natural right to enjoy. These attitudes and the attachment to their ancient religion and customs still tend to persist.

These and related ideas, if given due weight as part of the Indian's heritage, will prevent the confusion brought about in both races by the assumption that assimilation may be achieved through Indians' adopting a few simple attitudes of their white neighbors. For example, it is often said that the Indian *needs to be thrifty, to acquire habits of diligence, and to learn the importance of punctuality.*

Yet in their own culture, where the goals were understood, Indians were economical, were hard-working, and possessed a keen appreciation of time. Thrift was shown in their utilization of every part of animals killed in the chase, as well as by their gathering and drying of berries and edible roots. Hunting or tilling the soil with wooden sticks to grow enough food for the family demanded a high order of perseverance. The element of time for the agriculturists was determined by the planting and harvesting seasons, and for the hunter by the habits of the animals he stalked down. In each case, time was a vital factor, though not in the white man's sense of hours and minutes marked on the clock.

In occupations which appeal to the established Indian ideals, such as those calling for facing danger, for careful craftsmanship, or for common effort, Indians have not only found satisfaction but have achieved national recognition. Teams of Iroquois are outstanding structural steelworkers on high bridges and skyscrapers; groups of Apache and Pueblo "Red-Hats," flown to fight fires in the western forests, have excelled at this perilous work; and the demand for Navajos in factories which require delicate precision work is well known.

Nor should it be overlooked that Indian values are not unique. "Honour thy father and thy mother" is a commandment found among many peoples. The importance of any set of values does not arise from their origin, existence, uniqueness, or validity. What is of paramount concern is that we recognize those of the Indian in making plans for the race.

The matter of government aid also requires a new look. Since 1933 the dominant society has been meeting its human needs in ways similar to those traditional to Indian tribes. "Sharing" was with them a means of helping the helpless. The United States has supplied comparable relief through Social Security, and aid to the old, the blind, and dependent, crippled children, and the unemployed as well as by free distribution of surplus commodities. In other respects also, it has been extending to the entire population the kind of help formerly given only to Indians. Such things as Federal financial assistance for public schools, scholarships, the construction of highways and hospitals, and medical aid to the elderly are now benefits available to or planned for all Americans. These services have come as a consequence of Acts of Congress. The Indians through the years have received theirs as a result of bargains set forth in treaties, agreements, statutes, and policies.

As the outlook of two civilizations converges and the services to the rest of the people, financed partially or largely by the United States, actually outstrip those once given only to Indians, the movement of Indians into the broader society will be facilitated. What the members of this underprivileged race need is more and better education, improved economic assistance, a better state of health, and a more carefully designed preparation for the responsibilities of the white man's way of life. Provided that they can avail themselves of the services enjoyed by the rest of us, and also that they find material opportunities appropriate to their abilities, Indians can only benefit from a merging of the two cultures.

RECOMMENDATIONS

An objective which should undergird all Indian policy is that the Indian individual, the Indian family, and the Indian community be motivated to participate in solving their own problems. The Indian must be given responsibility, must be afforded an opportunity he can utilize, and must develop faith in himself.

Indian-made plans should receive preferential treatment, and, when workable, should be adopted.

Government programs would be more effective if plans for education, health and economic development drew on those parts of the Indian heritage which are important not only to the Indians but also to the cultural enrichment of modern America. . . .

[*A Program for Indian Citizens: A Summary Report* (Albuquerque, N. Mex.: Commission on the Rights, Liberties, and Responsibilities of the American Indian, 1961), pp. 1–4.]

157. Declaration of Indian Purpose

June 1961

A notable conference of Indians from many tribes met at the University of Chicago in June 1961. It drew up a declaration of purpose, including proposals and recommendations on economic development, health, welfare, housing, education, law, and other topics. Printed here are the initial creed and the concluding statement, as well as legislative and regulatory proposals.

CREED

WE BELIEVE in the inherent right of all people to retain spiritual and cultural values, and that the free exercise of these values is necessary to the normal development of any people. Indians exercised this inherent right to live their own lives for thousands of years before the white man came and took their lands. It is a more complex world in which Indians live today, but the Indian people who first settled the New World and built the great civilizations which only now are being dug out of the past, long ago demonstrated that they could master complexity.

WE BELIEVE that the history and development of America show that the Indian has been subjected to duress, undue influence, unwarranted pressures, and policies which have produced uncertainty, frustration, and

despair. Only when the public understands these conditions and is moved to take action toward the formulation and adoption of sound and consistent policies and programs will these destroying factors be removed and the Indian resume his normal growth and make his maximum contribution to modern society.

WE BELIEVE in the future of a greater America, an America which we were first to love, where life, liberty, and the pursuit of happiness will be a reality. In such a future, with Indians and all other Americans cooperating, a culture climate will be created in which the Indian people will grow and develop as members of a free society.

LEGISLATIVE AND REGULATORY PROPOSALS

In order that basic objectives may be restated and that action to accomplish these objectives may be continuous and may be pursued in a spirit of public dedication, it is proposed that recommendations be adopted to strengthen the principles of the Indian Reorganization Act and to accomplish other purposes. These recommendations would be comparable in scope and purpose to the Indian Trade and Intercourse Act of June 30, 1834, the Act of the same date establishing the Bureau of Indian Affairs, and the Indian Reorganization Act of June 18, 1934, which recognized the inherent powers of Indian Tribes.

The recommendations we propose would redefine the responsibilities of the United States toward the Indian people in terms of a positive national obligation to modify or remove the conditions which produce the poverty and lack of social adjustment as these prevail as the outstanding attributes of Indian life today. Specifically, the recommendations would:

(1) Abandon the so-called termination policy of the last administration by revoking House Concurrent Resolution 108 of the 83rd Congress.

(2) Adopt as official policy the principle of broad educational process as the procedure best calculated to remove the disabilities which have prevented Indians from making full use of their resources.

It has been long recognized that one Commissioner cannot give the personal attention to all tribal matters which they deserve. He cannot meet all callers to his office, make necessary visits to the field, and give full attention to the review of tribal programs and supporting budget requests. In view of these conditions, we most urgently recommend that the present organization of the Bureau of Indian Affairs be reviewed and that certain principles be considered no matter what the organizational change might be.

The basic principle involves the desire on the part of Indians to participate in developing their own programs with help and guidance as needed and requested, from a local decentralized technical and administrative staff, preferably located conveniently to the people it serves. Also in recent years certain technical and professional people of Indian descent are becoming better qualified and available to work with and for their own people in determining their own programs and needs. The Indians as responsible individual citizens, as responsible tribal representatives, and as responsible Tribal Councils want to participate, want to contribute to their own personal and tribal improvements and want to cooperate with their Government on how best to solve the many problems in a business-like, efficient and economical manner as rapidly as possible.

It is, therefore, recommended that:

1. Area offices be abolished and their authority be given to the agency superintendents.

2. The position of reservation Superintendent be strengthened to permit broader exercise of responsibility and authority to act on significant and important matters of daily operations of Indian problems, preventing undue delays.

3. Position qualifications require the employment of Superintendents with courage and determination, among other qualities, to help with local problems and be willing to make without further referral to higher levels, decisions commensurate with the delegated authorities.

4. The Superintendent be charged with the responsibilities of cooperating with the local tribal governing bodies in developing the Federal Program and Budget for that particular tribe or reservation. . . .

CONCLUDING STATEMENT

To complete our Declaration, we point out that in the beginning the people of the New World, called Indians by accident of geography, were possessed of a continent and a way of life. In the course of many lifetimes, our people had adjusted to every climate and condition from the Arctic to the torrid zones. In their livelihood and family relationships, their ceremonial observances, they reflected the diversity of the physical world they occupied.

The conditions in which Indians live today reflect a world in which every basic aspect of life has been transformed. Even the physical world is no longer the controlling factor in determining where and under what conditions men may live. In region after region, Indian groups found their means of existence either totally destroyed or materially modified. Newly introduced diseases swept away or reduced regional populations. These changes were followed by major shifts in the internal life of tribe and family.

The time came when the Indian people were no longer the masters of their situation. Their life ways survived subject to the will of a dominant sovereign power. This is said, not in spirit of complaint; we understand that in the lives of all nations of people, there are times of plenty and times of famine. But we do speak out in a plea for understanding.

When we go before the American people, as we do in this Declaration, and ask for material assistance in developing our resources and developing our opportunities, we pose a moral problem which cannot be left unanswered. For the problem we raise affects the standing which our nation sustains before world opinion.

Our situation cannot be relieved by appropriated funds alone, though it is equally obvious that without capital investment and funded services, solutions will be delayed. Nor will the passage of time lessen the complexities which beset people moving toward new meaning and purpose.

The answers we seek are not commodities to be purchased, neither are they evolved automatically through the passing of time.

The effort to place social adjustments on a money-time interval scale which has characterized Indian administration, has resulted in unwanted pressure and frustration.

When Indians speak of the continent they yielded, they are not referring only to the loss of some millions of acres in real estate. They have in mind that the land supported a universe of things they knew, valued, and loved.

With that continent gone, except for the few poor parcels they still retain, the basis of life is precariously held, but they mean to hold the scraps and parcels as earnestly as any small nation or ethnic group was ever determined to hold to identity and survival.

What we ask of America is not charity, not paternalism, even when benevolent. We ask only that the nature of our situation be recognized and made the basis of policy and action.

In short, the Indians ask for assistance, technical and financial, for the time needed, however long that may be, to regain in the America of the space age some measure of the adjustment they enjoyed as the original possessors of their native land.

[*Declaration of Indian Purpose* (Chicago: American Indian Chicago Conference, University of Chicago, 1961), pp. 5–6, 19–20.]

158. Task Force on Indian Affairs

Extract from the *Annual Report of the Commissioner of Indian Affairs*

1961

Secretary of the Interior Stewart Udall in February 1961 appointed a special Task Force on Indian Affairs, which submitted a report on Indian conditions on July 10, 1961. The recommendations of the Task Force were summarized by Commissioner of Indian Affairs Philleo Nash in his report for 1961.

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

ever before, Indian needs are being identified from the Indian viewpoint as they should be.

This principle is the key to progress for Indians—just as it has been for other Americans. If we base our programs upon it, the day will come when the relationship between Indians and the Government will be one of full partnership—not dependency. . . .

[Sections on education, health and medical care, jobs and economic development, community services, civil rights, off-reservation Indians, and Alaska Natives claims.]

The First Americans

The program I propose seeks to promote Indian development by improving health and education, encouraging long-term economic growth, and strengthening community institutions.

Underlying this program is the assumption that the Federal government can best be a responsible partner in Indian progress by treating the Indian himself as a full citizen, responsible for the pace and direction of his development.

But there can be no question that the government and the people of the United States have a responsibility to the Indians.

In our efforts to meet that responsibility, we must pledge to respect fully the dignity and the uniqueness of the Indian citizen.

That means partnership—not paternalism.

We must affirm the right of the first Americans to remain Indians while exercising their rights as Americans.

We must affirm their right to freedom of choice and self-determination.

We must seek new ways to provide Federal assistance to Indians—with new emphasis on Indian self-help and with respect for Indian culture.

And we must assure the Indian people that it is our desire and intention that the special relationship between the Indian and his government grow and flourish.

For, the first among us must not be last.

I urge the Congress to affirm this policy and to enact this program.

[*Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1968–69*, 1:336–37, 343–44.]

160. Civil Rights Act of 1968

April 11, 1968

Titles II–VII of the Civil Rights Act of 1968 dealt with Indian matters. Most significant was the application of the provisions of the Bill of Rights to Indians in their relations with the tribal governments, the authorization of a model code for courts of Indian offenses, and the requirement that Indian consent be given to assumption by states of jurisdiction over Indian country.

An Act To prescribe penalties for certain acts of violence or intimidation, and for other purposes.

TITLE II—RIGHTS OF INDIANS

DEFINITIONS

Sec. 201. For purposes of this title, the term—

(1) "Indian tribe" means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government;

(2) "powers of self-government" means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and

(3) "Indian court" means any Indian tribal court or court of Indian offense.

INDIAN RIGHTS

Sec. 202. No Indian tribe in exercising powers of self-government shall—

(1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(3) subject any person for the same offense to be twice put in jeopardy;

(4) compel any person in any criminal case to be a witness against himself;

(5) take any private property for a public use without just compensation;

(6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;

(7) require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of six months or a fine of $500, or both;

(8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

(9) pass any bill of attainder or ex post facto law; or

(10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

HABEAS CORPUS

Sec. 203. The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

TITLE III—MODEL CODE GOVERNING COURTS OF INDIAN OFFENSES

Sec. 301. The Secretary of the Interior is authorized and directed to recommend to the Congress, on or before July 1, 1968, a model code to govern the administration of justice by courts of Indian offenses on Indian reservations. Such code shall include provisions which will (1) assure that any individual being tried for an offense by a court of Indian offenses shall have the same rights, privileges, and immunities under the United States Constitution as would be guaranteed any citizen of the United States being tried in a Federal court for any similar offense, (2) assure that any individual being tried for an offense by a court of Indian offenses will be advised and made aware of his rights under the United States Constitution, and under any tribal constitution applicable to such individual, (3) establish proper qualifications for the office of judge of the courts of Indian offenses, and (4) provide for the establishing of educational classes for the training of judges of courts of Indian offenses. In carrying out the provisions of this title, the Secretary of the Interior shall consult with the Indians, Indian tribes, and interested agencies of the United States.

Sec. 302. There is hereby authorized to be appropriated such sum as may be necessary to carry out the provisions of this title.

TITLE IV—JURISDICTION OVER CRIMINAL AND CIVIL ACTIONS

ASSUMPTION BY STATE

Sec. 401. (a) The consent of the United States is hereby given to any State not having jurisdiction over criminal offenses committed by or against Indians in the areas of Indian country situated within such State to assume, with the consent of the Indian tribe occupying the particular Indian country or part thereof which could be affected by such assumption, such measure of jurisdiction over any or all of such offenses committed within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over any such offense committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation

of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

ASSUMPTION BY STATE OF CIVIL JURISDICTION

SEC. 402. (a) The consent of the United States is hereby given to any State not having jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country situated within such State to assume, with the consent of the tribe occupying the particular Indian country or part thereof which would be affected by such assumption, such measure of jurisdiction over any or all such civil causes of action arising within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute, or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

(c) Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.

RETROCESSION OF JURISDICTION BY STATE

SEC. 403. (a) The United States is authorized to accept a retrocession by any State of all or any measure of the criminal or civil jurisdiction, or both, acquired by such State pursuant to the provisions of section 1162 of title 18 of the United States Code, section 1360 of title 28 of the United States Code, or section 7 of the Act of August 15, 1953 (67 Stat. 588), as it was in effect prior to its repeal by subsection (b) of this section.

(b) Section 7 of the Act of August 15, 1953 (67 Stat. 588), is hereby repealed, but such repeal shall not affect any cession of jurisdiction made pursuant to such section prior to its repeal. . . .

SPECIAL ELECTION

SEC. 406. State jurisdiction acquired pursuant to this title with respect to criminal offenses or civil causes of action, or with respect to both, shall be applicable in Indian country only where the enrolled Indians within the affected area of such Indian country accept such jurisdiction by a majority vote of the adult Indians voting at a special election held for that purpose. The Secretary of the Interior shall call such special election under such rules and regulations as he may prescribe, when requested to do so by the tribal council or other governing body, or by 20 per centum of such enrolled adults.

TITLE V—OFFENSES WITHIN INDIAN COUNTRY

AMENDMENT

SEC. 501. Section 1153 of title 18 of the United States Code is amended by inserting immediately after "weapon,", the following: "assault resulting in serious bodily injury,".

TITLE VI—EMPLOYMENT OF LEGAL COUNSEL

APPROVAL

SEC. 601. Notwithstanding any other provision of law, if any application made by an Indian, Indian tribe, Indian council, or any band or group of Indians under any law requiring the approval of the Secretary of the Interior or the Commissioner of Indian Affairs of contracts or agreements relating to the employment of legal counsel (including the choice of counsel and the fixing of fees) by any such Indians, tribe, council, band, or group is neither granted nor denied within ninety days following the making of such application, such approval shall be deemed to have been granted.

TITLE VII—MATERIALS RELATING TO CONSTITUTIONAL RIGHTS OF INDIANS

SECRETARY OF INTERIOR TO PREPARE

SEC. 701. (a) In order that the constitutional rights of Indians might be fully protected, the Secretary of the Interior is authorized and directed to—

(1) have the document entitled "Indian Affairs, Laws and Treaties" (Senate Document Numbered 319, volumes 1 and 2, Fifty-eight Congress), revised and extended to include all treaties, laws, Executive orders, and regulations relating to Indian affairs in force on September 1, 1967, and to have such revised document printed at the Government Printing Office;

(2) have revised and republished the treatise entitled "Federal Indian Law"; and

(3) have prepared, to the extent determined by the Secretary of the Interior to be feasible, an accurate compilation of the official opinions, published and unpublished, of the Solicitor of the Department of the Interior relating to Indian affairs rendered by the Solicitor prior to September 1, 1967, and to have such compilation printed as a Government publication at the Government Printing Office.

(b) With respect to the document entitled "Indian Affairs, Laws and Treaties" as revised and extended in accordance with paragraph (1) of subsection (a), and the compilation prepared in accordance with paragraph (3) of such subsection, the Secretary of the Interior shall take such action as may be necessary to keep such document and compilation current on an annual basis.

(c) There is authorized to be appropriated for carrying out the provisions of this title, with respect to the preparation but not including printing, such sum as may be necessary.

[*U.S. Statutes at Large*, 82:77–81.]

161. Report on Indian Education

November 3, 1969

A Special Subcommittee on Indian Education, of the Senate Committee on Labor and Public Welfare, submitted a stinging critique of Indian education. Chaired first by Senator Robert Kennedy and after his death by Senator Edward Kennedy, the subcommittee made extensive recommendations. Printed here is the introductory "Summary" of the lengthy report.

For more than 2 years the members of this subcommittee have been gaging how well American Indians are educated. We have traveled to all parts of the country; we have visited Indians in their homes and in their schools; we have listened to Indians, to Government officials, and to experts; and we have looked closely into every aspect of the educational opportunities this Nation offers its Indian citizens.

Our work fills 4,077 pages in seven volumes of hearings and 450 pages in five volumes of committee prints. This report is the distillate of this work.

We are shocked at what we discovered.

Others before us were shocked. They recommended and made changes. Others after us will likely be shocked, too—despite our recommendations and efforts at reform. For there is so much to do—wrongs to right,

recommendations to correct this historic, anomalous paternalism. We have, for example, recommended that the Commissioner of the BIA be raised to the level of Assistant Secretary of the Department of Interior; that there be established a National Indian Board of Indian Education with authority to set standards and criteria for the Federal Indian schools; that local Indian boards of education be established for Indian school districts; and that Indian parental and community involvement be increased. These reforms, taken together, can—at last—make education of American Indians relevant to the lives of American Indians.

We have recommended programs to meet special, unmet needs in the Indian education field. Culturally-sensitive curriculum materials, for example, are seriously lacking; so are bi-lingual education efforts. Little educational material is available to Indians concerning nutrition and alcoholism. We have developed proposals in all these fields, and made strong recommendations to rectify their presently unacceptable status.

The subcommittee spent much time and devoted considerable effort to the "organization problem," a problem of long and high concern to those seeking reform of our policies toward American Indians. It is, in fact, two problems bound up as one—the internal organization of the Bureau of Indian Affairs, and the location of the Bureau within the Federal establishment. We made no final recommendation on this most serious issue. Instead, because we believe it critically important that the Indians themselves express their voices on this matter, we have suggested that it be put high on the agenda of the White House Conference on American Indian Affairs. Because, as we conceive it, this White House Conference will be organized by the Indians themselves, with the support of the National Council on Indian Opportunity, it is entirely appropriate that this organization problem be left for the conference.

In this report, we have compared the size and scope of the effort we believe must be mounted to the Marshall plan which revitalized postwar Europe. We believe that we have, as a Nation, as great a moral and legal obligation to our Indian citizens today as we did after World War II to our European allies and adversaries.

The scope of this subcommittee's work was limited by its authorizing resolution to education. But as we traveled, and listened, and saw, we learned that education cannot be isolated from the other aspects of Indian life. These aspects, too, have much room for improvement. This lies in part behind the recommendation for a Senate Select Committee on the Human Needs of American Indians. Economic development, job training, legal representation in water rights and oil lease matters—these are only a few of the correlative problems sorely in need of attention.

In conclusion, it is sufficient to restate our basic finding: that our Nation's policies and programs for educating American Indians are a national tragedy. They present us with a national challenge of no small proportions. We believe that this report recommends the proper steps to meet this challenge. But we know that it will not be met without strong leadership and dedicated work. We believe that with this leadership for the Congress and the executive branch of the Government, the Nation can and will meet this challenge.

[*Indian Education: A National Tragedy—A National Challenge, Senate Report* no. 501, 91st Cong., 1st sess., serial 12836–1, pp. xi–xiv.]

162. President Nixon, Special Message on Indian Affairs
July 8, 1970

The new direction of Indian policy which aimed at Indian self-determination was set forth by President Richard Nixon in a special message to Congress in July 1970. Nixon condemned forced termination and proposed recommendations for specific action. His introduction and conclusion are printed here.

To the Congress of the United States:

The first Americans—the Indians—are the most deprived and most isolated minority group in our nation. On virtually every scale of measurement—employment, income, education, health—the condition of the Indian people ranks at the bottom.

This condition is the heritage of centuries of injustice. From the time of their first contact with European settlers, the American Indians have been oppressed and brutalized, deprived of their ancestral lands and denied the opportunity to control their own destiny. Even the Federal programs which are intended to meet their needs have frequently proven to be ineffective and demeaning.

But the story of the Indian in America is something more than the record of the white man's frequent aggression, broken agreements, intermittent remorse and prolonged failure. It is a record also of endurance, of survival, of adaptation and creativity in the face of overwhelming obstacles. It is a record of enormous contributions to this country—to its art and culture, to its strength and spirit, to its sense of history and its sense of purpose.

It is long past time that the Indian policies of the Federal government began to recognize and build upon the capacities and insights of the Indian people. Both as a matter of justice and as a matter of enlightened social policy, we must begin to act on the basis of what the Indians themselves have long been telling us. The time has come to break decisively with the past and to create the conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions.

Self-Determination Without Termination

The first and most basic question that must be answered with respect to Indian policy concerns the historic and legal relationship between the Federal government and Indian communities. In the past, this relationship has oscillated between two equally harsh and unacceptable extremes.

On the one hand, it has—at various times during previous Administrations—been the stated policy objective of both the Executive and Legislative branches of the Federal government eventually to terminate the trusteeship relationship between the Federal government and the Indian people. As recently as August of 1953, in House Concurrent Resolution 108, the Congress declared that termination was the long-range goal of its Indian policies. This would mean that Indian tribes would eventually lose any special standing they had under Federal law: the tax exempt status of their lands would be discontinued; Federal responsibility for their economic and social well-being would be repudiated; and the tribes themselves would be effectively dismantled. Tribal property would be divided among individual members who would then be assimilated into the society at large.

This policy of forced termination is wrong, in my judgment, for a number of reasons. First, the premises on which it rests are wrong. Termination implies that the Federal government has taken on a trusteeship responsibility for Indian communities as an act of generosity toward a disadvantaged people and that it can therefore discontinue this responsibility on a unilateral basis whenever it sees fit. But the unique status of Indian tribes does not rest on any premise such as this. The special relationship between Indians and the Federal government is the result instead of solemn obligations which have been entered into by the United States Government. Down through the years, through written treaties and through formal and informal agreements, our government has made specific commitments to the Indian people. For their part, the Indians have often surrendered claims to vast tracts of land and have accepted life on government reservations. In exchange, the government has agreed to provide community services such as health, education and public safety, services which would presumably allow Indian communities to enjoy a standard of living comparable to that of other Americans.

This goal, of course, has never been achieved. But the special relationship between the Indian tribes and the Federal government which arises from these agreements continues to carry immense moral and legal force. To terminate this relationship would be no more appropriate than to terminate the citizenship rights of any other American.

The second reason for rejecting forced termination is that the practical results have been clearly harmful in the few instances in which termination actually has been tried. The removal of Federal trusteeship responsibility has produced considerable disorientation among the affected Indians and has left them unable to relate to a myriad of Federal,

State and local assistance efforts. Their economic and social condition has often been worse after termination than it was before.

The third argument I would make against forced termination concerns the effect it has had upon the overwhelming majority of tribes which still enjoy a special relationship with the Federal government. The very threat that this relationship may someday be ended has created a great deal of apprehension among Indian groups and this apprehension, in turn, has had a blighting effect on tribal progress. Any step that might result in greater social, economic or political autonomy is regarded with suspicion by many Indians who fear that it will only bring them closer to the day when the Federal government will disavow its responsibility and cut them adrift.

In short, the fear of one extreme policy, forced termination, has often worked to produce the opposite extreme: excessive dependence on the Federal government. In many cases this dependence is so great that the Indian community is almost entirely run by outsiders who are responsible and responsive to Federal officials in Washington, D.C., rather than to the communities they are supposed to be serving. This is the second of the two harsh approaches which have long plagued our Indian policies. Of the Department of the Interior's programs directly serving Indians, for example, only 1.5 percent are presently under Indian control. Only 2.4 percent of HEW's Indian health programs are run by Indians. The result is a burgeoning Federal bureaucracy, programs which are far less effective than they ought to be, and an erosion of Indian initiative and morale.

I believe that both of these policy extremes are wrong. Federal termination errs in one direction, Federal paternalism errs in the other. Only by clearly rejecting both of these extremes can we achieve a policy which truly serves the best interests of the Indian people. Self-determination among the Indian people can and must be encouraged without the threat of eventual termination. In my view, in fact, that is the only way that self-determination can effectively be fostered.

This, then, must be the goal of any new national policy toward the Indian people: to strengthen the Indian's sense of autonomy without threatening his sense of community. We must assure the Indian that he can assume control of his own life without being separated involuntarily from the tribal group. And we must make it clear that Indians can become independent of Federal control without being cut off from Federal concern and Federal support. My specific recommendations to the Congress are designed to carry out this policy. . . .

The recommendations of this Administration represent an historic step forward in Indian policy. We are proposing to break sharply with past approaches to Indian problems. In place of a long series of piecemeal reforms, we suggest a new and coherent strategy. In place of policies which simply call for more spending, we suggest policies which call for wiser spending. In place of policies which oscillate between the deadly extremes of forced termination and constant paternalism, we suggest a policy in which the Federal government and the Indian community play complementary roles.

But most importantly, we have turned from the question of *whether* the Federal government has a responsibility to Indians to the question of *how* that responsibility can best be fulfilled. We have concluded that the Indians will get better programs and that public monies will be more effectively expended if the people who are most affected by these programs are responsible for operating them.

The Indians of America need Federal assistance—this much has long been clear. What has not always been clear, however, is that the Federal government needs Indian energies and Indian leadership if its assistance is to be effective in improving the conditions of Indian life. It is a new and balanced relationship between the United States government and the first Americans that is at the heart of our approach to Indian problems. And that is why we now approach these problems with new confidence that they will successfully be overcome.

[*Public Papers of the Presidents of the United States: Richard Nixon, 1970*, pp. 564–67, 575–76.]

163. Return of Blue Lake Lands to Taos Pueblo
1970

In 1906 President Theodore Roosevelt proclaimed the Blue Lake lands of the Taos Pueblo part of what is now Carson National Forest, thus restricting the exclusive Indian use of the lands. For sixty-four years the Indians struggled to regain the lands, which were sacred to them and used for religious ceremonies. Finally Congress in 1970 authorized the return of the lands. The significance of this action was emphasized by President Richard Nixon in his remarks on signing the bill.

1. Return of the Lands
December 15, 1970

An Act To amend section 4 of the Act of May 31, 1933 (48 Stat. 108).

Be it enacted . . . , That section 4 of the Act of May 31, 1933 (48 Stat. 108), providing for the protection of the watershed within the Carson National Forest for the Pueblo de Taos Indians in New Mexico, be and hereby is amended to read as follows:

"SEC. 4. (a) That, for the purpose of safeguarding the interests and welfare of the tribe of Indians known as the Pueblo de Taos of New Mexico, the following described lands and improvements thereon, upon which said Indians depend and have depended since time immemorial for water supply, forage for their domestic livestock, wood and timber for their personal use, and as the scene of certain religious ceremonials, are hereby declared to be held by the United States in trust for the Pueblo de Taos: [Description of boundaries.]

"(b) The lands held in trust pursuant to this section shall be a part of the Pueblo de Taos Reservation, and shall be administered under the laws and regulations applicable to other trust Indian lands: *Provided*, That the Pueblo de Taos Indians shall use the lands for traditional purposes only, such as religious ceremonials, hunting and fishing, a source of water, forage for their domestic livestock, and wood, timber, and other natural resources for their personal use, all subject to such regulations for conservation purposes as the Secretary of the Interior may prescribe. Except for such uses, the lands shall remain forever wild and shall be maintained as a wilderness as defined in section 2(c) of the Act of September 3, 1964 (78 Stat. 890). With the consent of the tribe, but not otherwise, nonmembers of the tribe may be permitted to enter the lands for purposes compatible with their preservation as a wilderness. The Secretary of the Interior shall be responsible for the establishment and maintenance of conservation measures for these lands, including, without limitation, protection of forests from fire, disease, insects or trespass; prevention or elimination of erosion, damaging land use, or stream pollution; and maintenance of streamflow and sanitary conditions; and the Secretary is authorized to contract with the Secretary of Agriculture for any services or materials deemed necessary to institute or carry out any of such measures.

"(c) Lessees or permittees of lands described in subsection (a) which are not included in the lands described in the Act of May 31, 1933, shall be given the opportunity to renew their leases or permits under rules and regulations of the Secretary of the Interior to the same extent and in the same manner that such leases or permits could have been renewed if this Act had not been enacted; but the Pueblo de Taos may obtain the relinquishment of any or all of such leases or permits from the lessees or permittees under such terms and conditions as may be mutually agreeable. The Secretary of the Interior is authorized to disburse, from the tribal funds in the Treasury of the United States to the credit of said tribe, so much thereof as may be necessary to pay for such relinquishments and for the purchase of any rights or improvements on said lands owned by non-Indians. The authority to pay for the relinquishment of a permit pursuant to this subsection shall not be regarded as a recognition of any property right of the permittee in the land or its resources.

"(d) The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1049, 1050), the extent to which the value of the interest in land

conveyed by this Act should be credited to the United States or should be set off against any claim of the Taos Indians against the United States.

"(e) Nothing in this section shall impair any vested water right."

[*U.S. Statutes at Large*, 84:1437–39.]

2. Remarks of President Nixon
December 15, 1970

Ladies and gentlemen:

I want to welcome all of you here on this very special occasion during the Christmas season, and particularly our guests from the western part of the United States who have come from a long way to be with us.

We are here for a bill signing ceremony that has very special significance—the Taos–Blue Lake bill. It is a bill that has bipartisan support. Both Democrats and Republicans joined together to get it through the Congress so that the President could have the honor of signing it today.

And it is a bill which could be interpreted particularly in the Christmas season as one where a gift was being made by the United States to the Indian population of the United States.

That is not the case.

This is a bill that represents justice, because in 1906 an injustice was done in which land involved in this bill, 48,000 acres, was taken from the Indians involved, the Taos Pueblo Indians. And now, after all those years, the Congress of the United States returns that land to whom it belongs.

This bill also involves respect for religion. Those of us who know something about the background of the first Americans realize that long before any organized religion came to the United States, for 700 years the Taos Pueblo Indians worshiped in this place.

We restore this place of worship to them for all the years to come.

And finally, this bill indicates a new direction in Indian affairs in this country, a new direction in which we will have the cooperation of both Democrats and Republicans, one in which there will be more of an attitude of cooperation rather than paternalism, one of self-determination rather than termination, one of mutual respect.

I can only say that in signing the bill I trust that this will mark one of those periods in American history where, after a very, very long time, and at times a very sad history of injustice, that we started on a new road—a new road which leads us to justice in the treatment of those who were the first Americans, of our working together for the better nation that we want this great and good country of ours to become. . . .

[*Public Papers of the Presidents of the United States: Richard Nixon, 1970*, pp. 1131–32.]

164. Alaska Native Claims Settlement Act
December 18, 1971

After long negotiations with the Alaska Natives, the United States provided for settlement of native land claims in Alaska. The act provided for enrollment of natives, the organization of regional corporations of natives, conveyance of lands to the corporations, and deposit of moneys in an Alaska Native Fund. The claims asserted by the natives of Alaska as original owners of the soil had been honored.

An Act To provide for the settlement of certain land claims of Alaska Natives, and for other purposes.

Be it enacted . . . , That this Act may be cited as the "Alaska Native Claims Settlement Act."

DECLARATION OF POLICY

SEC. 2. Congress finds and declares that—

(a) there is an immediate need for a fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims;

(b) the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and instructions enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska;

(c) no provision of this Act shall replace or diminish any right, privilege, or obligation of Natives as citizens of the United States or of Alaska, or relieve, replace, or diminish any obligation of the United States or of the State of Alaska to protect and promote the rights or welfare of Natives as citizens of the United States or of Alaska; the Secretary is authorized and directed, together with other appropriate agencies of the United States Government, to make a study of all Federal programs primarily designed to benefit Native people and to report back to the Congress with his recommendations for the future management and operation of these programs within three years of the date of enactment of this Act;

(d) no provision of this Act shall constitute a precedent for reopening, renegotiating, or legislating upon any past settlement involving land claims or other matters with any Native organization, or any tribe, band, or identifiable group of American Indians;

(e) no provision of this Act shall effect a change or changes in the petroleum reserve policy reflected in sections 7421 through 7438 of title 10 of the United States Code except as specifically provided in this Act;

(f) no provision of this Act shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, nor to grant implied consent to Natives to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act; and

(g) no provision of this Act shall be construed to terminate or otherwise curtail the activities of the Economic Development Administration or other Federal agencies conducting loan or loan and grant programs in Alaska. For this purpose only, the terms "Indian reservation" and "trust or restricted Indian-owned land areas" in Public Law 89–136, the Public Works and Economic Development Act of 1965, as amended, shall be interpreted to include lands granted to Natives under this Act as long as such lands remain in the ownership of the Native villages or the Regional Corporations. . . .

DECLARATION OF SETTLEMENT

SEC. 4. (a) All prior conveyances of public land and water areas in Alaska, or any interest therein, pursuant to Federal law, and all tentative approvals pursuant to section 6 (g) of the Alaska Statehood Act, shall be regarded as an extinguishment of the aboriginal title thereto, if any.

(b) All aboriginal titles, if any, and claims of aboriginal title in Alaska based on use and occupancy, including submerged land underneath all water areas, both inland and offshore, and including any aboriginal hunting or fishing rights that may exist, are hereby extinguished.

(c) All claims against the United States, the State, and all other persons that are based on claims of aboriginal right, title, use, or occupancy of land or water areas in Alaska, or that are based on any statute or treaty of the United States relating to Native use and occupancy, or that are based on the laws of any other nation, including any such claims that are pending before any Federal or state court or the Indian Claims Commission, are hereby extinguished.

ENROLLMENT

SEC. 5. (a) The Secretary shall prepare within two years from the date of enactment of this Act a roll of all Natives who were born on or before, and who are living on, the date of enactment of this Act. Any decision of the Secretary regarding eligibility for enrollment shall be final.

(b) The roll prepared by the Secretary shall show for each Native, among other things, the region and the village or other place in which he resided on the date of the 1970 census enumeration, and he shall be enrolled according to such residence. Except

which are entitled to payments under this title and which have submitted, and had approved, applications therefor, in accordance with the provisions of this title. . . .

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

SEC. 810. (a) The Commissioner shall carry out a program of making grants for the improvements of educational opportunities for Indian children. . . .

(b) The Commissioner is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, organizations, and institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children. . . .

(c) The Commissioner is also authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. . . .

(d) The Commissioner is also authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

(1) to prepare persons to serve Indian children as teachers, teacher aides, social workers, and ancillary educational personnel; and

(2) to improve the qualifications of such persons who are serving Indian children in such capacities.

Grants for the purposes of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences. In carrying out the programs authorized by this subsection, preferences shall be given to the training of Indians. . . .

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS

SEC. 314. (a) The Commissioner shall carry out a program of making grants to State and local educational agencies, and to Indian tribes, institutions, and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians. . . .

OFFICE OF INDIAN EDUCATION

SEC. 441. (a) There is hereby established, in the Office of Education, a bureau to be known as the "Office of Indian Education". . . . The Office shall be headed by a Deputy Commissioner of Indian Education, who shall be appointed by the Commissioner of Education from a list of nominees submitted to him by the National Advisory Council on Indian Education. . . .

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

SEC. 442. (a) There is hereby established the National Advisory Council on Indian Education . . . , which shall consist of fifteen members who are Indians and Alaska Natives appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and shall represent diverse geographic areas of the country. . . .

[*U.S. Statutes at Large*, 86:335, 339–43.]

166. Extension of Indian Preference in Employment

June 26, 1972

The Indian Reorganization Act of 1934 authorized Indian preference in employing personnel for the Bureau of Indian Affairs without regard for civil service regulations, but that authority was generally applied only to original hiring. Commissioner of Indian Affairs Louis R. Bruce extended the practice to cover all vacancies. His action was upheld in Morton *v.* Mancari *(1974).*

The Secretary of the Interior announced today he has approved the Bureau's policy to extend Indian Preference to training and to filling vacancies by original appointment, reinstatement and promotions. The new policy was discussed with the National President of the National Federation of Federal Employees under National Consultation Rights NFFE has with the Department. Secretary Morton and I jointly stress that careful attention must be given to protecting the rights of non-Indian employees. The new policy provides as follows: Where two or more candidates who meet the established qualification requirements are available for filling a vacancy, if one of them is an Indian, he shall be given preference in filling the vacancy. This new policy is effective immediately, and is incorporated into all existing programs such as the Promotion Program. . . . You should take immediate steps to notify all employees and recognized unions of this policy.

[Bureau of Indian Affairs, Personnel Management Letter no. 72–12, printed in *Morton v. Mancari*, 417 *U.S. Reports*, 538n.]

167. Menominee Restoration Act

December 22, 1973

The deleterious effects of termination on the Menominee Indians of Wisconsin led to agitation for repeal of the termination act of June 17, 1954. This repeal was accomplished on December 22, 1973, and the Menominee tribe was restored to federal status.

An Act to repeal the Act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin; to reinstitute the Menominee Indian Tribe of Wisconsin as a federally recognized sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes.

Be it enacted . . . , That:

This Act may be cited as the "Menominee Restoration Act".

SEC. 2. For the purposes of this Act—

(1) The term "tribe" means the Menominee Indian Tribe of Wisconsin.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Menominee Restoration Committee" means that committee of nine Menominee Indians who shall be elected pursuant to subsections 4(a) and 4(b) of this Act.

SEC. 3. (a) Notwithstanding the provisions of the Act of June 17, 1954 (68 Stat. 250; 25 U.S.C. 891–902), as amended, or any other law, Federal recognition is hereby extended to the Menominee Indian Tribe of Wisconsin and the provisions of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, are made applicable to it.

(b) The Act of June 17, 1954 (68 Stat. 250; 25 U.S.C. 891–902), as amended, is hereby repealed and there are hereby reinstated all rights and privileges of the tribe or its members under Federal treaty, statute, or otherwise which may have been diminished or lost pursuant to such Act.

(c) Nothing contained in this Act shall diminish any rights or privileges enjoyed by the tribe or its members now or prior to June 17, 1954, under Federal treaty, statute, or otherwise, which are not inconsistent with the provisions of this Act.

(d) Except as specifically provided in this Act, nothing contained in this Act shall alter any property rights or obligations, any contractual rights or obligations, including existing fishing rights, or any obligations for taxes already levied.

(e) In providing to the tribe such services to which it may be entitled upon its recognition pursuant to subsection (a) of this section, the Secretary of the Interior and the Secretary of Health, Education, and Welfare, as appropriate, are authorized from funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), the Act of August 5, 1954 (68 Stat. 674), as amended, or any other Act authorizing appropriations for the administration of Indian affairs, upon the request of the tribe and subject to such

terms and conditions as may be mutually agreed to, to make grants and contract to make grants which will accomplish the general purposes for which the funds were appropriated. The Menominee Restoration Committee shall have full authority and capacity to be a party to receive such grants, to make such contracts, and to bind the tribal governing body as the successor in interest to the Menominee Restoration Committee: *Provided, however*, That the Menominee Restoration Committee shall have no authority to bind the tribe for a period of more than six months after the date on which the tribal governing body takes office.

SEC. 4. (a) Within fifteen days after the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Menominee Restoration Committee. Such general council meeting shall be held within thirty days of the date of enactment of this Act. Within forty-five days of the general council meeting provided for herein, the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect the membership of the Menominee Restoration Committee from among the nominees submitted to him from the general council meeting provided for herein. The ballots shall provide for write-in votes. The Secretary shall approve the Menominee Restoration Committee elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. The Menominee Restoration Committee shall represent the Menominee people in the implementation of this Act and shall have no powers other than those given to it in accordance with this Act. The Menominee Restoration Committee shall have no power or authority under this Act after the time which the duly-elected tribal governing body takes office: *Provided, however*, That this provision shall in no way invalidate or affect grants or contracts made pursuant to the provisions of subsection 3 (e) of this Act.

(b) In the absence of a completed tribal roll prepared pursuant to subsection (c) hereof and solely for the purpose of the general council meeting and the election provided for in subsection (a) hereof, all living persons on the final roll of the tribe published under section 3 of the Act of June 17, 1954 (25 U.S.C. 893), and all descendants, who are at least eighteen years of age and who possess at least one-quarter degree of Menominee Indian blood, of persons on such roll shall be entitled to attend, participate, and vote at such general council meeting and such election. Verification of descendancy, age, and blood quantum shall be made upon oath before the Secretary or his authorized representative and his determination thereon shall be conclusive and final. The Secretary shall assure that adequate notice of such meeting and election shall be provided eligible voters.

SEC. 5. (a) Upon request from the Menominee Restoration Committee, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of the Act of June 18, 1934, as amended, for the purpose of determining the tribe's constitution and bylaws. The election shall be held within sixty days after final certification of the tribal roll.

(b) The Menominee Restoration Committee shall distribute to all enrolled persons who are entitled to vote in the election, at least thirty days before the election, a copy of the constitution and bylaws as drafted by the Menominee Restoration Committee which will be presented at the election, along with a brief impartial description of the constitution and bylaws. The Menominee Restoration Committee shall freely consult with persons entitled to vote in the election concerning the text and description of the constitution and bylaws. Such consultation shall not be carried on within fifty feet of the polling places on the date of the election.

(c) Within one hundred and twenty days after the tribe adopts a constitution and bylaws, the Menominee Restoration Committee shall conduct an election by secret ballot for the purpose of determining the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this initial election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted and all tribal members who are eighteen years of age or over shall be entitled to vote in the election. All further elections of tribal officers shall be as provided in the tribal constitution and bylaws and ordinances adopted thereunder.

(d) In any election held pursuant to this section, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate the adoption of a tribal constitution and bylaws and the initial election of the tribe's governing body, so long as, in each such election, the total vote cast is at least 30 per centum of those entitled to vote. . . .

SEC. 6. [Provisions concerning transfer of assets and arrangements with the State of Wisconsin.]

[*U.S. Statutes at Large*, 87:700 ff.]

168. Comprehensive Employment and Training Act

December 28, 1973

Congress in 1973 provided job training and employment opportunities for unemployed and underemployed persons. A special section of the law pertained to Indians, who had special needs. The legislation reflected the new emphasis on Indian participation in running the programs.

An Act to assure opportunities for employment and training to unemployed and underemployed persons.

. . . .

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide job training and employment opportunities for economically disadvantaged, unemployed, and underemployed persons, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency by establishing a flexible and decentralized system of Federal, State, and local programs. . . .

INDIAN MANPOWER PROGRAMS

SEC. 302. (a) The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Indian and Alaskan native communities; (2) there is compelling need for the establishment of comprehensive manpower training and employment programs for members of those communities; (3) such programs are essential to the reduction of economic disadvantage among individual members of those communities and to the advancement of economic and social development in these communities consistent with their goals and life styles.

(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of those to be served by the provisions of this section, (1) such programs can best be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and individuals and to other groups and individuals of native American descent such as, but not limited to, the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Passamaquoddys and Penobscots in Maine, and Eskimos and Aleuts in Alaska; (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this part.

(c) (1) In carrying out his responsibilities under this section, the Secretary [of the Interior] shall, wherever possible, utilize Indian tribes, bands or groups (including Alaska Native villages or groups . . .) having a governing body, for the provision of manpower services under this title. . . .

(2) In carrying out his responsibilities under this section the Secretary shall make arrangements with prime sponsors and organizations (meeting requirements prescribed by the Secretary) serving non-reservation Indians for programs and projects designed to meet the needs of such Indians for employment and training and related services.

(d) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provisions of manpower services under this section, he shall, to the maximum extent feasible, enter into arrangements for the provision of such services with public or private non-profit agencies which meet with the approval of the tribes, bands, or groups to be served. . . .

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or historic or cultural preservation, and shall cooperate with the enforcement of such laws on Indian forest lands. Such cooperation shall include—

(1) assistance in the enforcement of such laws;

(2) provision of notice of such laws to persons or entities undertaking activities on Indian forest lands; and

(3) upon the request of an Indian tribe, the appearance in tribal forums. . . .

SEC. 321. TRUST RESPONSIBILITY.

Nothing in this title shall be construed to diminish or expand the trust responsibility of the United States toward Indian forest lands, or any legal obligation or remedy resulting therefrom. . . .

[*U.S. Statutes at Large*, 104:4532–33, 4535–36, 4538, 4544.]

214. Native American Graves Protection and Repatriation Act

November 16, 1990

A very sensitive issue is the possession of Indian human remains and related funerary objects by museums or other agencies. This legislation provided for the identification of such remains and objects and their repatriation to appropriate individuals or tribes. The law applied to federal agencies and to state or local agencies that received federal funds. But it excluded the Smithsonian Institution. (See Document 209.)

An Act to provide for the protection of Native American graves, and for other purposes.

. . . .

SEC. 3. OWNERSHIP.

(a) NATIVE AMERICAN HUMAN REMAINS AND OBJECTS.—The ownership or control of Native American cultural items which are excavated or discovered on Federal or tribal lands after the date of enactment of this Act shall be (with priority given in the order listed)—

(1) in the case of Native American human remains and associated funerary objects, in the lineal descendants of the Native American; or

(2) in any case in which such lineal descendants cannot be ascertained, and in the case of unassociated funerary objects, sacred objects, and objects of cultural patrimony—

(A) in the Indian tribe or Native Hawaiian organization on whose tribal land such objects or remains were discovered;

(B) in the Indian tribe or Native Hawaiian organization which has the closest cultural affiliation with such remains or objects and which, upon notice, states a claim for such remains or objects; or

(C) if the cultural affiliation of the objects cannot be reasonably ascertained and if the objects were discovered on Federal land that is recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of some Indian tribe—

(1) in the Indian tribe that is recognized as aboriginally occupying the area in which the objects were discovered, if upon notice, such tribe states a claim for such remains or objects, or

(2) if it can be shown by a preponderance of the evidence that a different tribe has a stronger cultural relationship with the remains or objects than the tribe or organization specified in paragraph

(1), in the Indian tribe that has the strongest demonstrated relationship, if upon notice, such tribe states a claim for such remains or objects. . . .

(c) INTENTIONAL EXCAVATION AND REMOVAL OF NATIVE AMERICAN HUMAN REMAINS AND OBJECTS.—The intentional removal from or excavation of Native American cultural items from Federal or tribal lands for purposes of discovery, study, or removal of such items is permitted only if—

(1) such items are excavated or removed pursuant to a permit issued under section 4 of the Archaeological Resources Protection Act of 1979 . . . which shall be consistent with this Act;

(2) such items are excavated or removed after consultation with or, in the case of tribal lands, consent of the appropriate (if any) Indian tribe or Native Hawaiian organization;

(3) the ownership and right of control of the disposition of such items shall be as provided in subsections (a) and (b); and

(4) proof of consultation or consent under paragraph (2) is shown. . . .

SEC. 4. ILLEGAL TRAFFICKING.

(a) ILLEGAL TRAFFICKING.—Chapter 53 of Title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1170. Illegal Trafficking in Native American Human Remains and Cultural Items

"(a) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit, the human remains of a Native American without the right of possession to those remains as provided in the Native American Graves Protection and Repatriation Act shall be fined in accordance with this title, or imprisoned not more than 12 months, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, or imprisoned not more than 5 years, or both.

"(b) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit any Native American cultural items obtained in violation of the Native American Grave Protection and Repatriation Act [same penalties as above]." . . .

SEC. 5. INVENTORY FOR HUMAN REMAINS AND ASSOCIATED FUNERARY OBJECTS.

(a) IN GENERAL.—Each Federal agency and each museum which has possession or control over holdings or collections of Native American human remains and associated funerary objects shall compile an inventory of such items and, to the extent possible based on information possessed by such museum or Federal agency, identify the geographical and cultural affiliation of such item. . . .

(d) NOTIFICATION.—(1) If the cultural affiliation of any particular Native American human remains or associated funerary objects is determined pursuant to this section, the Federal agency or museum concerned shall, not later than 6 months after the completion of the inventory, notify the affected Indian tribes or Native Hawaiian organizations. . . .

SEC. 7. REPATRIATION.

(a) REPATRIATION OF NATIVE AMERICAN HUMAN REMAINS AND OBJECTS POSSESSED OR CONTROLLED BY FEDERAL AGENCIES AND MUSEUMS.—(1) If, pursuant to section 5, the cultural affiliation of Native American human remains and associated funerary objects with a particular Indian tribe or Native Hawaiian organization is established, then the Federal agency or museum, upon the request of a known lineal descendant of the Native American or of the tribe or organization and pursuant to subsections (b) and (e) of this section, shall expeditiously return such remains and associated funerary objects. . . .

(b) SCIENTIFIC STUDY.—If the lineal descendant, Indian tribe, or Native Hawaiian organization requests the return of culturally affiliated Native American cultural items, the Federal Agency or museum shall expeditiously return such items unless such items are indispensable for completion of a specific scientific study, the outcome of which would be of major benefit to the United States. Such items shall be returned by no later than 90 days after the date on which the scientific study is completed. . . .

SEC. 8. REVIEW COMMITTEE.

(a) ESTABLISHMENT.—Within 120 days after the date of enactment of this Act, the

Secretary shall establish a committee to monitor and review the implementation of the inventory and identification process and repatriation activities required under sections 5, 6 and 7. . . .

SEC. 10. GRANTS.

(a) INDIAN TRIBES AND NATIVE HAWAIIAN ORGANIZATIONS.—The Secretary is authorized to make grants to Indian tribes and Native Hawaiian organizations for the purpose of assisting such tribes and organizations in the repatriation of Native American cultural items.

(b) MUSEUMS.—The Secretary is authorized to make grants to museums for the purpose of assisting the museums in conducting the inventories and identification required under section 5 and 6. . . .

[*U.S. Statutes at Large*, 104:3048, 3050–55, 3057.]

215. Indian Arts and Crafts Act of 1990

November 29, 1990

A surge of interest in Indian art in the 1970s and 1980s called for greater protection from foreign imports, and a solution was needed for the domestic problem of sale of Indian products and misrepresentation as Indian artists by persons who falsely claimed to be members of an Indian tribe. This act was a response to that challenge. Regulations for implementing the act were published in Federal Register *61:54551–56(October 21, 1996).*

An Act to expand the powers of the Indian Arts and Crafts Board, and for other purposes.

. . . .

TITLE I—INDIAN ARTS AND CRAFTS

SEC. 102. POWERS OF INDIAN ARTS AND CRAFTS BOARD.

Section 2 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305a) is amended—

(1) in the first sentence—

(A) by striking "the Board" and inserting "the Secretary of the Interior through the Board"; and

(B) by striking "the Indian wards of the Government" and inserting "Indian individuals";

(2) by amending clause (g) to read as follows: "(g)(1) to create for the Board, or for an individual Indian or Indian tribe or Indian arts and crafts organization, trademarks of genuineness and quality for Indian products and the products of an individual Indian or particular Indian tribe or Indian arts and crafts organization; (2) to establish standards and regulations for the use of Government-owned trademarks by corporations, associations, or individuals, and to charge for such use under such licenses; (3) to register any such trademark owned by the Government in the United States Patent and Trademark Office without charge and assign it and the goodwill associated with it to an individual Indian or Indian tribe without charge; and (4) to pursue or defend in the courts any appeal or proceeding with respect to any final determination of that office"; and

(3) by adding at the end the following new sentence: "For the purpose of this section, the term 'Indian arts and crafts organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes." . . . .

SEC. 104. CRIMINAL PENALTY FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

(a) IN GENERAL.—Section 1159 of title 18, United States Code, is amended to read as follows:

"§ 1159. Misrepresentation of Indian produced goods and products

"(a) It is unlawful to offer or display for sale or sell any good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States.

"(b) Whoever knowingly violates subsection (a) shall—

"(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and

"(2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than $5,000,000.

"(c) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe, or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or Indian arts and crafts organization' has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'Indian arts and crafts organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes." . . .

[*U.S. Statutes at Large* 104:4662–63.]

216. Statement of George Bush on Indian Policy

June 14, 1991

President George Bush followed the Indian policy of the preceding administration, of which he had been a part. He reaffirmed the government-to-government relationship between the federal government and the Indian tribal governments and noted action taken to foster tribal self-government and self-determination.

On January 24, 1983, the Reagan-Bush administration issued a statement on Indian policy recognizing and reaffirming a government-to-government relationship between Indian tribes and the Federal Government. This relationship is the cornerstone of the Bush-Quayle administration's policy of fostering tribal self-government and self-determination.

This government-to-government relationship is the result of sovereign and independent tribal governments being incorporated into the fabric of our nation, of Indian tribes becoming what our courts have come to refer to as quasi-sovereign domestic dependent nations. Over the years the relationship has flourished, grown, and evolved into a vibrant partnership in which over 500 tribal governments stand shoulder to shoulder with the other governmental units that form our Republic.

This is now a relationship in which tribal governments may choose to assume the administration of numerous Federal programs pursuant to the 1975 Indian Self-Determination and Education Assistance Act.

This is a partnership in which an Office of Self-Governance has been established in the Department of the Interior and given the responsibility of working with tribes to craft creative ways of transferring decision-making powers over tribal government functions from the Department to tribal governments.

An Office of American Indian Trust will be established in the Department of the