

INDIAN AFFAIRS AND THE GREAT SOCIETY

THESIS

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ARTHUR LATHROP AMEY, JR.

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INTRODUCTION

In his State of the Union Message on January 8, 1964, President Lyndon B. Johnson declared war on poverty in America. In doing so, he went beyond his predecessors in directing the nation's attention to the deplorable conditions on Indian reservations.¹ Native American leaders were quick to respond. Just days later, and at their request, the President met in the East Room of the White House with nearly one hundred members of the National Congress of American Indians (NCAI), several interested governmental officials, and a Congressional delegation.² Walter Wetzel, a Blackfoot, and president of the NCAI,

¹U.S., President, Public Papers of the Presidents of the United States (Washington, D.C.: Office of the Federal Register, National Archives and Records Service, General Services Administration, 1957-), Lyndon B. Johnson, 1963-1964, bk. 1: 114 (hereafter cited as Public Papers).

²New York Times, January 21, 1964, p. 15 (hereafter cited as NYT). The National Congress of American Indians, headquartered in Washington, D.C., was founded in 1944. It is composed of 150 tribes (representing 450,000 Indians), and 2,000 other Indian or non-Indian members. Its purpose is to protect, conserve, and develop Indian land, mineral, timber, and human resources; to serve legislative interests of Indian tribes; and to improve health, education, and economic conditions. The NCAI administers a fund for educational and charitable purposes, conducts research on Indian problems for requesting tribes, maintains a legal aid program, and publishes the Sentinel, a monthly newsletter. Nancy Yakes and Denise Akey, eds., Encyclopedia of Associations, 13th ed., vol 1: National Organizations of the U.S. (Detroit: Gale Research Company, 1979), p. 869.

presented Mr. Johnson with a letter telling him that his address "gave heart" to American Indians.³ Commenting on the Wetzel communication, President Johnson thought it a "shameful fact" that Indians suffered more from poverty than any other group in the nation. For that reason, he told his guests, he had directed that Native Americans be put in the "forefront" of the administration's attack on poverty.⁴

Four months after the White House conference, in a commencement address at the University of Michigan, Mr. Johnson again caused Indians to take heart. He challenged the nation to build the Great Society on a foundation of "abundance and liberty for all," and called for a total commitment to ending "poverty and racial injustice . . . in our time."⁵

The War on Poverty and the building of the Great Society obligated the Johnson administration to rethink and reshape federal Indian policy. A change of attitude in both the executive and legislative branches of government was necessary if poverty conditions on Indian reservations were to be overcome.

³Walter Wetzel to the President, January 20, 1964, Executive file, Indian affairs, White House Central Files, Lyndon Baines Johnson Library, Austin, Texas (hereafter cited as Ex, In, WHCF, and LBJL).

⁴Public Papers, Lyndon B. Johnson, 1963-1964, bk. 1: 149-50.

⁵Ibid., p. 704.

Federal administration of Indian affairs throughout United States history has failed to solve a wide range of problems concerning Native Americans and their relationship to the National government. Policy has shifted in emphasis and direction on numerous occasions, the critical historical issue having been assimilation versus independent tribal status. In 1953, during the Eisenhower administration, Congress passed House Concurrent Resolution Number 108 (HCR 108), which established a goal to terminate a special relationship --firmly anchored to past treaties and agreements--that existed between Indians and the federal government. If carried to completion, the termination policy would have eliminated all aspects of wardship and placed Native Americans in a legal status equal to that of non-Indian citizens. It would, in fact, have stripped them of certain federal services which they had historically received. During the Johnson administration, the Senate attempted to revoke HCR 108, but the House of Representatives failed to confront the measure.⁶

Vital to Indian affairs today is the major policy shift that occurred during the Johnson administration. This change, which dated from the White House conference of January 1964, was an effort to encourage self-help and

⁶U.S., Congress, Senate, "Status of Indians in the United States," HCR 108, 83d Cong., 1st sess., August 1, 1953, Congressional Record, 99: 10066 (hereafter cited as C. Rec.); "Indian Policy-1966," S. Con. Res. 114, 89th Cong., 2d sess., October 13, 1966, ibid., 112: 26571-76; and "Indian Policy Resolution," S. Con. Res. 11, 90th Cong., 1st sess., February 17, 1967, ibid., 113: 3747.

self-determination among tribes by providing them with incentives and resources necessary to achieve self-sufficiency. Several excellent monographs concerning Indian-federal government relations touch upon executive and legislative involvement in Indian affairs during the Great Society era.

William A. Brophy, Sophie Aberle, and others, The Indian, America's Unfinished Business: Report of the Commission on the Rights, Liberties, and Responsibilities of the American Indian, provides an up-to-date appraisal of the status on Indians to 1965. Alan L. Sorkin, in American Indians and Federal Aid, describes, evaluates, and identifies strengths and weaknesses of federal assistance programs designed to benefit Indians. Sar A. Levitan and Barbara Hetrick, Big Brother's Indian Programs--With Reservations, is a study of contemporary government programs for reservation Indians; and Margaret Szasz, Education and the American Indian: The Road to Self-Determination, 1928-1973, examines conditions that shaped Indian education between 1928 and 1973. Alvin M. Josephy, Jr., Red Power: The American Indians' Fight for Freedom, has compiled documents which set forth the views and demands of the "Red Power" movement which emerged during the 1960s, and D'Arcy McNickle, a Flathead, in Native Tribalism: Indian Survivals and Renewals, discusses several aspects of Indian affairs as they evolved during the same decade. Two Department of the Interior publications, S. Lyman Tyler's A History of Indian Policy, and Theodore W. Taylor's The States and Their Indian Citizens,

also include valuable information pertinent to program and policy development during the Johnson presidency.⁷

These scholarly accounts do not, however, capture the determination of the Johnson administration to set and achieve decisive policy goals or attain progress in Indian economic and social improvement. Nor do they focus on the various efforts to study problems, seek solutions, and implement programs to overcome the inequitable and ineffective policies of the past.

⁷William A. Brophy, Sophie Aberle, and others, comps., The Indian, America's Unfinished Business: Report of the Commission on the Rights, Liberties, and Responsibilities of the American Indian (Norman: University of Oklahoma Press, 1966); Alan L. Sorkin, American Indians and Federal Aid (Washington, D.C.: The Brookings Institution, 1971); Sar A. Leviton and Barbara Hetrick, Big Brother's Indian Programs--With Reservations (New York: McGraw-Hill Book Company, 1971); Margaret Szasz, Education and the American Indian: The Road to Self-Determination, 1928-1973 (Albuquerque: University of New Mexico Press, 1974); Alvin M. Josephy, Jr., Red Power: The American Indians' Fight for Freedom (New York: American Heritage Press, 1971); D'Arcy McNickle, Native American Tribalism: Indian Survivals and Renewals (New York: Oxford University Press, 1973); U.S., Department of the Interior, Bureau of Indian Affairs, A History of Indian Policy, by S. Lyman Tyler (Washington, D. C.: Government Printing Office, 1973); and U.S., Department of the Interior, Bureau of Indian Affairs, The States and Their Indian Citizens, by Theodore W. Taylor (Washington, D.C.: Government Printing Office, 1972). Francis Paul Prucha's A Bibliographical Guide to the History of Indian-White Relations in the United States (Chicago: University of Chicago Press, 1977) provides a valuable comprehensive bibliography, classified according to subject, relating to Indian affairs. His United States Indian Policy; A Critical Bibliography (Bloomington: Indiana University Press, 1977), short, but informative, deals primarily with federal Indian policy. Tyler's Indian Policy, pp. 282-309, is also a useful guide to that subject. Native American views and concerns are expressed in several publications listed in Barry T. Klien, Reference Encyclopedia of the American Indian, 2d ed., vol. 1 (Rye, New York: Todd Publications, 1973).

Since the early 1960s, Native Americans have grasped the need to speak out on their own behalf. In this vein, they have engaged in the political and economic debate central to American society. They have aired their needs in public and on all levels of government. Without debasing the remarkable efforts of Indians and their dedicated leaders, there must have been a reason, some means of encouragement, for this increased involvement. The catalyst for their motivation, notwithstanding reservation conditions, may well have been HCR 108, coupled with the Johnson administration's attempts to release the federal government from its termination policy, thus freeing it to attack poverty in Native America.

An examination of the Johnson era can contribute to a fuller understanding of current problems facing both the federal government and Native Americans, who cling tenaciously to their culture, and at the same time desire to maintain their beneficial economic ties with Washington. Since the relationship of Native America to the federal government evolved during the entire course of national development, historical background prior to the Kennedy-Johnson administration is sketched. Although the historical relationship faltered during the 1950s, it was strengthened by Great Society policies which were rooted in the New Frontier. Therefore, the Kennedy-Johnson administration is necessarily analyzed, as are the Indian voices that were being heard and acknowledged in the early 1960s. But much

of the inspiration that was generated in Camelot was left to the Johnson administration to translate into reality. Such was the case with civil rights and the conquest of outer space--and so it was with Indian affairs.

Yet the Johnsonians also departed from the past. The first half of the Johnson period produced new Indian policy that converged with the President's hopes to eradicate poverty throughout the country. It was a course of action designed to lead Indians and the federal government away from the demoralizing legacy of the termination tendency of the '50s toward self-determination for Native Americans. New goals and new directions were set forth in the first Special Message in the nation's history devoted entirely to American Indians. It expressed the President's concern for their plight and the need to eliminate paternalism, promote partnership, and focus governmental efforts on self-help, self-development, and self-determination.

Finally, the congressional response, and the new programs which it made possible, are considered. No attempt is made to discuss the many programs in depth, or to consider separately affairs peculiar to Alaska Natives, the Five Civilized Tribes, or other distinct groups for which special laws or relations exist. Rather, emphasis is placed on the conduct of Indian affairs during the Johnson years and an assessment of the Great Society's impact on a small, but dignified minority which has struggled for two centuries to make its way in American society.

CHAPTER I

A SPECIAL RELATIONSHIP EVOLVES:

INDIAN AFFAIRS TO 1960

The administration of Indian affairs, a perplexing task, has plagued the minds of governmental officials throughout United States history. Numerous treaties, agreements, legislative enactments, and judicial decisions have shaped everchanging policies and guided federal officials in attempting to solve the so called "Indian problem." An issue that defies clear definition, it materialized consequentially when the white man came to live on the red man's land. The legal instruments of federal Indian policy, and actions taken to carry out their provisions, have compounded this historic puzzle. Varying degrees of success were achieved through short-range policy goals, but assimilation of all Native Americans into the mainstream of national society--the long-range goal proposed until the 1960s--has not been achieved.¹

Instead of assimilation, a special relationship between Indians and the federal government evolved, legally established in treaties and agreements. It placed American Indians in a unique position. The only race distinctively

¹Tyler, Indian Policy, p. 7

referred to in the Constitution, a body of statutes pertains specifically to them, and Indians are served by an agency of the national government exclusively devoted to their welfare and advancement: the Bureau of Indian Affairs.² With the evolution of this relationship and unique status came legal obligations and moral responsibilities of the federal government. It must provide services and extend certain rights and privileges to Native Americans that it does not uphold for non-Indian citizens. The roots of this affiliation extend deep into the nation's history. The power, authority, and responsibility establishing the federal role in Indian affairs is embedded in thousands of historical documents, but essentially revealed in the Articles of Confederation, the United States Constitution, and several major legislative enactments of the United States Congress.

Although federal Indian policies implemented prior to the 1960s might be considered chronologically, the classifications by time are not neat and clear-cut. Rather, they overlap, and the characteristics of particular policies reappear. It is possible, however, to consider the earliest attempts to define the Indian-government relationship in four segments: (1) the Treaty Period to 1871; (2) Removal

²Wilcomb E. Washburn, comp., The American Indian and the United States: A Documentary History, 4 vols. (New York: Random House, 1973), 1: v. ; Francis E. Leupp, The Indian and His Problem (New York: Charles Scribner's Sons, 1910), p. 197; and United States Code Annotated, with Cumulative Annual Pocket Part For Use in 1977 (St. Paul: West Publishing Company, 1963, Title 25, Indians (hereafter cited as U.S.C.A.)).

and Reservations, 1830-1887; (3) Allotment and Reorganization, 1887-1953; and (4) the Termination Period, 1953-1960. The nature of contemporary federal Indian affairs becomes apparent when these policy eras are examined.

Federal Authority and Responsibility Established

Under the Articles of Confederation adopted in 1781, the authorization and power to regulate trade and manage Indian affairs was delegated to the central government, the United States Congress.³ Congressional authority within state boundaries was limited, and while not conceptually clear, these provisions led to the accepted principle that national laws relating to Indians and Indian trade were enforceable outside the original thirteen states. Thus the Congress assumed legal authority and accepted responsibility for Indian affairs in what became known as "Indian Country"--lands within the United States but outside state boundaries.⁴ In 1783, a Congressional proclamation more firmly established supervision. Land purchases, settlements, gifts or cessions obtained from Indians by individual states were declared

³U.S., Articles of Confederation, art. IX.

⁴Ibid.; and Tyler, Indian Policy, pp. 33-34. Congress referred to "Indian Country" or "Indian Territory" in several acts and finally defined it in 1834 (4 Stat. 729) as land belonging to the United States west of the Mississippi River and not within states or territories east of the river to which Indian title had not been extinguished. For comprehensive discussion and legal application see U.S., Department of the Interior, Office of the Solicitor, Handbook of Federal Indian Law; With Reference Tables and Index, by Felix S. Cohen (Washington, D.C.: Government Printing Office, 1942), pp.5-8.

null and void, and settlement on their lands outside state jurisdiction was forbidden.⁵ Later, Congress displayed a protective attitude toward Indians. Article III of the Northwest Ordinance of 1787, enacted to establish a territorial government north of the Ohio River, expressed concern for Indians:

The utmost good faith shall always be observed toward Indians, their lands and property shall never be taken from them without their consent; and, in their property, rights, and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.⁶

In 1789, the Constitution reaffirmed this protective attitude and strengthened federal authority in Indian affairs. Executive and legislative responsibility was both explicit and implicit. Article I empowered Congress to regulate commerce with tribes; Article IV extended its authority over Indian Country, the disposal of public lands, and the territories. Article II authorized the President, with Senate concurrence, to make treaties. The Supreme Court, in Article III, was empowered to rule in cases involving the Constitution and treaties entered into by the other branches. Collectively, these provisions delineate

⁵Tyler, Indian Policy, p. 34; and U.S., Library of Congress, Journals of the Continental Congress, 1774-1789 (Washington, D.C.: Government Printing Office, 1904-1937), vol. 25: 1783, September 1-December 31, ed. Gillard Hunt (1922), p. 602 (hereafter cited as JCC).

⁶JCC, vol. 32: 1787, January 17-July 20, ed. Roscoe R. Hill (1936), p. 340.

federal responsibilities for the supervision of Indian affairs.⁷

Initially, the Continental Congress administered Indian affairs through appointed commissioners. Later, superintendents, responsible to the Secretary of War, supervised and enforced trade and intercourse laws. Under the Constitution, the War Department retained overall responsibility.⁸ From 1806 to 1822, a Superintendent of Indian Trade was assigned to the Department. Expanding his primary duties, purchasing goods for the trading post, or "factory," system and directing trade operations, he became a valuable advisor to the Department's leadership.⁹ In 1824, the Secretary of War established a Bureau of Indian Affairs to fill a void created within his department when the factory system was abolished. Bureau personnel were responsible for financial matters and correspondence dealing with Indian affairs; deciding claims relevant to laws regulating Indian-

⁷U.S., Constitution, art. I, sec. 8, cl. 3; art. II, sec. 2, cls. 1, 2; and art. IV, sec. 3, cl. 2.

⁸JCC, vol. 2: 1775, May 10-September 20, ed. Worthington Chauncey Ford (1905), pp. 175-76; vol. 31: 1786, August 1-December 31, ed. John C. Fitzpatrick (1934), pp. 491-93; and Act of August 7, 1789, 1 Stat. 49.

⁹Act of April 21, 1806, 2 Stat. 402; and Francis Paul Prucha, American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790-1834 (Cambridge: Harvard University Press, 1962), p. 57. Established by the Act of April 18, 1796 (1 Stat. 452) upon the advice of George Washington, the factory system was extended periodically to carry out government trade with Indian tribes until it was abolished on May 6, 1822 (3 Stat. 679). Francis Paul Prucha, ed., Documents of United States Indian Policy (Lincoln: University of Nebraska Press, 1975), p. 16. A concise, but informative account of the factory system is

white relations; and administering a Civilization Fund that Congress authorized for Indian education.¹⁰ In 1832, Congress approved the appointment of a Commissioner of Indian Affairs. Responsible to the Secretary of War, this official was charged with the direction and management of federal Indian matters. In 1849, the Bureau of Indian Affairs (BIA) was transferred to the newly created Department of the Interior where it has remained under civilian control.¹¹ From 1869 until 1933, a Board of Indian Commissioners assisted in administering Indian affairs. Operating independently of the BIA, it advised Bureau officials and exercised supervision over expenditures appropriated for the benefit of

Royal B. Way, "The United States Factory System for Trading With the Indians, 1796-1822," Mississippi Valley Historical Review 6 (September 1919): 220-35. A comprehensive study is Ora Brooks Peake, A History of the United States Indian Factory System, 1795-1822 (Denver: Sage Books, 1954).

¹⁰ Laurance F. Schmeckebier, The Office of Indian Affairs; Its History, Activities and Organization (Baltimore: Johns Hopkins Press, 1927), pp. 26-27; Prucha, Documents, p. 37; U.S., Congress, House, Committee on Indian Affairs, Superintendency of Indian Affairs, H. Doc. 146, 19th Cong., 1st sess., 1826, p. 6; Act of March 3, 1819, 3 Stat. 516; and 25 U.S.C.A. 271. The Civilization Fund Act authorized the president to employ "capable persons" to teach Indian children reading, writing, and arithmetic. It provided for an annual appropriation of ten thousand dollars to achieve this purpose. This permanent appropriation was repealed by the Act of February 14, 1873, 17 Stat. 437, 461.

¹¹ Act of July 9, 1832, 4 Stat. 564; 25 U.S.C.A. 1, 2, 8; and Act of March 3, 1849, 9 Stat. 395. The agency was most often referred to as the Office of Indian Affairs until 1947 when the term "Bureau" came into official use. Edward E. Hill, The Office of Indian Affairs, 1824-1880: Historical Sketches (New York: Clearwater Publishing Company, 1947), p. 1.

Native Americans.¹² The establishment of federal authority and responsibility, in general, was both positive and progressive with respect to the growing Indian-white relationship. Federal goals, however, were less certain, fluid, and controversial, as developments in specific eras made clear.

The Treaty Period

Treaty-making, in conjunction with trade and intercourse legislation, was the basic instrument for regulating Indian-white relations until 1871. In that year, Congress passed an appropriations act that included a provision ending United States power to make treaties with Indians within its territorial boundaries.¹³ By that time, 370 tribal treaties had been ratified. The first, basically an alliance to maintain peace and friendship with the Delawares, was

¹²Act of April 10, 1869, 16 Stat. 40; Act of July 15, 1870, 16 Stat. 360; and historical note, 25 U.S.C.A. 21.

¹³The Senate was actively involved in the treaty-making process, but the House of Representatives was excluded from the practical control of Indian affairs. Yet it was required to appropriate funds to carry out treaty provisions. Beginning in 1867, concerned members of the House began a major attack on the treaty process. Attempts to end it failed until an appropriation bill for fiscal year 1872 came before Congress. The House added a clause to the legislation which provided "that hereafter no Indian Nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe or power with whom the United States may contract by treaty: Provided further, that nothing herein contained shall be construed to invalidate or impair the obligation of any treaty heretofore lawfully made and ratified with any such Indian nation or tribe." Act of March 3, 1871, 16 Stat. 544, 566; 25 U.S.C.A. 71, 81; Cohen, Handbook, p. 66; and Schmeckebier, Indian Affairs Office, pp. 55-58.

negotiated in 1778.¹⁴ After the Constitution was adopted, treaty-making rapidly increased, became broader in scope, and the special relationship established between Native Americans and the federal government began to take shape.

Many treaty provisions recognized the national status of Indian groups through clauses relating to such concepts as war, territorial boundaries, passports, extradition, and relations with third powers. Tribal dependence on the United States was evident in treaties wherein the nation agreed to extend protection to various tribes. Economic reliance evolved out of exclusive trade agreements. Congressional and administrative power over Indian tribes was accounted for by many provisions, among which were those relative to the sale of liquor, trade and intercourse, trading and military posts, removal and settlement, and land disposal. Numerous pacts concerned land cessions, Indian hunting and fishing rights in ceded lands, and payment of annuities, in money or services, to tribes. Criminal and civil legal jurisdictions were also provided for and were applied to both Indians and non-Indians, within and outside Indian Country. Some confirmed the force of tribal law and excluded that of state law; others gave specific guarantees against taxation. During the last three decades of the treaty-making era, some limited tribal affairs and allowed the executive branch to establish regulations to protect rights and

¹⁴Charles J. Kappler, comp., ed., Indian Affairs: Laws and Treaties, 5 vols. (Washington, D.C.: Government Printing Office, 1904-1941, vol 2: Treaties, p. 3.

property among Indians; allot tribal lands to individuals; and administer tribal funds.¹⁵

The treaty period produced considerable legislation, designed to control Indian-white relations, which greatly contributed to drawing Native Americans closer to the federal government. One measure, the Indian Removal Act of 1830, served as a prelude to policy that eventually culminated with the establishment of modern-day reservations and the placing of nearly all Indians under the federal government's protective arm.¹⁶

Removal and Reservations, 1830-1887

Thomas Jefferson, soon after the Louisiana Purchase of 1803, gave serious consideration to the removal of tribes to western areas, the first chief executive to do so. Subsequently, Presidents Monroe and Adams encouraged voluntary migration.¹⁷ By the early 1820s, Indian removal had

¹⁵Cohen, Handbook, pp. 38-46. Federal courts have viewed Indian treaties with the same dignity as those negotiated with foreign nations. In accordance with the Constitution, they are a part of the supreme law, and though treaty making stopped, enforcement of treaties continues. Legal obligations incurred earlier are still valid commitments. Ibid., pp. 33-34.

¹⁶Act of May 28, 1830, 4 Stat. 411; and 25 U.S.C.A. 174.

¹⁷Jefferson proposed an amendment to the Constitution, but Congress rejected it, approving instead an exchange of lands through treaty negotiation. Act of March 26, 1804, 2 Stat. 283, 289; and Tyler, Indian Policy, pp. 54-56. See Annie Heloise Abel, "The History of Events Resulting in Indian Consolidation West of the Mississippi." American Historical Association, Annual Report For The Year 1906 1 (1908): 233-450, for a comprehensive examination of events leading to the formulation of the removal policy.

become a highly controversial issue, in all branches of the government and in the press. In the end, President Andrew Jackson's unrelenting determination brought it to reality.¹⁸

The Removal Act called for a voluntary land exchange: Indians residing in eastern states and territories were to relinquish their holdings for new lands west of the Mississippi River.

The law required payment to them for improvements on land left behind and guaranteed permanent title to new territories.¹⁹ In accordance with the act, the President was responsible for honoring existing treaties and protecting relocated tribes, lending assistance during removal, extending the necessary supervision and care at new locations, and extending aid and assistance to Indians during the removal process.²⁰ Primarily accomplished under War Department supervision through treaty-making, removal was slow, painful,

¹⁸Prucha, Formative Years, pp. 224-49; and Roland N. Satz, American Indian Policy in the Jacksonian Era (Lincoln: University of Nebraska Press, 1975), pp. 9-63. See also Francis Paul Prucha, "Andrew Jackson's Indian Policy: A Reassessment," Journal of American History 56 (December 1969): 527-39; and Mary E. Young, "Indian Removal and Land Allotment: The Civilized Tribes and Jacksonian Justice," American Historical Review 64 (October 1958): 33-45.

¹⁹4 Stat. 411, secs. 1, 3, 4. Sec. 3 authorized the President to "assure the tribe [being removed] that the United States will forever secure and guarantee to them, and their heirs or successors, the country so exchanged with them; . . . : Provided always, that such lands shall revert to the United States, if the Indians become extinct, or abandon the same."

²⁰Ibid., secs. 5-7.

and expensive.²¹

The impact of removal emphasized a need for the reorganization of Indian affairs and a restatement of policy. The Removal Act, and its resulting treaty provisions, obligated the federal government to protect Indians and respect their right to be free from white encroachment in western areas. Two significant legislative measures adopted in 1834, to regulate trade and intercourse and reorganize the Indian Department, were devised to meet such obligations.²² In part, they were designed to compensate for land cessions, but more important, they were intended to improve the condition of Indians and further the "civilizing" of them. In large measure, these two comprehensive statutes "form the fabric" of current law pertaining to Indian affairs.²³

In 1834, a study of Indian treaties and legislation dating back to 1775 led the House Committee on Indian Affairs

²¹Numerous accounts have been published concerning the process of removal. Two by Grant Foreman, Indian Removal: The Emigration of the Five Civilized Tribes of Indians (Norman: University of Oklahoma Press, 1932), and The Last Trek of the Indians (Chicago: University of Chicago Press, 1946), provide excellent detail of the execution of the removal policy in the South and the Old Northwest.

²²Trade and Intercourse Act, June 30, 1834, 4 Stat. 729; and Indian Department Reorganization Act, June 30, 1834, 4 Stat. 735. Prucha, Formative Years, pp. 250-69, provides an interesting discussion concerning the need for the two subject 1834 laws. U.S., Congress, House, Committee on Indian Affairs, Regulating the Indian Department, H. Rept. 474, 23d Cong., 1st sess., 1834, contains an analysis pertaining to the entire legislative situation involving the conduct of Indian affairs at that time. Cohen, Handbook, pp. 72-75, gives a concise review and analysis of the committee report.

²³H. Rept. 474, p. 2; and Cohen, Handbook, p. 73.

to conclude that abusive acts and fraud, as well as inadequate laws, permitted the diversion of funds and supplies from their intended use to benefit Native Americans. Congress was concerned that the administration of Indian affairs was "expensive, inefficient, and irresponsible." To aid in solving these problems, the reorganization law improved administrative efficiency and legalized the authority of agents and other officials who previously operated under general legislation at the discretion of the executive branch. Without altering the authority of the Secretary of War or the Commissioner of Indian Affairs, the measure applied principally to organizational structure and activities in the field. New agencies were established and others eliminated, but executive power to make future changes was retained; superintendents received greater authority over employees; and new accounting procedures tightened financial management. The Indian Department Reorganization Act encouraged employment of Indians in certain administrative positions and included a provision for supervision of some employees by "competent" tribal officials. Other provisions, still applicable to existing law, pertain to annuity payments.²⁴

The Trade and Intercourse Act of 1834 served to compile a series of laws, the first enacted in 1790, to regulate Indian-white relations. Its purpose was to control commerce with Indian tribes and concurrently promote their

²⁴H. Rept. 474, pp. 2-10; 4 Stat. 735, secs. 1-6, 9, 11-13; 25 U.S.C.A. 45, 48, 62, 111; and Schmeckebier, Indian Affairs Office, p. 28.

welfare and provide protection against unscrupulous traders.²⁵ The act defined Indian Country in lasting, useful terms, and provided a more detailed system of control over traders.²⁶ Superintendents were granted greater restrictive authority in issuing licenses. Non-Indian commercial activities, such as hunting and foraging, in Indian Country were forbidden; and the conveyance of lands in any form, except by treaty or Congressional authority, was invalidated. Other sections of the act concerning Indian Country related to law and order, prohibition of the sale, exchange or distilling of liquor, and authority to use the military to

²⁵H. Rept. 474, p. 11. Temporary acts included: Act of July 22, 1790, 1 Stat. 137; Act of March 1, 1793, 1 Stat. 329; Act of May 19, 1796, 1 Stat. 469; and Act of March 3, 1799, 1 Stat. 743. One permanent act was also passed: Act of March 30, 1802, 2 Stat. 139.

²⁶4 Stat. 729, sec. 1, defined Indian Country as: ". . . all that part of the United States west of the Mississippi, and not within the states of Missouri and Louisiana, or the territory of Arkansas, and, also, that part of the United States east of the Mississippi River, and not within any state to which the Indian title has not been extinguished, for the purpose of this act, be taken and deemed to be the Indian Country." This section of the act was repealed by failure to include it in the Revised Statutes. But in several cases, beginning in 1887, the Supreme Court relied upon the 1834 definition. In 1949 it was defined as "(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." Cohen, Handbook, pp. 5-8, 58; and 18 U.S.C.A. 1151.

enforce the law.²⁷

The two significant laws of 1834 provided firm legal footing for the Indian service and created a milestone in federal Indian policy. The well-defined boundaries of Indian Country, coupled with the Removal Act, seemed to stabilize the ever-changing relationship that had existed for several decades.²⁸ During the period 1851 to 1867, however, Indian Commissioners pressed to abandon the removal policy. They favored smaller, permanent reservations as a means to enhance efforts to civilize Indians, improve relations, prevent fraud and tribal warfare, and advance agricultural education. Furthermore, reducing the vast Indian Country would expedite the westward migration of whites and facilitate transcontinental railroad construction.²⁹

The process of establishing the reservation system began in the 1850s and reached a peak within a few years after the Civil War. Indian-white warfare frequently interrupted progress and caused Congress, in 1867, to create

²⁷ 4 Stat. 729, secs. 2-5, 7-30. Sec. 24 assigned jurisdiction over Indian Country west of the Mississippi River to the Territory of Arkansas and the state of Missouri. East of the river, judicial authority was vested in the territory where acts or events occurred. In large measure, present law dealing with Indian protection and government in Indian Country is derived from controls enumerated in this act. Cohen, Handbook, p. 73. See also 25 U.S.C.A. 177, 179-180, 193-194, 201, 229-230, 251, 263-264.

²⁸ Prucha, Formative Years, p. 274.

²⁹ Cohen, Handbook, pp. 14-17.

a special body to ascertain the reason for hostilities and to take measures to end Indian uprisings. This "Peace Commission," under executive direction, was empowered to make treaties with hostile tribes and select "permanent home" sites east of the Rocky Mountains for all Indians not then residing on reservations. To a great extent, the commission succeeded in ending the wars and negotiated the last of the 370 ratified treaties.³⁰ Reservations established after 1871 required Congressional legislation or Executive Order.³¹ By 1870, nearly all tribes had accepted treaties and were under federal protection. In return for their cooperation and concession, the federal government agreed to supply them with food and clothing until they were able to provide for their own needs.³²

The reservation system prompted a surge of reform movements. President Grant's "peace policy" attempted to answer demands to protect and civilize Native Americans.

³⁰Tyler, Indian Policy, p. 74; U.S., Department of the Interior, Bureau of Indian Affairs, Division of Law Enforcement Services, Historical Background for Modern Indian Law and Order, comp. Robert Young (Washington, D. C.: Government Printing Office, 1969), p. 13; Act of June 30, 1867, 15 Stat. 17; and Schmeckebier, Indian Affairs Office, pp. 55, 58-59. See also Francis Paul Prucha, American Indian Policy in Crisis: Christian Reformers and the Indian 1865-1900 (Norman: University of Oklahoma Press, 1976), p. 18-25, 103-8.

³¹See Cohen, Handbook, pp. 294-302, for detailed discussion of the establishment of treaty, statutory, and executive order reservations.

³²Loring Benson Priest, Uncle Sam's Stepchildren: The Reformation of United States Indian Policy, 1865-1887 (New Brunswick: Rutgers University Press, 1943; reprint ed., New York: Octagon Books, 1972), p. 122.

It featured the appointment of Indian agents from several religious denominations to aid missionary work with tribes. The education process, left largely to churches in the past, was improved in the 1870s and 80s, and by 1887 there were 227 schools, of which 163 were BIA-operated and 64 were under government contract. In 1883, Courts of Indian offenses were established to administer justice on reservations, however, in 1885 federal courts were given jurisdiction over cases involving several major crimes when committed by Indians in Indian Country. In 1887, Congress established an Indian Police force to improve law and order on reservations. In addition, three BIA Indian hospitals were in operation by 1888.³³

Reservations isolated Indians, opened large areas to white settlement, and reduced hostilities through restriction of tribal activity. This concentration policy was accepted as a means of protecting Native Americans until they might compete favorably with non-Indians. Soon, however, critics held that if Indians were to compete, they would have to come into closer contact with whites. Isolation prolonged that meeting, and proponents of assimilation viewed reservations as a barrier to their goals. In the 1860s and '70s public objection centered on the fact that

³³Tyler, Indian Policy, pp. 79-84, 88-91; Major Crimes Act of 1885, sec. 9, 23 Stat. 362, 385; 25 U.S.C.A. 1153; and Prucha, Policy Crisis, pp. 25-63. The Major Crimes Act pertained to murder, manslaughter, rape, assault with intent to kill, arson, burglary, and larceny.

large areas in Indian Country were not cultivated and that land ripe for grazing was unused. Some reformers wanted the system abandoned in order to permit Indian advancement; others wanted Indian land for whites. Both factions, selfishly or otherwise, believed that change would be beneficial.³⁴

Allotment and Reorganization, 1887-1953

The agreed upon change occurred with the General Allotment (or Dawes) Act of 1887.³⁵ This landmark legislation was not conceived in seclusion on Capitol Hill; rather, it resulted from opinions expressed by prominent Indian Rights advocates, or "friends." Although allotting land to Native Americans was not unheard of before the 1880s, as a federal policy it represented a new concept in Indian affairs administration.³⁶ The Dawes Act portrayed a compromise that legislators reached after a decade of debate concerning Indian-white relations. The right to hold or acquire lands,

³⁴ Priest, Stepchildren, pp. 122-27.

³⁵ Act of February 8, 1887, 24 Stat. 388. This act did not pertain to lands in the Indian Territory occupied by the Five Civilized Tribes, the Osage, Miami, Peoria, and Sac Fox tribes, nor to the New York Seneca reservations and to certain lands in Nebraska adjacent to the Sioux Nation. The Curtis Act of June 28, 1898 (30 Stat. 495) extended the effects of the allotment policy to the Five Civilized Tribes which contributed to the breakdown of their tribal systems. Tyler, Indian Policy, p. 97. For current law pertaining to allotment of Indian lands see 25 U.S.C.A. 331-358.

³⁶ See J.P. Kinney, A Continent Lost--A Civilization Won: Indian Land Tenure in America (Baltimore: Johns Hopkins Press, 1937; reprint ed., New York: Octagon Books, 1975), chaps. 3-5, for discussion of the allotment concept.

the honoring or violating of treaty agreements, the placing of Indian tribes exclusively under federal law, and the question of Indian citizenship--all were prime topics in the debate over allotment of lands in severalty to Native Americans, with or without their consent. Also ventilated were the concerns of administrative officials, legislators, military leaders, humanitarian reformers, and anthropologists and other intellectuals, all of whom were seeking to resolve the future status and role of First Americans in a society experiencing Gilded Age growth and prosperity. Indian voices were almost obscured throughout the lengthy controversy. As signed into law, the "allotment policy" was intended to destroy tribal autonomy, force the desolation of tribal lands and their allotment to individuals, and impose federal and state laws upon Indian allottees, who were to be compelled to become compulsory United States citizens.³⁷

The Act authorized the President to allot tribal lands to reservation Indians, while non-reservation Indians

³⁷ Wilcomb E. Washburn, The Assault on Indian Tribalism: The General Allotment Law (Dawes Act) of 1887 (Philadelphia: J.B. Lippincott Company, 1975), pp. 3-26. Washburn succinctly reveals several alternatives most likely faced by legislators and highlights the debate crucial to Indian affairs during the early post-Civil War years. Two other scholarly works, Priest, Stepchildren, and Prucha, Policy Crisis, delve more deeply into the reform movement and events leading to the General Allotment Act passage. In his edited Americanizing the American Indian; Writing by the "Friends of the Indian," 1880-1900 (Cambridge: Harvard University Press, 1973), Prucha presents a collection of writings by prominent individuals of the late nineteenth century who were seeking policy reform with the ultimate goal of securing the assimilation of Indians into white American society.

were permitted to secure an allotment from the public domain.³⁸ The Secretary of the Interior was empowered to select an allotment for any Indian who failed to do so within four years after the policy was put into effect on a given reservation. The allottee was issued a patent in fee to be held in trust by the United States for a period of twenty-five years. During the trust period the land could not be alienated or encumbered, and the President was authorized, at his discretion, to extend the trust period. In the event of death after patents were issued, heirship was to be determined in accordance with the laws of the state or territory in which the lands were located. After the allotting process was completed on a reservation, the Interior Secretary was authorized to negotiate for government purchase of surplus lands. Proceeds from the sale of such lands were to be held in trust in the United States Treasury for the sole use of the tribe concerned.³⁹ In accordance with the act, citizenship was conferred upon allottees, or any other Indians, who voluntarily lived "separate and apart" from any

³⁸24 Stat. 388, sec. 1, provided for a grant of 160 acres to each family head, 80 acres to each single person over 18 years of age and to each orphan under age 18, and 40 acres to each other single person under 18 years of age. In 1891, the act was amended (26 Stat. 794) to equalize allotments at 80 acres for all Indians. See also 25 U.S.C.A. 331.

³⁹24 Stat. 388, secs. 2, 4, 5; and 25 U.S.C.A. 334, 348.

tribe and "adopted the habits of civilized life."⁴⁰

An amendment of 1910 conferred absolute authority upon the Interior Secretary to administer the estates of deceased allottees and to sell heirship lands. If an allottee died intestate prior to expiration of the trust period, the Secretary, with "final and conclusive" authority, was empowered to ascertain the legal heirs. Further, he could partition or sell the allotment if he decided an heir was not sufficiently "competent" to manage his or her personal affairs. Allotments not sold could be held in trust or disposed of by issuance of a patent in fee.⁴¹

It was believed that ownership of land in severalty would change the condition and habits of Indians; that allotments might somehow soften the impact of previous wrongful policy that had destroyed their economic and social systems. Proponents of the Dawes Act anticipated that Indian landowners would become farmers or stockmen and would abandon the tribal life.⁴²

⁴⁰ 24 Stat. 388, sec. 6. The Burke Act of May 8, 1906 (34 Stat. 182) amended the 1887 law to withhold citizenship until the trust period ended; further, it authorized the Secretary of the Interior to end the trust period early if "he shall be satisfied" that an allottee was "competent and capable of managing his own affairs." Prior to 1924, about two-thirds of the Indians in the United States acquired citizenship through treaties, special statutes, and general statutes such as the General Allotment Act. Cohen, Handbook, pp. 153-54. In 1924, Congress granted citizenship to all other Indians born in the United States through the Indian Citizenship Act of June 2, 1924 (43 Stat. 253).

⁴¹ Act of June 25, 1910, 36 Stat. 855; and 25 U.S.C.A. 372.

⁴² Kinney, Continent Lost, p. 203; and Tyler, Indian Policy, pp. 95, 97.

The underlying purpose of the land allotment system was to "civilize" Native Americans by discouraging their belief in community property and forcing them to accept the white concept of individual ownership. Instead, the law deprived Indians of two-thirds of their lands. In general, they did not become self-supporting citizens, nor were they prepared to leave their reservations and enter the mainstream of American life. In large measure, they gradually gave up their allotments, became destitute, and created massive relief problems for the federal government. The allotment system, the Interior Department admitted, "destroyed the economic integrity of the Indian estate and deprived the Indians of normal economic and human activity."⁴³

Devastating losses occurred as a result of three effects of the allotment system: (1) government surplus reservation land sales; (2) allottee land sales after the trust period ended or was terminated through administrative act; and (3) government heirship land sales. Consequently, Indian land holdings were reduced from approximately 138 million acres in 1887 to about 48 million in 1934, of which nearly 20 million acres were desert or semidesert lands. In addition, much of the remaining Indian land was included, or "checkerboarded," within large areas of white-owned land, thus making it difficult to put to profitable use. By

⁴³U.S., Department of the Interior, Annual Report For the Fiscal Year Ending June 30, 1933, pp. 108-09 (hereafter cited as DOI, Annual Report and appropriate fiscal year).

1934, Indian landholders had made 246,569 land assignments totaling nearly 41 million acres.⁴⁴

During the 1920s, several studies, including the so-called Meriam Report, advocated a complete reversal of the Dawes Act policy. In addition to ending the allotment system, recommendations called for improved health services, a special claims commission, improvements in education facilities, better employment opportunities, irrigation and reclamation projects, tribal corporations, improved extension services for the promotion of agriculture and industry, and increased federal-state cooperation. In short, the overall status of Indians was to be improved. Policy reform advocates wanted to make them self-sustaining in an all-out effort to solve the continuing "Indian problem."⁴⁵

The Johnson-O'Malley Act of 1934 which provided federal funds to state or territorial agencies for Indian education, medical service, agricultural assistance, and social welfare, was an important step in a new direction. It responded to criticism contained in the Meriam Report

⁴⁴Hearings, Committee on Indian Affairs, 73d Cong., 2d sess., on H.R. 7902, pp. 15-18, as quoted in Cohen, Handbook, p. 216; and Indian Heirship Land Survey, memorandum of the chairman to the Committee on Interior and Insular Affairs, 86th Cong., 2d sess., Senate, Committee Print, pt. 1, p. 2, as cited in Brophy, The Indian, p. 20.

⁴⁵The most notable and highly acclaimed study, the Meriam Report, is in Institute of Government Research, The Problem of Indian Administration, by Lewis Meriam and others (Baltimore: Johns Hopkins Press, 1928), which consolidated, organized, and presented a wealth of information in a comprehensive document (hereafter cited as Meriam Report). Its value is assessed in Tyler, Indian Policy, pp. 112-24.

that BIA services were inferior to those provided through state agencies.⁴⁶ The most far-reaching legislation, however, was the Indian Reorganization (or Wheeler-Howard) Act (IRA) of 1934. Like the General Allotment Act, it represented a compromise among reformers that included congressmen, missionaries, bureau personnel, Indian leaders, and Indian rights advocates; and it marked a turning point in Indian history by ending future land allotments.⁴⁷ It offered an option to Indian tribes--its provisions would not apply on any reservation on which a majority of adult Indians voted against its application within one year after enactment.⁴⁸

On reservations where IRA was accepted, further allotment of lands in severalty was prohibited. Existing trust periods and restrictions against alienation were extended indefinitely. The Secretary of the Interior was authorized to restore remaining surplus lands to tribal ownership; to expedite voluntary exchanges of lands of equal value to benefit Indian tribes or organizations; to arrange to sell to tribes the restricted lands on their reservations;

⁴⁶Act of April 16, 1934, 48 Stat. 596; 25 U.S.C.A. 452; and Cohen, Handbook, p. 83.

⁴⁷Act of June 18, 1934, 48 Stat. 984; and Kenneth R. Philp, John Collier's Crusade for Indian Reform, 1920-1954 (Tucson: University of Arizona Press, 1977), pp. 159-60.

⁴⁸48 Stat. 984, secs. 18, 19; and 25 U.S.C.A. 478, 479. Section 19 defined "tribe" as any Indian tribe, organized band, pueblo, or Indians residing on one reservation; and "adult Indians" were those who had attained the age of twenty-one years.

to restrict the sale of heirship lands to Indian tribes or organizations; to acquire additional lands and water or surface rights, exempt from state or local taxation, for tribes or individual Indians; and to add newly acquired lands to existing reservations. In addition to funds for land acquisition, appropriations were authorized to defray expenses in organizing chartered corporations or other Indian organizations created under the act; to establish a \$10 million revolving fund for loans to the chartered corporations; and to provide loans to Indians for tuition and other expenses in vocational and trade schools, as well as loans for high school and college students.⁴⁹

When petitioned by at least one-third of the adult Indians in a tribe, the Secretary of the Interior was authorized to issue a charter of incorporation. It enabled a tribe to assume control over its own resources, and to carry on business transactions as a corporate power. Prohibited was the sale or mortgage of tribal lands, nor could they be leased for periods exceeding ten years. Once issued, a charter could only be revoked or surrendered by an act of Congress. The act also authorized tribes to adopt constitutions and bylaws. Through this self-governing provision, tribal councils were allowed to employ legal counsel; to control the sale or other disposition of tribal lands or assets without the consent of the tribe; and to negotiate

⁴⁹48 Stat. 984, secs. 1-5, 7, 9-11; and 25 U.S.C.A. 461-65, 467, 469-71.

with federal, state, and local governments. In addition, the law required that tribal members be advised of all appropriation estimates affecting them before being submitted to the Bureau of the Budget and Congress.⁵⁰

Several parts of IRA did not apply to Alaska and Oklahoma, where approximately one-half of the Indians in the United States resided. In 1936, Congress enacted legislation extending its main provisions, with minor modifications, to both areas.⁵¹ Within six years after its adoption, more than two-thirds of the tribes--representing 74 percent of all Native Americans--were living and functioning under the principles set forth in the IRA. Tribal organization and incorporation permitted reservation Indians to assume self-governing powers, much like municipal governments, which the federal government had previously exercised.⁵²

Designed to undo what the removal and allotment policies had done in the preceding century, the IRA reversed the objectives of Indian administration, reaffirmed principles inherent in tribal sovereignty, and attempted to encourage self-determination. Its enactment followed lengthy Congressional hearings and debates, public pressure for policy reform and regional conferences that attempted

⁵⁰48 Stat. 984, secs. 16-17; and 25 U.S.C.A. 476-77.

⁵¹Cohen, Handbook, p. 85, Act of May 1, 1936, 49 Stat. 1250 and 25 U.S.C.A. 473a pertain to Alaska. Act of June 26, 1936, 49 Stat. 1967 and 25 U.S.C.A. 501-9 bear upon Oklahoma.

⁵²DOI, Annual Report, 1936, p. xv, and 1940, pp. 360, 164-65.

to incorporate Indian leader's views into the proposed legislation. The option of tribes to accept or reject the act was unprecedented in Indian law.⁵³

Under the IRA, BIA programs--to foster assimilation more slowly than under allotment--brought about progress in several ways: land acquisition, irrigation, checking land erosion, increased Indian use of resources, and construction of homes, schools, hospitals, roads, trails, and bridges. Federal work projects contributed to the development of most of the physical facilities. Increased cooperation between the BIA and other government agencies, such as the Department of Agriculture, the Public Health Service (PHS), and the Forest Service, greatly enhanced the new IRA programs.⁵⁴

Another important measure was a 1946 law creating a three-member Indian Claims Commission empowered to decide claims by tribes against the United States. The commission continues to hear and rule on claims arising out of the Constitution, laws, treaties, and Executive Orders. It also considers claims brought before it dealing with torts, fraud, duress or mistakes with reference to treaties

⁵³ Harold E. Fey and D'Arcy McNickle, Indians and Other Americans: Two Ways of Life Meet (New York: Harper and Brothers, Publishers, 1959), pp. 94-96; and Cohen, Handbook, p. 84.

⁵⁴ S. Lyman Tyler, Indian Affairs; A Study of the Changes in Indian Policy of the United States Toward Indians (Provo: Brigham Young University, 1964), p. 81. See also DOI Annual Report, 1936-1949, for accounts of progress and problems during the reorganization period.

and agreements, and improper payments for lands acquired by the United States from Indians, as well as "claims based upon fair and honorable dealings that are not recognized by any existing rule of law or equity."⁵⁵

During the 1940s, both houses of Congress completed investigations into the conduct of Indian affairs under the reorganization policy. Their conclusions, clearly pro-assimilation, indicated a strong desire to reduce BIA expenditures and operations and to enact positive measures to withdraw special federal services from Indians.⁵⁶ This Congressional obsession was gradually mirrored in the emphasis the Bureau placed on its program objectives. By 1947, it sought to administer and develop, for effective use by Indians, those "resources held in trust by the United States for Indian tribes and individuals" in such a manner that it might "remove itself as trustee and withdraw the public service" it provided for Native Americans. It suggested four factors upon which its withdrawal as trustee might be based: (1) the degree of assimilation within a tribe; (2) its economic condition; (3) its willingness to accept discontinuance of federal aid and guidance; and (4) state and local community willingness and ability to provide

⁵⁵ Act of August 13, 1946, 60 Stat. 1049. The Commission decides claims which existed prior to enactment. It was anticipated that it would complete its work within a ten-year period, but periodic extensions were made, and cases are still being heard and resolved. See 25 U.S.C.A. 70-70v.

⁵⁶ Tyler, Indian Affairs, pp. 91-96.

it with public services.⁵⁷

Termination, 1953-1960

As the BIA adjusted its programs and policies toward terminating its responsibilities in Indian matters, Congress continued to debate the issue and investigate Bureau activities in hopes of reducing expenditures.⁵⁸ On August 1, 1953, House Concurrent Resolution (HCR) 108 was approved.⁵⁹ It ushered in a new controversial federal policy--known as "termination"--and created another significant reversal in the administration of Indian affairs.

It was not a totally new concept. Earlier actions and recommendations, without being identified as such, were bent toward termination. The Johnson-O'Malley Act of 1934 was a form of termination which allowed the transfer of federal funds to state and local authorities for use in providing Indian services. Likewise, the Meriam Report recommended that states should assume responsibility for administering some Indian-related services.⁶⁰ In 1947, Congress created a commission, headed by former President

⁵⁷DOI, Annual Report, 1947, pp. 345, 348-49. See also Clayton Koppes, "From New Deal to Termination: Liberalism and Indian Policy, 1933-1953," Pacific Historical Review 46 (November 1977): 543-66.

⁵⁸Fey and McNickle, Indians and Other Americans, pp. 133-36.

⁵⁹U.S., Congress, Senate, "Status of Indians in the United States," HCR 108, 83d Cong., 1st sess., August 1, 1953, C. Rec., 99: 10066.

⁶⁰Meriam Report, p. 99.

Herbert C. Hoover, to study and recommend ways to improve the administration of the federal government. In its 1949 report, the Hoover Commission hinted at termination when it suggested that in order to achieve complete "integration" of Indians into the American society "as full-tax paying citizens," state governments should progressively accept responsibility for administering their social programs. Further, the Commission recommended creation of corporate bodies to assume supervision over Indian matters and urged that BIA services should gradually be discontinued.⁶¹ Therefore by the 1950s, when Congress took direct action to effect termination, the concept had been aired.

HCR 108 stated that the policy of Congress was to end federal supervision over Indian tribes "as rapidly as possible." Indians were to be subject to the same laws, privileges, and responsibilities as other United States citizens. Specifically, Congress desired that "at the earliest possible time," all tribes and Indians located in four states,⁶² and certain tribes in six others,⁶³ should be "freed from Federal supervision and control and from all disabilities and limitations specially applicable to Indians." HCR 108 directed the Secretary of the Interior

⁶¹The Hoover Commission Report on Organization of the Executive Branch of the Government (New York: McGraw-Hill Book Company, 1949), pp. 466-68.

⁶²California, Florida, New York, and Texas.

⁶³Montana, Oregon, Wisconsin, Kansas, Nebraska, and North Dakota.

to review existing treaties and legislation dealing with Native Americans and to submit recommendations for new legislation, by January 1954, which would accomplish the purposes of the resolution.

Subsequently, the first significant termination measure was Public Law 83-280, enacted on August 15, 1953.⁶⁴ It transferred jurisdiction for criminal offenses and civil actions, committed or originating in five states within Indian Country, to the appropriate state authorities.⁶⁵ The law also extended to all other states the option to assume similar jurisdiction through their own legislative procedures. Following passage of the statute, several states, in varying degrees, proceeded in accordance with the act.⁶⁶ Another facet of termination occurred in 1955, when the Division of Indian Health was transferred from the BIA to the United States Public Health Service (PHS). This action was taken to "free" Native Americans from an "Indian" agency in favor of another that was also charged with assisting non-Indians. The Secretary of Health, Education

⁶⁴Act of August 15, 1953, 67 Stat. 588; 18 U.S.C.A. 1162; and 28 U.S.C.A. 1360.

⁶⁵The five states were: California, Minnesota (except the Red Lake Reservation), Nebraska, Oregon (except the Warm Springs reservation), and Wisconsin (except the Menominee reservation).

⁶⁶Act of April 11, 1968, 82 Stat. 78, 79, amended the law to require the consent of tribes concerned. See also Taylor, Indian Citizens, pp. 34-38, for a discussion of individual state action regarding assumption.

and Welfare (HEW) was authorized to transfer Indian hospitals or health facilities to state or other agencies, but with the stipulation that Indian needs retained first priority.⁶⁷

The major legislative response to HCR 108 amounted to withdrawal of federal supervision over trust and restricted properties of certain tribes and ended BIA special services for them through eleven "termination" laws passed between 1954 and 1962.⁶⁸ Of the four states specifically designated in HCR 108, success was achieved only in Texas, where the state assumed responsibility to extend special services and protection to its Indian citizens. Similar legislation was defeated for Florida and New York, and "piecemeal" termination legislation was enacted for California Indians. In other states, tribes that opposed the policy successfully blocked termination attempts. In short, termination represented an effort to transfer federal functions to individual

⁶⁷Act of August 5, 1954, 68 Stat. 674.

⁶⁸Act of June 17, 1954, 68 Stat. 250, 25 U.S.C.A. 891, 899, Menominee Tribe of Wisconsin; Act of August 13, 1954, 68 Stat. 718, 25 U.S.C.A. 564, Kalmath Tribe of Oregon; Act of August 13, 1954, 68 Stat. 724, 25 U.S.C.A. 691, Western Oregon Indians; Act of August 23, 1954, 68 Stat. 768, 25 U.S.C.A. 722, Alabama and Coushatta Indians of Texas; Act of August 27, 1954, 68 Stat. 868, 25 U.S.C.A. 677, mixed-blood Ute Indians of Utah; Act of September 1, 1954, 68 Stat. 1099, 25 U.S.C.A. 741, Paiute Indians of Utah; Act of August 1, 1956, 70 Stat. 893, 25 U.S.C.A. 791 Wyandotte Tribe of Oklahoma; Act of August 2, 1956, 70 Stat. 937, 25 U.S.C.A. 821, Peoria Tribe of Oklahoma; Act of August 3, 1956, 70 Stat. 963, 25 U.S.C.A. 841, Ottawa Tribe of Oklahoma; Act of September 21, 1959, 73 Stat. 592, 25 U.S.C.A. 935, Catawba Tribe of South Carolina; and Act of September 5, 1962, 76 Stat. 431, 25 U.S.C.A. 980, Ponca Tribe of Nebraska.

states.⁶⁹ Even though some attempted to adopt the policy, most tribes were not ready to sever federal ties.

In the case of the Menominees, close cooperation between the state of Wisconsin, the tribe, and the BIA occurred in preparation for termination. Both the Indians and the state willingly accepted the challenge.⁷⁰ Nevertheless, insurmountable legal, political, and financial problems were encountered.⁷¹ After termination became effective, economic advancement was so slow that in December 1973, Congress passed the Menominee Restoration Act. It recognized the Menominees as a sovereign Indian tribe and reestablished their right to receive federal services "furnished to American Indians because of their status as American Indians."⁷²

During the late 1950s, emphasis on termination began to dwindle. Indian organizations denounced it; state governors, who initially endorsed the shift in policy, soon withdrew their support; and Congress came under pressure to slacken its pace in adopting terminal legislation. The consensus of opinion was that termination was too swift;

⁶⁹Taylor, Indian Citizens, pp. 62-64.

⁷⁰Ibid., p. 64, 220-23. See Stephen J. Herzberg, "The Menominee Indians: From Treaty to Termination," Wisconsin Magazine of History 60 (Summer, 1977): 267-329, for a condensed, but extremely informative, history of the Menominees and their experiences prior to termination.

⁷¹Brophy, The Indian, pp. 199-207.

⁷²Act of December 22, 1973, 87 Stat. 770; and 25 U.S.C.A. 903-903f.

that Indians were not yet adequately prepared to accept it, although a gradual withdrawal of federal supervision was still somewhat desirable. Most Indians feared complete government abandonment, and there was great concern over what it would cost individual states to assume federal obligations.⁷³ As resistance increased, the BIA began to emphasize programs that tended to develop self-sufficiency, primarily in education and economic development. Progress was inhibited, however, because Indians were concerned that too much self-sufficiency would lead to termination. In 1957, the Bureau started using the term "readjustment" in place of termination. "Readjustment legislation" was defined as that which provided "for the gradual assumption of full autonomy by the affected tribal groups."⁷⁴ In 1958, in response to criticism that Washington was intent upon abandoning Indian groups, the Secretary of the Interior attempted to clarify the government's position. He declared that "no Indian tribe or group should end its relationship with the Federal Government unless it clearly demonstrated" an understanding of, and support for, the conditions of termination.⁷⁵

With the close of the Eisenhower administration in January 1961, federal Indian policy was inanimate. Termi-

⁷³Tyler, Indian Policy, pp. 173-76.

⁷⁴Taylor, Indian Citizens, p. 64; and DOI, Annual Report, 1957, p. 237, 239.

⁷⁵Radio address by Secretary of the Interior Fred A. Seaton, from Flagstaff, Arizona, September 18, 1958, as cited and quoted in DOI, Annual Report, 1959, p. 231.

nation was doomed, but there was no indication that a new policy statement was actively being considered. One of the main BIA program objectives was still "termination, at appropriate times, of federal supervision and services to Indians,"⁷⁶ The need for new solutions was obvious.

⁷⁶U.S., Office of the Federal Register, National Archives and Records Service, General Services Administration, United States Government Organization Manual, 1960-61 (Washington, D.C.: Government Printing Office, 1960), p. 247 (hereafter cited as Government Manual and the appropriate years).

CHAPTER II

CHANGE AND PROMISE: THE KENNEDY- JOHNSON ADMINISTRATION

Federal Indian policy began to change significantly during the early 1960s. Emphasis on termination had rapidly declined during the late Eisenhower years. In its place was a more positive effort to develop human and natural resources on reservations. Apart from the on-going BIA education, housing, and economic development programs, there occurred almost simultaneously in 1961 two events that would weigh heavily on future actions. One was the Department of the Interior Task Force study of Indian affairs. The other was a conference conducted by and for Native Americans. The Task Force, which called for a reversal in policy, and the conference, which increased Indian morale and assertiveness, greatly influenced the government's quest for solutions which achieved positive results during the Kennedy-Johnson administration.

Foundation for Change, 1961

In February 1961, Secretary of the Interior Stewart L. Udall appointed a special four-member task force to investigate Indian affairs. Headed by W.W. Keeler, principal chief of the Oklahoma Cherokees and oil company

executive, the study lasted five months and drew information from federal officials, numerous tribal leaders, and non-Indian experts throughout the West.¹ In July, the Secretary received the final report, a document which established the foundation for change in the administration of BIA programs.²

Mr. Udall accepted the major Task Force recommendations which outlined a "New Trail." He called for the collaboration of Indians with all other Americans, as well as with state and local governments, to achieve new goals. Emphasis would be placed on Indian development--not termination--in order to enlist necessary tribal cooperation, the "keystone of a successful program." Although the report condemned termination, because it "impair[ed] Indian morale and produce[d] a hostile apathetic response," the Task Force urged that federal services be withdrawn from highly educated, financially secure Indians who were competent to handle their

¹DOI, Annual Report, 1961, pp. 277, 279. Other Task Force members were: Philleo Nash, anthropologist, former lieutenant governor of Wisconsin and subsequently Commissioner of Indian Affairs; William Zimmerman, Jr., Assistant Commissioner of Indian Affairs (1933-1950); and James E. Officer, an anthropologist from the University of Arizona and later an Associate Commissioner of Indian Affairs. Acting Commissioner of Indian Affairs, John O. Crow, served as a consultant to the Task Force and accompanied it on field trips.

²U.S., Department of the Interior, Bureau of Indian Affairs, Developing Employment Opportunities, by Keith L. Fay (Washington, D.C.: Government Printing Office, 1967), p. 35; and U.S., Congress, House, Committee on Interior and Insular Affairs, Policies, Programs and Activities of the Department of the Interior, Hearings before the Subcommittee on Indian Affairs, 89th Cong., 1st sess., 1965, pt. 1, Briefing on Indian Affairs, January 27, 1965: Statement of Dr. Philleo Nash, Commissioner of Indian Affairs, p. 77 (hereafter cited as Nash Statement, January 27, 1965).

own affairs. It also encouraged the use of non-BIA federal assistance, such as Social Security, Area Redevelopment, and aid to public schools districts in federally impacted areas.³

De-emphasizing termination, the Task Force provided several specific recommendations. These included increased efforts to: develop Indian resources and attract industries to reservations; expand vocational training and placement activities; accelerate federal negotiations with states and counties to insure the rights of off-reservation Indians; and encourage states and tribes to bring reservation criminal codes into conformity with those of the various states and counties where the tribes are located. Further, needed improvements in all areas of Indian education were identified. Among them were year-round operation of schools; expansion and renovation of facilities; road improvements which would allow increased bus service; and Indian parent involvement in school planning and parent-teacher activities. Additionally, the report advocated the transfer of fractionated Indian land allotments (or cases of multiple ownership through descent) to tribal control so as to eliminate "heirship" problems. It also urged reorganization of the BIA to better support economic development; creation of a statutory advisory board on Indian affairs; and acceleration of decisions in cases pending before the Indian Claims Commission.

³U.S., Congress, House, "New Trail For Indians Endorsed by Secretary Udall," Department of the Interior News Release, July 12, 1961, 87th Cong., 1st sess., July 13, 1961, C. Rec. 107: A5283.

Three prime objectives were proposed for the Interior Department: maximum Indian economic self-sufficiency; full participation of Indians in American life; and equal citizenship rights and responsibilities for Indians. To achieve these goals, the Task Force recommended less emphasis on the BIA's purely custodial functions in favor of concentrating time, energy, and money in the development of reservation resources, both human and natural.⁴

Indian Views Stated, 1961

Activity outside the Interior Department also yielded results. The American Indian Chicago Conference was held June 13-20, 1961. Conceived by Sol Tax, Professor of Anthropology at the University of Chicago, these proceedings, as well as nine major preliminary state and regional meetings, were conducted by and for American Indians. At the Chicago conference, 460 delegates representing 90 tribes reviewed events associated with Indian issues that had occurred subsequent to publication of the Meriam Report in 1928. The ultimate goal of the conferees: to produce findings and recommendations which expressed their views toward a fresh approach to Indian administration. Their report, entitled "Declaration of Indian Purpose," was prefaced with a statement that disclosed a twofold desire: recognition of basic Indian philosophies; and governance of Native Americans under democratic principles that would allow them the right

⁴Ibid., 107: A5283-84; and DOI, Annual Report, 1961, pp. 277-78 and 1962, p. 7.

to choose their way of life and retain their culture and identity.⁵

The Declaration addressed major problems, including legislation and regulations, resource and economic development, health, welfare, housing, education, and law and jurisdiction. Specific recommendations were offered for the benefit of federal administrators and legislators. Because many non-reservation Indians were experiencing health service and educational problems, economic distress, and social non-acceptance that exceeded those of reservation inhabitants, the Chicago delegates identified their plight. The Declaration admonished the BIA for the historical tendency to assume that non-reservation Indians have "assimilated" and therefore did not require federal assistance. Also, it suggested that Congress and the American public review the entire matter concerning off-reservation Native Americans to determine governmental and private actions that would improve their lot.

The delegates further urged that the inherent powers of Indian tribes be recognized. They emphasized the value

⁵Dr. Tax, his staff, and associates from other institutions acted as a coordinating agency for the Chicago proceedings which were sponsored by the University, endorsed by the NCAI, and received financial support from numerous foundations, churches, and individuals across the nation. U.S., Congress, Task Force Three: Federal Administration and Structure of Indian Affairs, Appendix D, "Declaration of Indian Purpose," to Report on Federal Structure of Indian Affairs: Final Report to the American Indian Policy Review Commission, Committee Print (Washington, D.C.: Government Printing Office, 1976), pp. 184-85, 218 (hereafter cited as Declaration).

and importance of the underlying principles embodied in the Indian Reorganization Act of 1934 and in the two significant Acts of June 30, 1834: the Trade and Intercourse Act and the Act to Reorganize the Indian Department. Overall, the recommendations contained in the Declaration were designed to "redefine the responsibilities of the United States toward Indian people" in all areas. It further called for the abandonment of the termination policy--not by lip service alone, but by revocation of HCR 108 of 1953. In its place the conferees asked for a policy that would inspire a "broad educational process . . . calculated to remove the disabilities which have prevented Indians from making use of their resources."

Success, however, would require change. The Declaration suggested reorganization within the BIA that would permit Indians to fully participate in developing their own programs, with help and guidance, when needed and requested, from a decentralized technical and administrative staff. Thus it was proposed that BIA area offices be abolished and that greater authority be transferred to reservation superintendents who could act more quickly and decisively in matters pertaining to daily reservation operations. The delegates believed that such action would result in closer relations between tribes and superintendents. If achieved, this condition would allow the growing numbers of qualified Indians to work among their own people and to determine priorities. The Declaration also asked that superintendents

be required to cooperate with tribal governing bodies in the development of federal programs and budgets.

Stressing economic development, the Declaration cited need for tax inducements, to locate job-creating industries on or near reservations; land purchase funds, to allow particular tribes to increase their inadequate land base; credit through an ample revolving loan fund; and funding procedures, free of red tape, to increase the percentage of projects fully completed. Employment was another major concern. Delegates called for Indian preference in BIA job openings; encouragement of Indian college graduates to accept Bureau positions, as opposed to seeking work away from reservations; and use of Indian labor and on-the-job training for BIA construction projects. Other requests related to: creation of adult training programs; overhauling the BIA employment relocation program to make it correspond more to the job market and to provide more housing, financial, and welfare assistance to relocatees; and closer cooperation between federal and state employment agencies so as to identify the unique problems of Indian job-seekers. Laws and regulations to protect employment rights were also requested.

Indian health care was a major issue. After the PHS assumed the BIA's medical and hygienic functions in 1955, Indians contended that since services were funnelled through state, local, and private agencies, they did not always receive adequate attention. The conferees suggested that a

lack of understanding existed on both sides, and therefore both Indians and agencies needed to be educated as to what services were available and from which levels of government. They were particularly concerned with preventive medicine, maternal and child care, sanitation, and nutrition. They also called for new health centers and hospitals to serve Indian communities; better dental and health care in rural areas; and programs to deal with rehabilitation, alcoholism, and mental health. The delegates urged that federal funds be withheld from public and private hospitals that did not meet contractual obligations for Indian care.

A thorough revision of the national welfare policy was urged, as well. The Declaration charged that state and county agencies were "reluctant" to assist reservation Indians because they resided on non-taxable property and therefore should receive federal help. The delegates suggested that the BIA establish welfare standards based on a national norm. Then, when lower levels of government could not meet these standards, Washington could intervene. Especially did federal responsibility extend to living conditions and housing, which required "immediate consideration and action." It was recommended that federal housing programs and laws be expanded and interpreted to improve sanitary conditions and eliminate substandard housing for Native American families.

The Declaration contended that broad-based education was the BIA's primary task. As such, it was to extend far

beyond the classroom, to be available throughout the life of every Native American. The feeling was that education was "the key to salvation" Specifically, Indian children should have a choice of attending federal or public schools, according to individual needs; federal schools should have broader curriculums; and junior colleges should be located so as to serve both Indians and non-Indians. Teacher salaries should be higher to encourage job competition, and those hired should have demonstrated an interest in Indian students. Adequate guidance and counseling services were also needed, and grant programs should be increased to allow Indian students to attend the colleges or universities of their choice. The Declaration stressed the need for accredited vocational training; expansion of adult education, on-the-job training, and school lunch programs; and special classrooms on reservations for exceptional and retarded children.

Numerous recommendations pertained to law and jurisdiction. The Chicago delegates asked for the return of former Indian trust lands that were part of the public domain, as well as acreage removed from trust under termination laws. They also requested acceleration of Indian Claims Commission cases; determination of legal ownership on reservations; transfer, in trust, of surplus submarginal lands adjoining reservations to the tribes concerned; and Congressional appropriation of annual land purchase funds in accordance with the IRA. They also wanted legislation to: permit Indians to vote on the acceptance of IRA on reservations

where it was not accepted in the 1930s; solve heirship problems; amend the 1953 termination law, Public Law 83-280, to require Indian consent before states could assume civil and criminal jurisdiction; and to provide for surveying and establishing firm reservation boundaries. Further recommendations supported legislation to clarify the intent and purpose of treaties and agreements relative to taxation. Such measures would clearly state that income derived from tribal, allotted, and restricted lands held in trust by the United States would be exempt from federal and state income taxes. The Declaration asked--without "pleading" for special treatment--that treaty rights and trust-protected lands be recognized and upheld by the United States government and the American public.

The concluding statement of the Declaration of Indian Purpose made it clear that Indians were not seeking charity or paternalism. It asked only that the nature of their situation be recognized. That policies be formulated and actions taken to provide technical and financial assistance for as long as necessary so as "to regain in the America of the space age some measure of the adjustment they enjoyed as the original possessors of their native land."⁶ Even before the Declaration was issued, however, its essence had been considered and acted upon.

⁶Declaration, pp. 185-96.

New Frontier Prelude

President-elect John F. Kennedy set forth a mandate shortly after the November 1960 election on which his administration would base its overall goal to help Native Americans participate in the New Frontier. He stated:

We want every group which is now unable to make its full contribution to American strength to be given the opportunity to do so. It is in this spirit that we shall approach our work on Indian reservations, and, it is in this spirit, I am sure, that Indians throughout the country will work for a better life for themselves and thus a stronger America.

Accordingly, the Department of the Interior designated its top Indian affairs priority as one that would "provide self-sufficiency for the Indians as rapidly as possible, within the protection guaranteed them by history." In this vein, the 1961 Task Force on Indian Affairs was created.⁷

Within the BIA, reorganization and preparation began almost immediately following submission of the Task Force report, as indicated in September 1961 when two members of the study group joined the Bureau. Philleo Nash was appointed Commissioner of Indian Affairs and James E. Officer Associate Commissioner. In October 1961, all Indian agency superintendents and Washington Bureau officials met in Denver to discuss the Task Force report and formulate implementation of its recommendations. This was the first such gathering of agency personnel and home office officials since 1938. As a result of the meeting, all operating units within the BIA directly concerned with economic advancement were combined

⁷DOI, Annual Report, 1961, pp. 40-43.

into a new Division of Economic Development. Its functions included agricultural and forestry assistance, real estate appraisal, real property management, and road construction and maintenance. Among its personnel were a housing specialist and a program planning staff. Then, in early 1962, private research organizations were contracted to conduct feasibility studies of specific economic development enterprises for Indian reservations and native villages in Alaska. This initial work was funded by the Area Redevelopment Administration (ARA) of the Department of Commerce. In the following year twenty-six new studies were launched, of which two were financed by ARA and the others by the Bureau.⁸

In addition to economic advancement, New Frontier actions gave early attention to improvements in what the 1961 Task Force called "truly shocking" Indian housing conditions. The first major step was taken in September 1961 at a White House ceremony where President Kennedy announced approval of the Oglala Sioux Housing Authority's request for a public housing project on the Pine Ridge Reservation in South Dakota. Never before in its twenty-five-year existence had the Public Housing Administration (PHA) provided loans to Native Americans. With this new ruling, housing authorities began to emerge on other reservations.⁹

⁸Ibid., 1962, pp. 7-9, and 1963, p. 28.

⁹Ibid., 1961, p. 47, and 1962, p. 20; and Public Papers, John F. Kennedy, 1961, p. 607.

Another important action occurred in 1962 when the White Mountain Appaches conducted a "self-help" housing construction pilot program. With eight families participating, they secured tribal loans for materials, received supervision from the tribe, and performed the actual construction. Later that year, the PHA further developed the method at the Pine Ridge Reservation and renamed it the "mutual-help" concept. Mutual-help housing employed Indian labor in return for equity which created home ownership incentives. It also provided low-rent housing and resulted in a savings in federal subsidy when compared to other rental programs. In cooperation with the PHA, the BIA assumed responsibility for administering future mutual-help projects.¹⁰

There were efforts to promote employment as well, through a return to greater use of "force account" construction procedures. Such operations employed Indian labor, and in past years they had generally been used for construction of most reservation roads, utilities, and buildings. During the Eisenhower administration, however, the majority of projects were completed under conventional contracts. In the face of strong objections from private contractors and building trades groups, New Frontier guidelines reversed the policy, and force account operations came to prevail, thereby increasing Indian employment by nearly 1,400 workers

¹⁰DOI, Annual Report, 1962, p. 22; and Milton Semer, Housing and Home Finance Agency, to Lee White, January 17, 1964, Ex, In, WHCF.

by December 1962.¹¹

Education also received emphasis. In 1961, about 5,000 Indian children were without schools, but within two years, new classroom facilities were provided for 7,000 students.¹² Enrollment in summer school programs rose from 2,200 in 1960 to 12,800 in 1963. Academics, including remedial instruction with emphasis on oral and written English; student employment; field trips, which allowed many Indian youngsters to leave their reservations for the first time; and supervised recreation highlighted this effort. In October 1962, the BIA began operating the Institute of American Indian Arts at Santa Fe, which enrolled 150 students from 74 tribes in 20 states. Upon completion, the Institute's potential enrollment would increase to 500, and it would offer senior high school and college level courses. Specialized instruction would become available in painting, sculpture, jewelry-making, ceramics, textile design and printing, and creative writing.¹³

New Frontier legislation aided Native Americans in other ways, and provided thrust for the 1961 Task Force objectives. The Area Redevelopment Act of 1961, designed to

¹¹"Indians and Poverty," January 4, 1964, memorandum, p. 9, enclosure in Philleo Nash to Stewart L. Udall, January 10, 1964, memorandum, file no. 2002, p. 1, Box 90, Files of Philleo Nash, Record Group 75, National Archives (hereafter cited as Nash Files, R.G. 75, and NA); and Public Papers, John F. Kennedy, 1963, p. 290.

¹²Public Papers, John F. Kennedy, 1963, p. 233.

¹³DOI, Annual Report, 1962, p. 30, and 1963, p. 16-18.

curb unemployment and underemployment in economically distressed areas, specifically included Indian reservations identified by the Commerce Department. With authority delegated from the Secretary of Commerce through the Interior Department, the BIA, as of August 1961, designated forty-eight "Reservation Redevelopment Areas" and assisted tribes in starting economic development programs. By June 1962, fifty-six reservations and four similar areas in Alaska had become eligible for assistance from the ARA, and twenty of twenty-seven programs submitted had been approved.¹⁴ The BIA revolving loan fund was increased from \$10 million to \$27 million between 1961 and 1963, and \$25 million in credit was extended to 142 tribal enterprises. The Manpower Development and Training Act (MDTA) of 1962, designed to train the "nation's workers" to fill shortages in certain job skills, was extended to Indians. Also in 1962, changes in the 1955 housing amendments law made tribes eligible for federal loans to finance public works, and by February 1963, \$12 million had been made available under the Accelerated Public Works Program for eighty-eight projects on reservations in nineteen states. Finally, in November 1963, a revolving loan fund was established to provide financing for obtaining expert pre-trial assistance for Indian tribes in cases before the Indian Claims Commission.¹⁵

¹⁴Ibid., 1961, p. 268 and 1962, pp. LX, 10; and Act of May 1, 1961, 75 Stat. 47.

¹⁶Public Papers, John F. Kennedy, 1963, p. 290; Act of March 15, 1962, 76 Stat. 23; and Act of November 4, 1963, 77 Stat. 301.

By November 1963, when the Kennedy Presidency reached its tragic end, important policy changes were apparent in the BIA's program objectives. Termination had been deleted as a goal, and in its place, was a Task Force mission to strive for "maximum Indian economic self-sufficiency; full participation of Indians in American life; and equal citizenship privileges and responsibilities for Indians." Native Americans were thankful for New Frontier policies, and their leaders made that fact known to Lyndon Johnson soon after he occupied the White House.¹⁶

Indian Views--Presidential Response, 1964

On January 20, 1964, President Johnson met with representatives of the NCAI. This White House conference, following on the heels of Mr. Johnson's declaration of war on poverty in his State of the Union Message of January 8, allowed Indian leaders to set forth their thoughts regarding the administration's efforts to improve the economic well being of their people. This they did in a letter to the President during the conference.¹⁷

Their major concern was unemployment. Stating that reservations were "pockets of poverty," the NCAI urged that Indian job-seekers be given special consideration in public works and other federal programs. Also, the use of "force

¹⁶Government Manual, 1963/64, p. 244; and Walter Wetzel to the President, January 20, 1964.

¹⁷NCAI Sentinel, February-March, 1964; and Walter Wetzel to the President, January 20, 1964.

account" contracts, which employed Indian labor, on BIA construction projects should be increased.

The fear of excessive Congressional intrusion was also expressed. For instance, measures then before the Senate, if approved, would place Indian-owned land in jeopardy, and thus the administration should oppose such legislation, which reflected the "pressure of external interests' intended "to separate the Indian from his trust land."¹⁸ The letter warned that "conferring a vote on non-reservation Indians who have no interest in the lives and welfare of the home folks who live on the reservation," as contemplated in Senate Bill 156, was a means of accomplishing termination. It asked the Department of the Interior to oppose any proposal that would give off-reservation Indians a voice in deciding reservation issues.¹⁹

The amending of Public Law 83-280, so as to require the consent of Indians before states could extend criminal and civil jurisdiction over reservations, was another request. The NCAI also urged an amendment to provide for federal acceptance in cases where a state desired to relinquish jurisdiction over Native Americans it had previously

¹⁸S. 1049 related to the heirship land problem. It would have allowed Indian trust land under fractionated ownership to be sold without guaranteeing that only Indians or tribal organizations might purchase such lands. U.S., Congress, Senate, debate concerning S. 1049, 88th Cong., 1st sess., 1963, C. Rec. 109: 19367-71.

¹⁹S. 156 related to membership in Indian tribal organizations. U.S., Congress, Senate, "Bills and Joint Resolutions Introduced," 88th Cong., 1st sess., 1963, Ibid., 109: 189, 193.

assumed under the law.²⁰

The letter clearly stated Indian views on other long-standing issues. Indian rights, through treaties and under existing laws, should be enforced and protected. In particular, tribal lands should be secured against alienation by eminent domain, pending agreements and settlements with tribes. Congress should increase the revolving loan fund managed by the BIA; and the practice of requiring tribes to pay as much as 5½ percent interest should be ended, since rates on other categories of federal loans were not as high. Noting that some cases had been before the Indian Claims Commission for fourteen years, procedures were needed to insure more prompt decisions. Finally, the NCAI leaders expressed a desire and willingness to work closely with the Johnson administration on behalf of Native Americans. Responsible leadership, they asserted, must execute the spirit and intent of its pronouncements. A "good policy uttered in Washington has no significance unless it is brought to life on the reservation"

In a formal response, President Johnson made clear his awareness of past neglect. He promised that Indians would be in the forefront of the administration's anti-poverty program and assured the NCAI officials that their recommendations would receive careful consideration at the Interior Department, the BIA, and other agencies. He also encouraged them to continue to present their views, because the

²⁰See Chapter I, p. 37, reference P.L. 280.

administration was "unlikely to achieve lasting results without the willing and informed cooperation of the Indian people themselves."²¹

Capitol Conference and Economic
Opportunity Act, 1964

Little encouragement was needed as the focus shifted from the White House to the Washington Cathedral, where several hundred delegates attended the American Indian Capitol Conference on Poverty, from May 9 through 12, 1964. The meeting, sponsored by the Council on Indian Affairs, was to emphasize Indian participation in outlining required anti-poverty actions on reservations. Five work groups were formed from among more than 200 Indian delegates to consider problems of education, employment, housing, health, and community involvement.²²

Senator Hubert H. Humphrey declared in his keynote address that Indian reservations would be prime targets in the war against poverty. He suggested that they would make excellent pilot projects from which the government could

²¹Public Papers, Lyndon B. Johnson, 1963-1964, bk. 1: 149-50; and the President to Walter Wetzell, February 25, 1964, Ex, In, WHCF.

²²News Release, American Indian Capitol Conference on Poverty, April 24, 1964, General file (hereafter cited as Gen), In, WHCF. Cooperating member organizations of the Council on Indian Affairs represented at the conference included the NCAI; Department of Indian Work, National Council of Churches; American Friends Service Committee; Unitarian Service Committee; Division of Research, General Federation Women's Clubs; Catholic Welfare Conference, Bureau of Catholic Indian Missions; American Civil Liberties Union; Board of Homeland Missions, United Church of Christ; and the Indian Rights Association.

determine how to proceed against the enemy on other fronts. In response, Robert Burnette, Executive Director of NCAI, encouraged President Johnson to visit reservations during his tours of poverty-stricken areas. He also urged tribal leaders to make the best use of any government aid that might materialize from the proposed national campaign.²³

Indian spokesmen proceeded to voice often-heard needs. They emphasized low interest loans for industrial development, housing, and hospital projects; more and better schools, vocational facilities, and training; nursery school and kindergarten programs; youth Job Corps camps near reservations; and mobile medical clinics for widely scattered and isolated settlements. They also called for the elimination, or at least the recognition, of the "distorted image" of Indians frequently found in history books.²⁴

The Capitol Conference brought heartening results. Although the President declined an invitation to attend the Sunday session on May 10, or to confer with an Indian delegation at the White House, Secretary Udall reiterated Mr. Johnson's pledge to place Indians "in the forefront" of the War on Poverty. He also encouraged Indians to take an active part, since their participation would constitute one of the

²³Amerindian, May-June 1964, p. 1. This bimonthly newsletter, edited and published by Marian E. Gridley, in Chicago, presents news of personalities and activities in Indian affairs. See also NYT, May 10, 1964, p. 83.

²⁴Amerindian, May-June 1964, p. 1; and NYT, May 11, 1964, p. 17.

most important elements in the national effort. While delegates deliberated at the Washington Cathedral, Congress considered the Economic Opportunity Act. Its enactment, on August 20, 1964, would have significant meaning for Native Americans. Its language and purpose--"to eliminate the paradox of poverty in the midst of plenty in this Nation by opening to everyone the opportunity for education and training, the opportunity to work, and the opportunity to live in decency and dignity"--left no doubt that American Indians, like all other citizens who qualified for assistance, would be eligible for benefits.²⁵

The potential was great. Under Title I, Job Corps camps might be located on reservations, or Indian youth could enroll in off-reservation camps. Work-Training would allow high school students to contribute to family incomes while receiving training for future employment. Tribal councils would be able to sponsor such programs in BIA-operated schools, but Indian youth would also be eligible in other schools. For college and university students, Work-Study would help to fund their education and thus encourage Indian enrollment.

Title II Community Action Programs would extend to reservation towns. Projects pertaining to job opportunities, special and remedial childhood education, adult literacy,

²⁵NYT, May 11, 1964, p. 17; Robert Burnette and Bernard Cherin, Public Relations Advisor to the Conference, to Kenneth O'Donnell, May 6, 1964, Ex, In, WHCF; and Economic Opportunity Act, August 20, 1964, 78 Stat. 508.

summer tutoring and study centers, migrant education, health education, and home management training--all were possible under Urban and Rural Community Action. Further, Title II provided Adult Basic Education, which meant that those who wished could receive assistance from state educational agencies in learning English; and the Voluntary Assistance Program for Needy Children, coordinated through city or county welfare agencies, could benefit Indian children.

Under Title III, low-income Indian families could receive low-interest loans when other credit sources were unavailable, and Title IV made possible small business loans. Title V would allow participation in HEW Work Experience programs. Job training and other instruction would become available to persons unable to support themselves or their families because they lacked marketable skills. Title VI gave life to Volunteers in Service to America which provided a dual benefit to Native Americans. Many could receive assistance while others who were qualified would have the opportunity to become VISTA workers.²⁶

The Economic Opportunity Act drew strong support from the Department of the Interior. It was not, however, looked upon as a program to relieve the BIA of its anti-poverty responsibilities. Instead, it was considered a valuable "supplement and complement" to existing Bureau

²⁶U.S., Department of the Interior, Bureau of Indian Affairs, The Economic Opportunity Act of 1964: Implications for American Indians, September 1964, pamphlet, pp. 2-4, file no. 2002, pt. 2, Box 90, Nash Files.

programs.²⁷

More Programs and Progress

That the shift in federal Indian policy, from termination to the development of human and natural resources, gathered momentum during the Kennedy-Johnson presidency was evident. Because of the Task Force on Indian Affairs, the Declaration of Indian Purpose, and the White House and Capitol conferences, there was no question of need. The Economic Opportunity Act partially answered that need, though its impact would not be apparent until 1965, after the Johnson administration was underway. As early as 1961, however, the BIA attempted to increase its effectiveness in achieving the new objectives.

In January 1965, Commissioner Philleo Nash appeared before the House Committee on Interior and Insular Affairs to offer testimony concerning the status of Indian affairs. He informed the Committee that BIA programs were "designed to help the individual seek and find his opportunity wherever it may be," should state, local, or tribal government prove "unable to meet essential needs." His written statement, entitled "Bureau of Indian Affairs--Progress Through 1964," pertained to community services and resources management and development. It contained a wealth of information regarding

²⁷ Stewart L. Udall to Senator Lister Hill, Chairman, Committee on Labor and Public Welfare, June 22, 1964, file no. 1929, Box 90, Nash Files.

major activities during the Kennedy-Johnson period.²⁸

Within community services, progress occurred in several areas of education. During fiscal years 1962, 1963, and 1964, 12,000 classroom seats and related facilities were added to the BIA school system, mostly in the elementary grades. Enrollment in summer activities, such as field trips, academic instruction, and work-study, which began in 1960, increased from 7,200 in 1961 to more than 26,000 in 1964. Adult education programs, which reached 107 communities in 1961, extended to 183 by 1964 and served nearly 31,000 adults. The number of high school diplomas awarded through general education development testing rose considerably, as did scholarship grants for Indians attending post-secondary institutions. In 1961, 623 students received assistance; in 1964, with increased funding, there were 1,327 recipients. Efforts to reduce dropout rates focused on providing a variety of programs which led to increased retention at the high school level. In 1960, 52.2 percent of eligible high school Indian students were enrolled, and by 1964 the percentage was 71.8, or slightly above the national retention rate of 71.7. The overall Indian enrollment in all types of schools increased nearly 18 percent between 1961 and 1964, and Indian attendance in public schools rose by 22 percent, from 65,000 to 79,000.

Community service aid also included adult vocational

²⁸Nash Statement, January 27, 1965, pp. 77-78, 100-101. Unless otherwise indicated, this reference is the source of information throughout the remainder of this chapter.

training and relocation for direct employment. During the period 1961 to 1964 vocational training received much greater emphasis, its appropriation rising from \$3.5 million to \$12 million. Although the number of trainees increased modestly, from 1,226 to 1,805, graduates rose from 660 to 1,389. During these years a total of 4,007 Indians completed training. Within the relocation program, single workers and heads of families increased from 1,822 in 1961 to 1,982 in 1964, and when possible were placed in communities adjacent to their reservations. Additional training and employment also became possible through the Area Redevelopment Act of 1961 and the Manpower Development and Training Act of 1962. By the end of fiscal year 1964, 1,900 Indians received training under these new laws. The Bureau extended community service through financial assistance to an average of 12,749 needy Indians each month in 1961; by 1964, that figure had increased to 18,414. Similar help was provided to 10,000 families in 1961 and 11,700 in 1964; and during the same period, care for Indian children in foster homes or institutions rose from 2,300 to 2,554.²⁹

BIA resources management and development activities included several sub-activities, with major emphasis on project development, credit financing, industrial growth, and public housing. Progress was also evident in soil and moisture conservation, range management, irrigation, and

²⁹Family financial support and child care figures for 1961 appear in DOI, Annual Report, 1961, pp. 291-92.

outdoor recreation.

A total of 90 economic feasibility studies of potential reservation projects, funded by the ARA and the BIA and initiated at a cost of \$1,797,500, were conducted during the period 1961-1964. They dealt with agricultural processing, arts and crafts, commercial and industrial ventures, fisheries, forestry and wood products, minerals and mining, and tourism and recreation. By the end of 1964, almost two-thirds of the studies were completed, and they indicated that potentially 8,000 Indian workers could be employed if all proposed projects were developed. Their cost was estimated at \$98 million. In January 1965, work was begun on 33 projects, which required funding of \$58 million and promised employment for 3,000 Indians. Accelerated public works projects on 89 reservations in 21 states provided 30,000 man-months of employment during a 20-month period ending June 1964. Expenditures of \$21 million underwrote road construction and improvement, forest preservation, soil and moisture conservation, establishment of recreational facilities, and the building and renovation of community centers. In late 1964, planning efforts began for 178 long-range comprehensive reservation development programs. They involved reservations and communities in 23 states and most of the Native Americans under BIA jurisdiction.

Credit opportunities were substantially expanded. As of June 30, 1964, financing extended to Indians amounted to \$163 million, an increase of nearly \$84 million since 1962.

Of the total amount, \$23.2 million (14.2 percent) in loans were made through the BIA, \$36.5 million (22.4 percent) came from Indian organizations, and the remaining \$103.3 million (63.4 percent) was furnished by commercial lenders. During the two years, new loans from the BIA's revolving fund amounted to \$13 million, indicating a sharp rise in Indian economic activity. During 1964 alone, loans totaled over \$55 million and \$36 million in payments were due into the fund. Of that amount, 87.9 percent was paid; 10.6 percent was extended; seven-tenths of 1 percent was cancelled; and four-fifths of 1 percent was delinquent.³⁰ In January 1965, the Bureau concluded that the amount and sources of funds were inadequate to promote progress, and Indian economic development was being impeded. To meet financial needs, and to carry out projects suggested by feasibility studies, legislative proposals for 1965 included an additional \$35 million for the revolving loan fund, as well as another \$15 million for a loan guarantee and insurance fund so as to encourage more loans from outside government.

Industrial development advanced during the Kennedy-Johnson administration, with most of the progress evident

³⁰The 1964 BIA loans and tribal funds totaling \$59.7 million were used for the following purposes:

	<u>Millions</u>
Loans to individual Indians	\$13.7
Loans to cooperatives8
Financing of enterprises	37.3
Loans to attract industries	1.5
Operating cash to continue operations . .	2.6
Other assets	3.8
Total	<u>\$59.7</u>

during the second half. In 1963, with Bureau assistance, 17 industrial enterprises were expanded to locations on or near reservations. Immediately they provided 250 jobs, but at full operating capacity these plants would require an estimated 1,500 workers, of whom about half would be Indians. In 1964, 22 companies were persuaded to establish, at locations near Indian communities, plants which could hire 1,300 Indians out of a total of 2,100 employees. By January 1965, 40 new plants were in operation or under construction; their potential payroll was 3,600, which might include 2,100 Indians. The benefits of these job opportunities could reach an estimated 8,500 Native Americans. Of the 40 plants, located in 14 different states, 7 were tribal enterprises. In addition, 27 commercial tourist facilities were in operation in 1965, nearly all of them established in 1963 and 1964. Once in full operation, these motels, ski resorts, and camping facilities could employ 400 Indians.

Home-building on reservations, another important concern, was severely limited under conventional credit terms because of high unemployment and low income rates. Between 1962 (when tribes became eligible to participate) and 1965, the joint efforts of the Bureau and the PHA resulted in the establishment of housing authorities for 65 tribes in 21 different states. The PHA committed funds to 46 tribes for 1,537 conventional low-rent and 1,406 mutual-help units valued at about \$36 million. Of the 46 tribes, 13 applied for low-rent units, 25 for mutual-help units, and 8 for some of each type.

As of January 1965, 150 units were completed and occupied, and 500 were under construction. At that time, however, the BIA still considered 90 percent of all reservation housing to be far below any standard of decency.

From 1961 through 1964, a technical assistance program in soil and moisture conservation, conducted through the BIA, helped tribes and non-Indian lessees expend more than \$65 million. More than 300,000 people attended meetings in order to learn the value of conservation.³¹ Between 1962 and 1964, increased emphasis on range management made available to Indian stockraisers an additional 705,000 acres of grazing land. The result was a substantial increase in the size of herds and 17 percent more profit. In the same context, 870,000 of an estimated 1,200,000 acres of irrigable Indian land were developed for farming during the period 1961-1964. The annual gross value of crops produced increased from \$67 million in 1962 to \$76 million in 1963.

Outdoor recreation was yet another aspect of progress in resource management and development. Between 1962 and 1964 Indians provided an increase of 82 percent more reservation campgrounds for the American public; 16 percent more

³¹Conservation efforts during the period fall into these categories:

Brush eradication	275,000 acres
Fence building	5,800 miles
Seeding and sodding	270,000 acres
Weed control	1,700,000 acres
Leveling	25,000 acres
Stock pond construction	1,850 acres
Terrace construction	564 miles
Water spreading	560,000 acres

picnic sites; 38 percent more fishing areas; and 15 percent more hunting areas. Success was likewise achieved in real property management. Lease contracts for agricultural, industrial, recreational, and mineral development rose significantly in number, as did programs to increase timber-cutting operations and rebuild or enlarge saw-milling enterprises. Finally, road construction and maintenance, much of it on school bus routes, experienced growth.

During his oral testimony, Commissioner Nash informed the House Committee that the single most pressing legislative need was improved credit. A loan guarantee and insurance fund was imperative. He also stressed the necessity of legislation to increase education programs, including those which served adults. Although problems remained, the New Frontier had given impetus to greater government concern for Native America.

CHAPTER III

FROM TERMINATION TO SELF-DETERMINATION

The Economic Opportunity Act of 1964 helped to fulfill President Johnson's desire to have agencies other than the BIA involved in Indian affairs.¹ But while it indicated a new urgency in Indian affairs, HCR 108 (1953) was still the official consensus of Congress: that federal services and trust responsibilities to Native Americans ought to be terminated. Although it was not condoned or encouraged, termination was the government's Indian policy when Lyndon Johnson began his full term as President in 1965.

Over the course of four years slow change occurred. After Congress failed to revoke termination the White House acted. Two presidential task forces produced recommendations which disavowed termination, urged the creation of policy that would offer and encourage free choice among Native Americans in determining their way of life, and encouraged Indian self-determination. The appointment of a new Indian

¹Robert L. Bennett, Oral History Interview, November 13, 1968, transcript, pp. 2-3. LBJL (this collection hereafter cited as OHI). To illustrate this point, Bennett recalled that in 1963 about 90 percent of the federal funds spent on Indian programs went through the BIA, and by fiscal year 1969, 47 percent were disbursed by other federal agencies. Ibid., p. 43.

Commissioner was further indication of the new direction.

New Leadership, Views, and Goals: 1966

Upon the recommendation of Secretary Udall, Philleo Nash, a member of the 1961 Task Force, was appointed Commissioner of Indian Affairs, a position he held more than four years. Although Udall concluded that Dr. Nash was a strong Commissioner whose administration had "made good marks," he became displeased that Nash had seemingly lost contact with important Congressional leaders and had therefore failed to produce effective legislation. Udall wanted a "more dynamic" Commissioner who at the same time would work more closely with him, "shake up the bureaucracy," bring new ideas to the Bureau, and produce sound policy.²

In November 1965, Udall recommended that Robert L. Bennett replace Nash. The Secretary supported this change in his weekly report to the President of January 4, 1966:

Once Bob Bennett, the new Indian Commissioner, is confirmed it is my intention to make 1966 our biggest year since we took over in 1961. If we throw the full weight of the Federal Government behind the new Commissioner, we can achieve the legislation and new policies which the Indian Bureau needs to quicken the progress rate of our Indian people.³

A month later he informed the President that it was

²Stewart L. Udall, OHI, July 29, 1969, transcript, pp. 3-4, LBJL; and "Remarks of Secretary of the Interior Stewart L. Udall at his Bureau of Indian Affairs Conference, Santa Fe, N. Mex., April 14, 1966," 89th Cong., 2d sess., May 10, 1966, C. Rec., 112: 10150.

³Stewart Udall to the President, January 4, 1966, Agency Report, Confidential File, WHCF (hereafter cited as Agency Report and appropriate date, and Cf).

"imperative" that new "imaginative" leadership be given to Indian programs and renewed, with "great urgency," his previous recommendation. He also noted that Bennett, if appointed, would be the first Indian to become Commissioner of the BIA in nearly a century. Nash resigned, effective March 15, stating that he remained committed to the President and his Indian programs.⁴

On April 9, the Senate Committee on Interior and Insular Affairs unanimously approved Bennett's nomination. During the hearings, however, the BIA was placed on trial, and the concept of termination was again raised. The committee, highly critical of the Bureau's failure to end federal tribal control, accused the agency of "tenaciously [holding] onto its wards, without whom it would have no reason to exist." The BIA was condemned for spending nearly \$2 billion since 1948 (\$1.5 billion in the previous six years), while "poverty and squalor" continued. The new Commissioner was directed to submit, within ninety days, a report to the Committee presenting plans for alleviating the poor conditions which existed

⁴ Stewart Udall to the President, February 26, 1966, memorandum, File FG 145-6A, WHCF. During the Grant administration, Major Eli Parker became the first Indian to be appointed Indian Commissioner. Bennett, OHI, p. 1. See Nash's letter of resignation to the President, March 9, 1966, File FG 145-6A. On March 9, 1966, John Macy, Chairman of the Civil Service Commission, informed the President that "the Udall--Nash relationships with respect to the Indian program are such that a continuation of Nash's service as Indian Commissioner is untenable. After lengthy negotiations, Nash has agreed to submit his resignation as of March 15 and to accept an executive assignment with Phillips Petroleum after a couple months." John W. Macy, Jr. to the President, March 9, 1966, File FG 145-6A.

on many reservations.⁵

The Committee released its report of the confirmation hearings in early April, and in a sense it constituted a timely condemnation because Secretary Udall was preparing for a conference at Santa Fe, New Mexico, at which he would discuss plans for new Indian programs and reorganization within the BIA. Before his departure he forwarded his criticism of the Senate Committee's report to President Johnson. Udall considered it a "one-sided document" that ignored several crucial factors which would show that slow progress had occurred for several reasons. "Indian leadership," he charged, had been "weak and timid"; the Indian Bureau, "slow and unimaginative"; supporting governmental agencies, lax in attending to Indian affairs; the Congress, "quick to criticize but barren of new concepts and dilatory in handling legislation"; and states and communities, content to "let the Federal Government do it." Singling out the BIA as a "scapegoat" was unfair and fruitless, he said, since there

. . . is no easy answer to this problem--in fact, I suspect the only answer is a concerted effort by all concerned to inject a note of urgency into the new programs which will give our Indians an opportunity to develop their talents and their resources.

The Secretary concluded his assessment with a previous recommendation: that the President take pains to derive the maximum benefit from the change in Bureau leadership.

⁵Senate Committee on Interior and Insular Affairs Report and directive to Robert L. Bennett, as cited and quoted in NYT, April 10, p. 62, and April 14, 1966, p. 29.

It is my hope, Mr. President, that you will have the new Commissioner sworn in at the White House, invite Indian and Congressional leaders to be present, and make a strong statement of your plans and hopes for our Indian people.⁶

The suggestion was heeded. On April 27, Bennett was sworn in at a White House ceremony with Indian, Congressional, and other dignitaries looking on. President Johnson took the opportunity to renew his commitment of January 20, 1964 to bring Indians to the forefront of the War on Poverty. "The time has come," he told the new Commissioner, "to put the first Americans first on our agenda," and we "look to you to discharge that responsibility." He instructed him to begin work immediately on the government's "most comprehensive program for the advancement of the Indians" in history, one that would be "sound, realistic, progressive, adventuresome, and farsighted." The President then challenged Congressional leaders to produce the legislation required to un-do "what we have done to the first Americans" Once Bennett identified specific needs, he could expect, said Mr. Johnson, the pledge of "the full power of the institution of the Presidency."⁷

⁶Agency Report, March 26, and April 12, 1966; and Stewart Udall to the President, March 14, 1966, memorandum, File 145-6A.

⁷Public Papers, Lyndon B. Johnson, 1966, bk. 1: 457-59. Robert L. Bennett, an Oneida from Wisconsin and a 1931 graduate of Haskell Institute, began his civil service career in Utah in 1933. Prior to becoming Deputy Commissioner in 1965, he served as the Bureau's area director in Alaska for four years. NYT, April 27, 1966, p. 34. Biographical sketches of both Nash and Bennett appear in Robert M. Kvasnicka and Herman L. Viola, eds., The Commissioners of Indian Affairs, 1824-1977 (Lincoln: University of Nebraska Press, 1979).

Even before the ceremony, Udall and Bennett had begun planning their course of action. They conferred with Congressional and industrial representatives and Bureau personnel in order to develop new policies that would provide financial support for Indian tribes and promote housing, education, and economic advancement.⁸ Their efforts and goals were embodied in the report, required of Bennett following his confirmation hearing in April, which was submitted to the Senate Committee on Interior and Insular Affairs on July 11, 1966.⁹

Commissioner Bennett's candid report responded to specific questions raised in the Committee's report concerning the confirmation and other issues basic to Indian affairs. At the outset, he acknowledged the pledge of full support from the Chief Executive and stated that under his leadership, the Bureau would promote new ideas and programs to end old Indian "frustrations and achieve a much quicker pace" of action.

With regard to termination, the Committee requested that the BIA furnish current appraisals of the capacity of tribes and individual members to manage their own affairs. In his report, Bennett viewed the setting of criteria for

⁸ Agency Reports, March 29, April 12, May 10, and May 24, 1966.

⁹ Commissioner Bennett's report was inclosed in a letter to Senator Henry Jackson and was used as the basis for information which follows in this section (New Leadership, Views, and Goals: 1966). Robert L. Bennett to Senator Henry M. Jackson, July 11, 1966, Box 150, Files of Robert L. Bennett, R.G. 75, NA.

termination as the joint responsibility of Congress and the BIA, and all parties concerned should fully understand criteria in advance of their implementation. Further, outside agencies should evaluate the readiness of tribes to manage their own affairs, since, he believed, it was wrong for the Bureau to both determine and apply termination guidelines. This dual responsibility would cause the BIA to become an adversary for the tribes being considered for termination and to those observing the process. The Bureau, he recommended, should assume an advisory role with respect to Indian claims and termination procedures.

The Committee's request for legislation to deal effectively with the "heirship problem" arising from land allotments caused Bennett to admit that though proposals were being drafted, a single solution was not emerging. The Secretary of the Interior, he asserted, should be allowed greater latitude in dealing with problems relating to fractionated ownership of allotted land. And any solution would depend upon adequate financing, which determined the rate at which disputes could be resolved.

With regard to education, the Commissioner projected an enrollment of 59,800 in the 275 Indian schools (including 26 high schools) for fiscal year 1967. In addition, 100,000 Indian children, most of whom would come from families with well-educated parents, would attend public schools. In contrast, the Bureau's Indian schools would primarily serve "first generation" pupils, whose families possessed minimal

education. Because teaching disadvantaged children was costlier than regular education, and because pupils in Bureau schools were not eligible for benefits under the Elementary and Secondary Education Act of 1965, he urged the Committee to support an amendment under that law to benefit federal reservations schools. Simply, Indian children had special educational needs. Thus he urged a long overdue, up-to-date study of Indian education, undertaken by an independent research agency and funded under the Elementary and Secondary Education Act.

Commissioner Bennett provided a sanguine report on unemployment. Most encouraging was the cooperation that characterized relations between the Office of Economic Opportunity and other federal agencies. He went on to summarize progress in overcoming joblessness. Indian Community Action Programs numbered 48; on-reservation Job Corps Conservation Centers, 8; enrollment of the Neighborhood Youth Corps, 15,425; and children in Head Start, 2,307. In addition, 255 VISTA volunteers were serving on 50 reservations, and Work Experience Programs were benefiting 235 persons.

The Committee charged the BIA with rendering "every possible assistance" to a tribe bent on severing ties with Washington. He responded with the Bureau's interpretation of its responsibilities:

. . . to raise the educational and social well being of the Indians, assist in developing their assets, and encourage them to handle their own individual and tribal affairs so that they may all eventually become self-sufficient citizens of our American society.

Once this general improvement had occurred, tribes would assume the initiative in ending their special relationship with the government. At that point, the Bureau would do its utmost to help Indians break away. Tribal leaders, he told the Committee, realized that eventually Congress, perhaps with Indian consent, would reduce government involvement with Native Americans. Until then, however, they wanted Congress to "meet its responsibilities to them"

Regarding new legislation, Bennett reported that necessary basic measures were being prepared; if enacted, they would remove restrictions on Indian economic development and allow tribes to enter into American corporate enterprise. The Committee had suggested that the BIA support introduction of bills which would protect the interests of off-reservation Indians, especially those enrolled in federal relocation programs. The Commissioner opposed such measures, however. They interfered with tribal control in areas such as voting rights, tribal membership of children born off the reservation, and the maintenance of the tribal estate. "One big fear" of reservation dwellers was the fate of tribal holdings if their population became less than the number of off-reservation Indians.

The Commissioner's report, which frequently contested Committee views, concluded on a resounding note. Future federal policy should place "high expectations" on Indians, but at the same time, the BIA and Congress should accept their leadership and contributions in charting a new course.

In short, paternalism must give way to a "real, genuine partnership." Subsequent findings would reflect much of Bennett's thinking.

Outside Task Force on American Indians, 1966

One significant example was the Outside Task Force on Indian Affairs, appointed in the fall of 1966 to study Indian affairs overall and present recommendations to the President. Its mission was four fold: (1) identify the problem of Indians; (2) determine solutions; (3) judge the effectiveness of existing programs; and (4) propose possible new approaches. Chairman Walsh McDermott submitted the report--"A Free Choice Program for American Indians, December 1966"--to President Johnson on December 23, 1966.¹⁰

The twelve Task Force members consulted with senior officials of the BIA, the Office of Economic Opportunity (OEO), PHS, the Bureau of the Budget (BOB); the Departments of the

¹⁰"1966 Outside Task Force on Indian Affairs," Task Force Collection, LBJL, p. i (hereafter cited as Outside Task Force); and Walsh McDermott to the President, December 23, 1966, prefaced in the report. The Johnson administration task forces, of which there were more than 100, were composed of relatively small groups of experts. Unlike commissions or committees, their work and findings were confidential in nature; and their reports were prepared specifically for the Office of the President. An "outside task force" was composed entirely of nongovernmental experts. Conversely, an "inter-agency task force" was constituted from within the government. Task force reports were normally submitted in late fall and used as an aid in developing legislative programs and formulating policy. Recommendations and proposals, if utilized, were often incorporated in a State of the Union Message or expressed in a Special Message to Congress. Nancy Kegan Smith, "Presidential Task Force Operation During the Johnson Administration," June 28, 1978, staff report, LBJL.

Interior, Treasury, Housing and Urban Development (HUD), and Health, Education and Welfare (HEW); and representatives of several related agencies. Several members visited the Navajo and Laguna reservations in Arizona and New Mexico; others attended a regional Indian conference at Oklahoma City. Chairman McDermott conferred with leaders of the American Association of American Indians, and meetings were held with leaders of the NCAI, the Navajo Tribal Council, the United Pueblo Council, and the United Sioux Council.¹¹

The Outside Task Force report defined the principal difficulty as the failure of large numbers of Indians to assimilate. Consequently, they "had to pay the price of foregoing most of the benefits of a modern society." This issue touched every major social weakness of the day, including poverty, disease, unemployment, race prejudice, inferior educational systems, and guilt feelings among non-Indians.

The investigators came to believe that Indians desired

¹¹Outside Task Force, pp. i-iii. In addition to Walsh McDermott, Department of Public Health and Preventive Medicine, Cornell University Medical College, other members selected to serve on the Task Force were: Charles Abrams, Urban Planning Department, Columbia University; Lewis Douglas, Mutual Insurance Company of New York; Everett Hagen, Economic and Political Science Department, Massachusetts Institute of Technology; R. Bruce Jessup, Poverty Coordinator, California State Department of Public Health; William W. Keeler, Executive Committee Chairman, Phillips Petroleum Company; Richard Lasko, Technical Advisor, Battelle Institute; Robert Rossel, Director, Rough Rock Navajo Demonstration School; Richard Schifter, Strasser, Spiegelberg, Fried, Frank and Kampelman, Attorneys at Law; Milton Stern, Union Carbide Corporation; Herbert Striner, Program Development Director, W.E. Upjohn Institute for Employment Research; and Sol Tax, Department of Anthropology, University of Chicago.

to "share in the benefits of a technologically based society" and that welfare alone was no solution. They identified a willingness to improve conditions, good will "on both sides," and signs of progress, especially economic progress. Likewise they found the overall pace of Indian affairs to be slow, even "frozen." A thaw would occur when action was taken in accordance with these recommendations: (1) announcement of new Indian policy and disavowal of such long-held assumptions as termination, assimilation, and paternalism; (2) creation of jobs on reservations and general furtherance of Indian economic development through both private and tribal enterprises; and (3) expansion of existing educational, housing, health, and transportation programs. The Task Force advised that this three-pronged effort should be discussed with Indian leaders before its implementation.

The report recommended a fundamental administrative change: the transfer of a strengthened BIA to HEW, providing that Indians did not object. Services that Indians required were considered more compatible with the mission of HEW than that of the Interior Department. For fiscal year 1966, for example, educational matters required 57 percent of the BIA's employees and 53 percent of its budget. When health services were added, two-thirds of the Bureau's personnel and appropriations were involved; and when welfare, guidance, relocation, and vocational training services were figured in, three-fourths of the funding for Native Americans was allocated to functions that ordinarily fell within the purview of HEW.

Even though the Bureau's trusteeship duties were primarily land management they could still be handled efficiently if the transfer occurred.

Before such a reorganization was announced, however, termination as a federal policy should be publically disavowed. Condemned by the American Indian Chicago Conference and the Interior Department's 1961 Task Force, termination, the Outside Task Force said, "poisons every aspect of Indian affairs," and regardless of "de-facto abandonment," the attitude of many Indians was that most new proposals were only attempts to conceal it. Thus a forthright rejection was necessary to help "unfreeze" Indian affairs.

Because it attended termination, the report addressed assimilation. In essence, the government was to assist assimilation so that Indian status could be terminated. The two premises, held the Task Force, were a single, false concept. Indians, unlike newly arrived Europeans, did not immigrate, but because they were relatively few in number, they were not recognized as unique. Both Indians and traditional government policy assumed that the issue of entering the American melting pot was an all-or-nothing proposition. Could Indians remain Indians and still share in the benefits of modern society? To partially answer this question, the Task Force recommended that Native Americans be given "free choice"--retention of cultural identity but participation in contemporary society. The report emphasized that total preservation of Indian culture was not being proposed.

Adjustments were inevitable, but "with a free-choice program, changes in Indian culture . . . will be changes that have been chosen by the inheritors of the culture."

Indian estates were a third major issue. The report indicated that most tribal assets were presently in the form of land. Of 50 million acres in 277 separate areas, 70 percent was shared through tribal ownership, while individuals owned 30 percent; and, with little exception, Indian and Native Alaskan title to lands remained unsettled. The Task Force believed keeping the land in Indian hands important for economic development. Further, the Indian sense of land, based on sharing, not private ownership, remained strong. Certain locations were religiously sacred, and control of the land symbolized to many the preservation of their communities and identity.

At stake were primarily allotted lands. Although unallotted acreage, tribally owned as corporate entities, could not be sold, individually allotted lands might be sold, if the owner was financially hard-pressed and the Secretary of the Interior approved. Such sales were extremely complicated due to the "heirship" issue, wherein descent from generation to generation often resulted in a large number of owners retaining small shares of the same tract. The Task Force strongly recommended maintaining Indian ownership of individual estates. But when the land was sold, the government should assist tribes in its purchase, thereby preserving a land base. Further, the report advocated tribal landholding

corporations. These companies could acquire heirship tracts and pay for them with corporate shares, which could then be inherited or divided.

Another impediment to progress was the historically consistent theme of paternalism. Indian leaders told investigators that they were seldom asked to participate in formulating policies and programs. Excepting OEO, federal agencies had not established requirements for systematic consultation; and it was the exception rather than the rule when such opportunities did exist on reservations. The Task Force concluded that Indians "must feel that they are active" in developing goals and programs. It recommended the creation of two national advisory committees, one on Indian affairs in general, and the other on education. Both would include Indian representation, as would the proposed school boards for federally-operated Indian schools.¹²

Employment was also considered. To create jobs, private industry should be encouraged to locate manufacturing plants on or near reservations. The report suggested federal authorization of such inducements as a ten-year tax credit based on the number of Indians employed; rapid depreciation allowances on equipment; tax-free bond financing for construction of factory buildings and related facilities; and a \$10 million appropriation for building two demonstration industrial communities on reservations. To foster development of tribal enterprise through a proposed federally

¹²Ibid., pp. 1-10, 85, 87, 92-93.

chartered Indian Development Corporation, it suggested the issuance of \$200 million in bonds; guaranteed private loans, and other forms of financial assistance; various short-term measures to stimulate employment, such as pre-vocational programs for unskilled workers; and funding for combined on-the-job training and public works projects.

Education, health, and transportation were also addressed. The Task Force suggested that BIA schools should become a "model system" and that the Office of Education give special attention to increasing learning opportunities for Indian children. To improve reservation health conditions, it urged more emphasis on sanitation facilities, tribally employed community health aides, and improved housing. Additional recommendations were: a ten-year home-building program, both publically and privately financed, to provide annually 8,000 new family units; a HUD demonstration project; special BIA loan extensions and direct FHA loans to non-farm Indians; HUD grants; and acceleration of low-cost housing projects. To improve transportation on reservations, investigators saw the need to double BIA highway construction (to \$48 million) for fiscal year 1968-69, to secure grants from the Bureau of Public Roads, and to expand public transportation on reservations.¹³

Although the Outside Task Force report provided support for future action, it did not generate immediate response from the White House. In 1967, however, a new

¹³Ibid., pp. 104-105.

Task Force was appointed, and among its specific assignments was further research into some of the proposals included in the 1966 study.

Interagency Task Force on American Indians, 1967

The 1967 Task Force on American Indians, composed of agency representatives, was to develop a program for fiscal year 1969, which the second session of the Ninetieth Congress would consider. Its priorities were employment, education, housing, and economic development. In addition, it was to study the possible creation of an Interagency Committee of Indian Affairs and an Indian Affairs Advisory Committee. And it was to review the organization of the Bureau of Indian Affairs.¹⁴

The Task Force proposed a \$525 million program, or an increase of about \$76 million over fiscal year 1968. Following the general theme of the 1961 and 1966 Task Forces, the major recommendation of the 1967 body was to shift emphasis from welfare assistance and trust management to programs which would encourage and reward "Indian self-help, self-growth, and self-determination." The proposed objectives were: (1) to provide the necessities for allowing Indians to

¹⁴Members of the Task Force were drawn from the Departments of the Interior; Health, Education and Welfare; Commerce; Labor; Housing and Urban Development; and Treasury. The Office of Economic Opportunity and the Bureau of the Budget were also represented. Matthew Nimetz was the White House representative for liaison, and Lee C. White, Chairman of the Federal Power Commission, was the Task Force Chairman. Joseph A. Califano, Jr. to Lee C. White, August 19, 1967, memorandum, Task Force Collection, LBJL.

choose the level at which they desired to participate in American society, and (2) to insure that on- and off-reservation Indians could be productive members of the American work force.

Increased funding was essential, as was imaginative BIA and tribal leadership. Another necessity was a "people-oriented" philosophy, rather than a resource management attitude. The Task Force consensus was that the "Indian problem" was a "people-problem" whose solution did not lie in a transfer of responsibility to HEW; rather, it would require "dedication and industry" within the BIA. In one degree or another, members of the Task Force believed their recommended program could reach most of the 400,000 Indians then receiving federal services, as well as an estimated 50,000 off-reservation Indians. The main beneficiaries, however, would be 16,000 children, 6,000 unemployed Native Americans, and 24,350 family members forced to exist in deplorable housing.

The report contained the means to achieve five important goals. Achievement of the first, to demonstrate a commitment to full participation of Indians in the programs affecting them, would require a major Presidential address. It would have to acknowledge the right of Native Americans to maintain their identity, require the creation of a National Commission on Indian Opportunity, and full federal support for Indian self-determination. The second objective, to broaden Indian participation in American society and

government programs, would, as the 1966 Task Force had indicated, rest upon educational advances. Specifically, Indian schools should be made "model[s] of excellence," their enrollments should be increased, and their graduates should enjoy more opportunities for higher learning. The third, to insure minimum living standards, on and off reservations, would require a sizeable increase in new housing, renovation of sub-standard homes, reduced construction costs, and more loan sources.

The fourth priority, to make the Indian program a model in government-assisted social and economic development, necessitated heavy emphasis on overall community improvement. Needs included increased technical aid to the development of tribal enterprises, and the expansion of BIA loan funds so as to insure availability of credit. Fifth and finally, more effective legal and administrative assistance had to be implemented. Realization of this goal would require more flexibility in managing Indian assets, especially tribal land, and reduction of fractionated Indian land. The Task Force urged that concentrated effort be directed toward the improvement of federal-state cooperation in executing Indian programs, and it recommended creating a coordinating committee, staffed from all pertinent agencies, under the Interior Secretary's control. Included in its proposals for improved program management was a suggestion to place the Bureau, along with the Office of Territories, under a new Assistant Secretary for Indian and Territorial Affairs.

The interagency study group stressed the need for funding at a level sufficient to provide essential welfare services and to stimulate economic advancement. Without the necessary monies, self-perpetuating welfare, rather than the hoped-for liquidation of massive aid in the future, would be continued. Three priorities were viewed as essential if government aid was to yield self-development. They were: to educate the Indian as an individual; to promote the development of Indian society; and to increase economic growth.¹⁵

The major recommendations of the 1961, 1966, and 1967 studies envisioned a new Indian policy, as did the expressed views of Indian leaders and organizations. Termination had been disavowed. The President and Congress were aware of the dimensions of the "Indian problem."

¹⁵"Task Force on American Indians," October 23, 1967, Task Force Collection, LBJL, pp. 1-5. The Johnson administration did not act on the recommendation to create a new assistant secretary position, later, however, Forrest Gerard became the first Assistant Secretary of the Interior for Indian Affairs after his Senate confirmation on September 15, 1978. U.S., Congress, Senate, Nomination of William E. Hallett, Hearings before the Select Committee on Indian Affairs on Nomination of William E. Hallett to be Commissioner of Indian Affairs, 96th Cong., 1st sess., 1979, p. 1; and see Government Manual, 1978/79, pp. 317, 321.

CHAPTER IV

WHITE HOUSE RESPONSE: "THE FORGOTTEN AMERICAN" REMEMBERED

Secretary Udall had taken the Task Force findings to heart. As early as May of 1966, and again in December, he urged President Johnson to approach Congress directly concerning Indian affairs.¹ Mr. Johnson complied. On March 6, 1968, he advocated a new outlook toward American Indians and new solutions for the perplexing problems which they and the federal government faced. In doing so, he prescribed a bold departure from the past.²

The President's Special Message

Entitled "The Forgotten American," President Johnson's Special Message served both as a policy declaration and a \$500 million request for Indian programs for fiscal year 1969.³ It represented the culmination of efforts to proclaim

¹Agency Reports, May 10, and December 6, 1966.

²U.S., Congress, House, "The Forgotten American-- Message From the President of the United States (H. Doc. No. 272)," 90th Cong., 2d sess., March 6, 1968, C. Rec., 114: 5394-98. See also Public Papers, Lyndon B. Johnson, 1968-1969, bk. 1: 335-44; and U.S. Department of the Interior, Bureau of Indian Affairs, "The Forgotten American," Indian Record, Special Issue, March 1968, pp. 1-14 (hereafter cited as I. Rec.).

³Information which follows concerning the message was extracted from the text in C. Rec., 114: 5394-98.

a new federal policy toward Native Americans and to impress upon Congress the need for legislative measures that would go beyond the substantial aid already provided through the OEO and the BIA. Although generated in the Interior Department and based on Task Force reports, the document received careful White House scrutiny. This Special Message, the first devoted exclusively to Native Americans, indicated that Indians were going to receive more attention. Specifically, it was another attempt to bring them to the "forefront" of the War on Poverty.⁴ It proposed a new "goal that ends the old debate about 'termination' . . . and stresses self-determination; a goal that erases old attitudes of paternalism and promotes partnership self-help." The main thrust would be to provide "maximum choice" for Native Americans while pursuing three major objectives:

- A standard of living for the Indians equal to that of the country as a whole.
- Freedom of Choice: An opportunity to remain in their homeland, if they choose, without surrendering their dignity; an opportunity to move to the towns and cities of America, if they choose, equipped with skills to live in equality and dignity.
- Full participation in the life of modern America, with a full share of economic opportunity and social justice.

The message reviewed many Indian affairs issues in an attempt to bring the Congress up to date on poverty conditions and to clarify the Johnson administration's

⁴Bennett, OHI, p. 5; Udall, OHI, p.5; and the remarks of Vice President Hubert H. Humphrey and Secretary of the Interior Stewart L. Udall at a special briefing for Indian leaders and the press in Secretary Udall's office, March 6, 1968. I. Rec., Special Issue, March 1968, p. 15-16, 18.

efforts to improve those conditions. Further, it proposed numerous Congressional actions toward improving old, and instituting new, programs. The President characterized his recommendations as those needed to "promote Indian development by improving health and education, encouraging long-term economic growth, and strengthening community institutions" under policies that would allow Indians "to remain Indians while exercising their rights as Americans." Essentially, "The Forgotten American" message concerned seven major areas that challenged both Native Americans and the federal government: education at all levels, jobs and economic advancement, health and medical care, community services, civil rights, off-reservation Indians, and Alaskan native claims.

There was a need to go beyond standard schooling and vocational training, the President indicated. He asked Congress for appropriations to use "creatively" existing legislation so that Head Start might be expanded to accommodate 10,000 Indian children and provide new kindergartens for 4,500 others; to train and employ Indians as teacher aides. He wanted the establishment of model community school systems featuring the "finest" teachers, enriched curriculum, special guidance and counseling, modern instructional materials, instruction in English as a second language, and an adult education center. Also needed were funds to create Indian school boards for federal schools and for programs to place more Native Americans in institutions of higher learning.

Jobs and economic advancement on reservations required funding as well. Thus Mr. Johnson asked for expanded appropriations, nearly double, for the Indian Vocational Training Program; and he urged Congress to approve the Indian Resources Development Act which the Interior Department had submitted nearly one year earlier. If passed, it would further Indian land resource development, encourage industries to locate plants on or near reservations, aid in developing natural resources, and promote new tourist facilities on reservations.⁵ The message considered essential an increase in appropriations under the Federal Highway Act for construction which would provide a usable road system linking reservation areas with the rest of the nation.

More money was required for other purposes. Child health could be improved with the training of 600 Indian health aids to serve as nursing assistants, record clerks, and medical-social and nutrition workers. In their home communities, where they could reach nearly 200,000 Indian and Alaska natives, they could teach health practices in such fields as pre-natal and child care, home sanitation, and personal hygiene. The President announced proposed legislation to increase low-cost housing projects and to allow the Farmers Home Administration to extend loan programs. He also requested increased funding for home improvement, OEO programs, and safe water and sanitary waste disposal facilities.

⁵The Indian Resources Development Act was sent to Congress in May 1967 and is discussed in Chapter V.

Reminding Congress that the Indian Reorganization Act (1934) provided for democratic self-government on reservations, the message stated that few tribal bodies fully protected the Constitutional rights of individuals under their jurisdiction. Currently, an Indian Bill of Rights, which would include that protection, as well as require tribal consent before a state could assume legal jurisdiction on reservations, was pending before Congress. Other important legislation also being considered involved land rights for Aleuts, Eskimos, and Alaskan Indians. The bill would award land titles; provide water, hunting, and fishing rights; and allow compensation for earlier land cessions. Congress was strongly urged to pass these vital legal measures.

Although it came late in his administration, Lyndon Johnson's path-breaking Indian Special Message set positive White House policy precedent which extended freedom of choice and self-determination to Native Americans. To further these Great Society goals and to strengthen federal leadership, the message announced creation of a national council as the means to coordinate, and watch over, Indian affairs from the federal level.

National Council on Indian Opportunity, 1968

The National Council on Indian Opportunity (NCIO) was established, through Executive Order, on March 6, 1968. Its permanent members included the Vice President (chairman); the Secretaries of the Interior, Agriculture, Commerce, Labor, HEW, and HUD; and the Director of the OEO. In addition, the

President would appoint six Indian leaders to two-year terms. The functions of the Council were to encourage and coordinate Indian programs, evaluate them with respect to impact and progress on reservation communities, and to recommend ways for better meeting the needs of Native Americans.⁶ The NCIO represented the pioneer effort to coordinate the government's resources with the thinking of Indian leaders and to capitalize on Indian capability. In April 1968, the first prominent Native Americans received appointments to the Council.⁷

Vice President Hubert H. Humphrey organized the Council into six teams and appointed an Indian member to head each group which would study issues relating to one of the following assigned areas of responsibility: (1) conditions and needs of urban Indians, (2) motivation and alternatives to welfare, (3) formation of local school and medical boards, (4) reservation industrial development, (5) involvement in

⁶U.S., President, Executive Order 11399, "Establishing the National Council on Indian Opportunity," Federal Register, 33, no. 46, March 7, 1968, 4245; and see 25 U.S.C.A 13a.

⁷Remarks of Vice President Hubert H. Humphrey at a special briefing for Indian leaders and the press in Secretary Udall's office, March 6, 1968, I. Rec., Special Issue, March 1968, p. 15. The appointees were: Mrs. Fred R. Harris, Comanche Tribe, founder of Oklahomans for Indian Opportunity and wife of Senator Fred R. Harris; Wendell Chino, Chairman of the Mescalero Apache Tribal Council; Raymond Nakai, Chairman of the Navajo Tribal Council; Cato Valandia, Chairman of the Rosebud Sioux Tribal Council and Treasurer of NCAI; William Hensley, Eskimo, member of the Alaska State Legislature; and Roger Jourdain, Chairman of the Red Lake Tribal Council. White House News Release, April 30, 1968, Files of James Gaither, LBJL.

local planning, and (6) housing improvement. Mr. Humphrey advised the Council that their greatest responsibility, regardless of overall function, was "to foster independence and initiative" He emphasized that their efforts should further the principle of "self-help and local involvement"; that Indian communities and tribal groups should be encouraged to administer those activities which federal agencies had previously undertaken; and that narrow tribal interests should be discouraged in favor of a broad spectrum of Native American opinion.⁸

The NCIO experienced a shaky, behind-the-scenes beginning. Although President Johnson may have wanted the council to become a permanent agency within the Executive Branch, Bureau of the Budget officials questioned the Executive Order as a basis for funding and doubted its legal foundations. Its primary purpose, they believed, was a function of the Commissioner of Indian Affairs.⁹ Nevertheless, on November 26, 1968, a joint Congressional resolution authorized annual appropriations for the NCIO for a period of five years.¹⁰

The 1960s witnessed a definite federal Indian policy

⁸William R. Carmack, Executive Director, National Council on Indian Opportunity, to council members, July 28, 1968, memorandum, Files of James Gaither.

⁹William R. Carmack to the Vice President, November 18, 1968, Ibid.

¹⁰Public Law 91-125, 83 Stat. 220, November 26, 1969. The NCIO was terminated on November 1974 when Congress failed to extend its five-year life. Government Manual, 1977/78, p. 765.

reversal during the Johnson years in the White House. "The Forgotten American" was remembered during the Great Society administration, not only by policy pronouncements, but also by program and legislative accomplishments.

CHAPTER V

CONGRESSIONAL RESPONSE: AGREEMENT AND OPPOSITION

In 1964, when President Johnson delivered his State of the Union Message launching the War on Poverty, he identified his "chief weapons" as more and better schools, health care, family housing, and job training. These improvements, he said, would help more Americans "escape from squalor and misery of unemployment rolls."¹ The Economic Opportunity Act of 1964, the administration's principal thrust against poverty, had far-reaching implications in the realm of Indian affairs. The BIA programs were continued and expanded, but Native Americans also became eligible to participate in the anti-poverty programs emanating from other Great Society legislation. It was a significant change: for the first time Indians began to receive substantial assistance from outside the BIA and the PHS.

Although the War on Poverty may have stimulated more governmental interest in BIA activities, unrest was apparent within the agency, particularly with regard to the role of the OEO. The fact that the OEO supervised some reservation programs caused concern among Bureau personnel, who occasionally complained that VISTA workers tended to stir up discon-

¹Public Papers, Lyndon B. Johnson, 1963-1964, bk. 1: 114.

tentment, especially among young Indians. That was one side effect of new federal assistance which the Department of the Interior leadership could accept. Secretary Udall's attitude was that if he were an Indian he would be dissatisfied; there should be "dissatisfaction and hell-raising" among American Indians.² Regardless of bureaucratic grumbling, inter-agency cooperation produced progress.

Programs and Appropriations

The impact of increased federal interest in Indian affairs was widespread. It meant that more government services were available and that more Native Americans received beneficial aid. In April 1966, at Commissioner Bennett's swearing-in ceremony, the President challenged all federal agencies to get involved. Soon, "Indian desks" appeared in several departments and Indian leaders began spending more time with federal officials outside the BIA than they did with Bureau personnel.³ During the Johnson administration, however, most programs involving other agencies were coordinated through the BIA.

The Housing Assistance Administration of HUD provided planning, funding, and construction of housing, while the BIA supervised construction, assisted tribal housing authorities, and administered home improvement programs and other related services. The Economic Development Administration

²Udall, OHI, p. 20.

³Bennett, OHI, pp. 3-4, 42-43.

of the Commerce Department worked closely with the BIA to plan and promote both industrial growth and tourism on or near reservations. Also in conjunction with the Bureau, the Transportation Department's Federal Highway Administration supervised and approved projects involving road and bridge construction on reservations. Agreements between the BIA and the Labor Department led to the promotion of Indian employment and training through the MDTA.

Within HEW, the PHS (the only agency besides the BIA that maintained installations on reservations) assisted the Bureau in administering housing programs. The Office of Education provided funds to the BIA in accordance with provisions of the Elementary and Secondary Education Act and the National Defense Education Act. The two agencies undertook joint studies and programs for Indian schooling. In cooperation with the OEO, the Bureau administered several Job Corps facilities. In addition, OEO funds supported economic development and educational programs, such as Head Start, which the BIA coordinated.⁴

The OEO pilot project among the Red Lake Band of Chippewas in Minnesota exemplified inter-agency cooperation and accomplishment. The Red Lake Community Action Agency, funded by the OEO, provided training for thirty Indian men in the home-building trades; HUD purchased the necessary materials; and the Labor Department supplemented OEO training

⁴"Transition 1969," November 1968, booklet, Box 35, Records of the Department of the Interior, LBJL, pp. 36-39 (this collection hereafter cited as DOI Records).

through the MDTA program. The BIA supplied house designs and specifications and made possible the use of heavy equipment, and the PHS was responsible for extending water and sewer facilities. Results were impressive. Ten new low-rent houses were built, and each of the thirty trainees found employment. Seven became union members, and others were employed as apprentices, helpers, laborers, or clerks. Because of the Red Lake project, similar training programs were established on ten other reservations with an objective of constructing 500 homes.⁵

The Rough Rock Demonstration School on the Navajo reservation in Arizona was further evidence of the fruits of cooperation under the Economic Opportunity Act. It enabled Native Americans, for the first time, to fully operate their own school and to establish lasting community services. In 1966, the BIA turned over a recently constructed \$3.5 million boarding school to the Navajos. The tribal council formed an Indian corporation to operate the facility, the BIA provided \$307,000 for its first year's operations, and the OEO granted \$329,000 to finance its educational and community development programs.

A large staff, augmented with VISTA personnel, developed a curriculum which recognized tribal culture. Many classes were taught in the Navajo language so as to

⁵"Statement of the Honorable Stewart L. Udall, Secretary of the Interior, before the Committee on Education and Labor, House of Representatives, Ninetieth Congress, First Session, on H.R. 8311, July 10, 1967," Box 7, DOI Records (hereafter cited as Udall Statement, July 10, 1967).

reach students from non-English speaking families, and English was taught as a second language. Medicine men and tribal elders explained Navajo history, and craftsmen were employed to teach their skills. Indian parents served on the local school board, periodically attended classes, and visited dormitories. Other parents were encouraged to observe the school, for days at a time, and teachers and counsellors went into homes that they might better understand the setting from which their students emerged. Adult classes in both vocational and academic subjects were funded by the OEO for the benefit of local residents. As a community center, the school provided limited vehicle repair and maintenance facilities, a laundry, and an evening library. The school board exercised direct control over the school, which extended to hiring teachers and staff personnel.⁶

Indian leaders were quick to recognize the value of OEO programs. In 1966, Vine Deloria, Jr., Executive Director of the NCAI, expressed pleasure that several tribes had achieved "spectacular success" with such activities as Head Start. In the past they were never permitted to operate their own programs; but now, "for the first time in history," many Indian parents were "excited about education for their children."⁷ In 1967, Earl Boyd Pierce, Chief Counsel for the Cherokee Nation, told a Senate subcommittee of the

⁶Ibid.; and Administrative History of the Department of the Interior, vol. 1, pt. 2., pp. 16-17, LBJL (hereafter cited as Administrative History, DOI).

⁷NYT, April 14, 1966, p. 29.

progress his tribe had achieved in the past two years through sponsorship of a Neighborhood Youth Corps (NYC) project for high school students and dropouts. More than a thousand young Indians from extremely low-income families had received support, and 90 percent of the more than \$1 million spent was disbursed as wages to the young people, many of whom, Pierce wrote, "had never before had the opportunity to earn a single dollar. . . ." Not only did these earnings allow some Cherokee families to overcome extreme poverty and move beyond total reliance upon welfare commodities, but they inspired young Indians to remain in school and look with hope to the future. Pierce proudly noted that more than half of the June 1967 Corps graduates went on to college in a year when the national average was 40 percent.⁸

By mid-1967, OEO programs had made a considerable impact on impoverished Indians and their communities. Job Corps Conservation Centers existed on 8 reservations; 6,500 young Indians were active in NYC; and Community Action Programs, including Head Start, Upward Bound, and Legal Service, were operating on 105 reservations. Three hundred VISTA personnel were at work among Native Americans. More than 1,000 small business loans, totaling \$2.2 million, had been made; and job training for unemployed Indians, under

⁸Earl Boyd Pierce to the Subcommittee on Indian Affairs, Senate Committee on Interior and Insular Affairs, 90th Cong., 1st sess., 1967, August 7, 1967, General Legislation File, In, WHCF.

the Work Experience Program, was widespread.⁹

The "chief weapons" employed in the War on Poverty were not entirely new to the BIA, but the real and expressed support of the Johnson administration helped the Bureau improve and expand its on-going activities. In June of 1964, Secretary Udall had appealed to the BOB for more financial support for programs aimed at reducing unemployment and furthering social advancement among Native Americans. In justifying his plea, the Secretary explained the BIA's approach. Its main concentration would be on programs, both old and new, that would maximize Indian opportunity. Existing programs to be augmented and emphasized included: adult education, scholarships for higher education, institutional vocational training, industrial development, credit management, commercial recreation, and training in trades and crafts. New programs were designed for housing, the return to force account construction projects, real property appraisal, and the development of job- and income-producing projects.

Secretary Udall emphasized the importance of insuring job opportunities on reservations. He believed that the "quickest way to improve employment was through industrial development" and the "expansion of tribal enterprise." Both required investment capital which existing funding could not provide. He told BOB officials that increased social services were necessary if Indians were to

⁹Udall Statement, July 10, 1967

survive in the American economic system. They required education, training, and on- and off-reservation job placement for: reservation Indians under twenty years of age (57 percent of the population); under-educated young adults; adults in depressed reservation areas; and other adults who were not competitive in the job market because of age or inadequate skills. The Secretary also stressed that funding was essential for the construction and maintenance of buildings, utilities, roads, basic water and sanitation facilities, community centers, and housing. Further, schools should be increased so as to keep pace with Indian population growth.¹⁰

Annual BIA appropriation requests increased nearly every year during the Johnson administration. For the period 1965-1969, they were grouped under five general activities: education and welfare services, resources management, general construction, road construction, and general administrative expenses. These major activities were further divided into subactivities, which indicated Bureau program emphasis and direction.¹¹

The largest BIA requests were for education and welfare services which supported the following four subactivities. (1) Educational assistance, facilities, and services: operated federal schools, provided grants and loans

¹⁰ Stewart L. Udall to Kermit Gordon, Director, Bureau of the Budget, June 19, 1964, Box 6, DOI Records.

¹¹ The subactivity descriptions which follow were taken from "Transition 1969," pp. 13-18.

to low-income students attending colleges and universities, and financed aid to public school systems where Indian children were enrolled. (2) Welfare and guidance services: provided financial aid to needy Indians including neglected, adopted, and foster children in families, foster homes, or institutions; provided basic shelter requirements; and conducted social services case work. (3) Relocation and adult vocational training: aided Indians who voluntarily left their reservations to seek employment and furnished grants to adult job-seekers. (4) Maintaining law and order: maintained criminal justice systems on reservations where state governments did not have legal jurisdiction (Appropriation requests for this activity appear in Table 1.)

Resources management funds were requested to support numerous programs under these nine subactivities. (1) Forest and range lands: managed and protected nearly fifty million acres of Indian owned forests and ranges. (2) Fire suppression and emergency rehabilitation: extinguished and prevented forest fires on or near reservations and rehabilitated burned areas. (3) Agricultural and industrial assistance: provided agricultural and home economics assistance, financial counseling, and administered the revolving loan fund; promoted new commercial enterprises; and furnished technical guidance and aid to construct and renovate housing. (4) Soil and moisture conservation: controlled erosion and improved soil and water resource utilization. (5) Maintenance of roads: maintained 18,154 miles of roads on 155 reservations in 21

TABLE 1

BIA ANNUAL APPROPRIATION REQUESTS FOR EDUCATION AND WELFARE SERVICES FOR
FISCAL YEARS 1965-1969, INCLUSIVE (In Thousands of Dollars)

Subactivity	Fiscal Year				
	1965	1966	1967	1968	1969
Educational assistance, facilities, and services	70,652	76,300	83,309	87,924	102,581
Welfare and guidance services	11,646	13,434	13,909	16,303	21,518
Relocation and adult vocational training	12,092	14,426	15,184	22,267	25,477
Maintaining law and order	2,580	2,735	2,894	2,984	5,147
Total	96,970	106,895	115,296	129,478	154,723

SOURCE: Hearings before a subcommittee of the House Committee on Appropriations on Department of the Interior and Related Agencies Appropriations for (fiscal year), 88th Cong., 2d sess., 1964, pt. 1, p. 19; 89th Cong., 1st sess., 1965, pt. 1, p. 39; 89th Cong., 2d sess., 1966, pt. 1, p. 36; 90th Cong., 1st sess., 1967, pt. 1, p. 767; 90th Cong., 2d sess., 1968, pt. 1, p. 2.

states. (6) Development of Indian arts and crafts: supported programs to aid production and marketing operations.

(7) Management of Indian trust property: purchased, sold, exchanged, and leased lands; safeguarded property and money rights; consolidated or disposed of fractionated land holdings; and provided banking services for Indians. (8) Repair and maintenance of buildings and utilities: maintained BIA

physical plant facilities and their related utility and communication systems. (9) Operation, repair, and maintenance of Indian irrigation systems: operated and maintained approximately 300 irrigation systems serving about 833,000 areas of Indian and mixed-ownership lands. (About 59 percent of the cost was financed from collections from the water users.) (The appropriation requests for resources management appear in Table 2.)

Construction programs, excluding road construction, were funded and carried out under the following two sub-activities: (1) Buildings and utilities: constructed and improved schools, dormitories, offices, and other buildings; improved sewer systems, water facilities, and other utilities; and planned and surveyed new construction sites.

(2) Irrigation systems: constructed, extended, and improved projects and related power systems on reservations; and produced and distributed electricity for projects and general use. The Bureau's road construction was part of the federally funded highway system, and the BIA administered annual appropriations for reservation projects. General

BIA ANNUAL APPROPRIATION REQUESTS FOR RESOURCES MANAGEMENT FOR
FISCAL YEARS 1965-1969, INCLUSIVE (In Thousands of Dollars)

Subactivity	Fiscal Year				
	1965	1966	1967	1968	1969
Forest and range lands	4,924	5,178	5,259	5,438	5,789
Fire suppression and emergency rehabilitation	140	140	140	140	140
Agricultural and industrial assistance	6,313	7,248	7,636	8,959	10,126
Soil and moisture conservation	5,408	5,487	5,283	5,379	5,859
Maintenance of roads	3,595	3,799	3,891	3,913	4,304
Development of Indian arts and crafts	318	365	374	380	570
Management of Indian trust property	6,468	6,661	6,829	7,200	7,771
Repair and maintenance of buildings and utilities	12,246	12,765	13,988	14,988	17,650
Operation, repair, and maintenance of Indian irrigation systems	1,314	1,313	1,211	1,211	1,379
Total	40,726	42,956	44,611	47,608	53,588

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SOURCE: Hearings before a subcommittee of the House Committee on Appropriations on Department of the Interior and Related Agencies Appropriations for (fiscal Year), 88th Cong., 2d sess., 1964, pt. 1, p. 19; 89th Cong., 1st sess., 1965, pt. 1, p. 39; 89th Cong., 2d sess., 1966, pt. 1, p. 36; 90th Cong., 1st sess., 1967, pt. 1, p. 767; 90th Cong., 2d sess., 1968, pt. 1, p. 2.

BIA administrative expenses comprised the operation of reservation installations, area offices, and the Bureau's Washington headquarters. (Appropriation requests for general construction, road construction, and general administrative expense activities appear in Table 3.)

The BIA annual appropriation requests submitted during the Johnson years were, in each case, reduced in Congress (see Table 4). Each year, however, supplemental funding requests were approved, and the result represented a favorable Congressional response to the administration's endeavors (see Table 5). In addition to appropriated monies, Indian tribes relied upon loans to further their economic growth.

Through a credit and financing program, the BIA assisted Native Americans in obtaining capital essential to their advancement. The development and utilization of Indian resources progressed primarily because of sums borrowed from the Bureau's revolving loan fund; available tribal monies; and customary lenders, both government and private. Tribes which had some funds had to use them before loans could be received from the revolving fund. The Bureau approved loan applications only when financing could not be obtained from other sources on reasonable terms. Customary lenders, such as national and state banks, federal land banks, savings and loan institutions, insurance companies, production credit associations, government credit agencies, and individuals supplied the major part of financing.

TABLE 3

BIA ANNUAL APPROPRIATION REQUESTS FOR CONSTRUCTION, ROAD CONSTRUCTION AND
GENERAL ADMINISTRATIVE EXPENSES FOR FISCAL YEARS 1965-1969, INCLUSIVE
(In Thousands of Dollars)

Activity	Fiscal Year				
	1965	1966	1967	1968	1969
Construction:					
Buildings and utilities	42,776	58,822	46,664	30,804	26,578
Irrigation systems	8,400	10,153	10,500	9,603	5,721
Total	51,176	68,975	57,164	49,407	32,299
Road construction (Federal-aid highways)	17,000	16,900	16,754	19,000	20,000
General administration services:					
Department offices	1,258	1,320	1,380	1,396	1,463
Field offices	3,032	3,200	3,296	3,230	3,354
Total	4,265	4,520	4,677	4,626	4,817

SOURCE: Hearings before a subcommittee of the House Committee on Appropriations on Department of the Interior and Related Agencies Appropriations for (fiscal Year), 88th Cong., 2d sess., 1964, pt. 1, p. 19; 89th Cong., 1st sess., 1965, pt. 1, p. 39; 89th Cong., 2d sess., 1966, pt. 1, p. 36; 90th Cong., 1st sess., 1967, pt. 1, p. 767; 90th Cong., 2d sess., 1968, pt. 1, p. 2.

TABLE 4

BIA ANNUAL APPROPRIATIONS REQUESTED/APPROVED FOR MAJOR ACTIVITIES FOR
FISCAL YEARS 1965-1969, INCLUSIVE (In Thousands of Dollars)

Major Activity		Fiscal Year				
		1965	1966	1967	1968	1969
Education and welfare services	Requested	96,970	106,895	115,296	129,478	154,723
	Approved	95,868	105,846	114,690	126,478	140,693
Resources Management	Requested	40,726	42,956	44,611	47,608	53,588
	Approved	40,390	42,796	44,068	47,179	50,240
Construction	Requested	51,176	68,975	57,164	40,407	32,299
	Approved	52,009	34,513	56,118	40,770	25,471
Road Construction	Requested	17,000	16,900	16,754	19,000	20,000
	Approved	17,000	17,445	16,889	18,000	18,000
General administrative services	Requested	4,265	4,520	4,677	4,626	4,817
	Approved	4,331	4,520	4,623	4,627	4,767
Total	Requested	210,137	240,246	238,502	241,119	265,427
	Approved	209,598	205,120	236,406	237,054	239,171

SOURCE for approved amounts for fiscal years 1965 through 1969 respectively: Act of July 7, 1964, 78 Stat. 274; Act of June 28, 1965, 79 Stat. 175; Act of May 31, 1966, 80 Stat. 171; Act of June 24, 1976, 81 Stat. 60; and Act of July 26, 1968, 82 Stat. 427. (Requested amounts carried from Tables 1, 2, and 3.)

TABLE 5

BIA TOTAL ANNUAL AND SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEARS
1965-1969, INCLUSIVE (In Thousands of Dollars)

Major Activity		Fiscal Year				
		1965	1966	1967	1968	1969
Education and welfare services	s u p p l e m e n t a l	600	1,202	2,150	5,732	1,452
Resources management		1,031	755	1,100	1,972	
Construction		1,910	638			
Road construction		1,000				
General administrative services				103	125	
Total supplemental			4,541	2,698	3,205	7,829
Total annual (Table 4)		209,598	205,120	236,406	237,054	239,171
Grand total		214,139	207,818	239,611	244,883	240,623

SOURCE for supplemental appropriations for 1965: Act of April 30, 1965, 79 Stat. 85; 1966: Act of October 31, 1965, 79 Stat. 1138, and Act of May 13, 1966, 80 Stat. 143, 156; 1967: Act of October 27, 1966, 80 Stat. 1059, and Act of May 29, 1967, 81 Stat. 34; 1968: Act of July 9, 1968, 82 Stat. 313, 329; and 1969: Act of October 21, 1968, 82 Stat. 1194.

Tribes either loaned their funds to individual members or member associations or financed group industrial, commercial, and agricultural enterprises. During the period 1964-1968, total financing increased substantially each year. While the percentage of capital from the BIA dropped, the use of tribal funds increased markedly, as did the amount of credit obtained from customary lenders (see Table 6).¹²

Legislation

Increased funding promoted progress, as did active Congressional involvement. During the period 1964-1968, 106 public laws which pertained to Indian tribes were enacted. Of these, seventy involved land transfers to tribes, tribal land sales, or authorization to distribute funds in accordance with Indian Claims Commission decisions. The remainder, most of which aided individual tribes, went into various kinds of on-reservation economic development efforts. In addition, several important pieces of legislation affected Indians in general.¹³

Amendments to the Adult Indian Vocational Training Act of 1956 had provided funding which allowed increased participation in institutional and on-the-job training.

¹²"Annual Credit Report," Box 35, DOI Records, 1964, pp. 1, 2, and 1968, pp. 1, 4, 6.

¹³Information concerning these public laws is based on the data contained in the "Index" and "History of Bills Enacted into Public Law, (year)," Daily Digest, 88th Cong., 2d sess., 1964; 89th Cong., 1st sess., 1965; 89th Cong., 2d sess., 1966; 90th Cong., 1st sess., 1967; 90th Cong., 2d sess., 1968; C. Rec., vols. 110-114.

TABLE 6

TOTAL INDIAN FINANCING - COMPARATIVE RECORD FOR 1964-1968
(In Millions of Dollars)

Year	Total Amount	Bureau funds		Indian funds		Customary lenders	
		Amount	%	Amount	%	Amount	%
1964	163.06	23.15	14.2	36.52	22.4	103.38	63.4
1965	233.71	23.84	10.2	52.58	22.5	157.29	67.3
1966	255.10	24.23	9.5	57.65	22.6	173.21	67.9
1967	290.86	25.60	8.8	81.73	28.1	183.53	63.1
1968	324.48	25.31	7.8	92.15	28.4	207.02	63.8

SOURCE: "Annual Credit Report," 1968, p. 6.

NOTE: Yearly amounts do not always equal total due to rounding of figures.

The original act authorized and directed the Secretary of the Interior to establish vocational training for eighteen- to thirty-five year-old Indians, for periods not to exceed twenty-four months. The law permitted the Interior Department to make contracts with any federal, state, or local government agency having a reputable vocational training school or job placement program; or with a corporation or association which maintained on-the-job instruction for skilled employment. The measure was allowed \$3.5 million per fiscal year until 1961 when it was increased to \$7.5 million.¹⁴ As of November 1962, 1,283 Indians were in training, 346 applicants had been approved, and acceptance of another 624 awaited additional funds.¹⁵

Early in 1963, another amendment increased funding to \$12 million and extended the coverage of the Adult Indian Vocational Training Act so that Indians might receive nurses' training under its provisions. By the end of 1964, enrollment in the institutional portion of the program had reached 10,040. Of these, 5,576 had completed training and 1,677 were still enrolled. Another 3,243 had been placed in on-the-job training, and 4,875 applicants were hoping to be admitted. In addition, it was estimated that 2,673 Indians

¹⁴Act of August 3, 1956, 70 Stat. 986; and Act of September 22, 1961, 75 Stat. 571. See also 25 U.S.C.A. 309; and USCCAN, 84th Cong., 2d sess., 1965, 1: 1167, 3: 4319.

¹⁵John A. Carver, Jr., Assistant Secretary of the Interior, to John W. McCormack, Speaker of the House of Representatives, June 24, 1963, USCCAN, 88th Cong., 1st sess., 1963, p. 1354.

would apply for training if and when funds became available.¹⁶ A further change, of April 1965, increased the annual appropriation to \$15 million, which provided training for 5,172 persons during fiscal year 1966. Of this number, 2,109 completed the program, 2,075 remained enrolled, 888 discontinued their participation, and 1,652 Indians entered on-the-job training.¹⁷

By 1968, vocational training programs embodying 944 courses, bearing on 115 different occupations, were offered in 374 schools in 23 western states. All told, 86 percent of the trainees who sought jobs found them. Approximately 25 percent of those who applied were required to wait for openings, and in February, a backlog of 900 applicants existed for whom funds were not available. During that month, the law was again amended to increase the annual appropriation to \$25 million.¹⁸

The Housing Act of 1964 also benefitted the Indians. Reservations had not been included in the urban planning sections of earlier housing laws. The 1964 law authorized

¹⁶ Act of December 23, 1963, 77 Stat. 471; USCCAN, 88th Cong., 1st sess., 1963, pp. 517, 1358; and John A. Carver, Jr. to Wayne N. Aspinall, Chairman, House Committee on Interior and Insular Affairs, March 9, 1965, USCCAN, 89th Cong., 1st sess., 1965, 1: 1522.

¹⁷ Act of April 22, 1965, 79 Stat. 74; and Harry R. Anderson, Assistant Secretary of the Interior, to Wayne N. Aspinall, June 26, 1967, USCCAN, 90th Cong., 1st sess., 1968, 2: 1600.

¹⁸ Act of February 13, 1968, 82 Stat. 4; and USCCAN, 90th Cong., 1st sess., 1968, 1: 4, 2: 1599, 1600.

grants to permit metropolitan and regional planning agencies to assist small communities (of less than 50,000 population), including Indian reservations; and state planning agencies were authorized to receive urban planning grants for work on reservations. In cases where state agencies could not provide such assistance, the 1964 measure permitted grants to be made directly to an Indian tribal council or other official tribal body.¹⁹

A law of October 10, 1966, resolved important matters involving Indian tribes as plaintiffs in civil cases. Previously, the Judicial Code had set a minimum of \$10,000 on civil actions taken to federal district courts. This was amended so that in subsequent litigation arising under the Constitution, federal laws, and treaties, district courts could exercise original jurisdiction in all civil actions brought by tribes. Heretofore, tribes had not always been able to establish that the amount in question exceeded the limitation; nor could they take such cases to federal district courts; nor enter pleas before the U.S. Court of Appeals. In amending the law, consideration was given to the fact that civil suits initiated by Indians often involved land held in trust by the United States, treaty provisions, or controversy with state authorities, which rightfully should have been decided at the federal, rather than the

¹⁹ Act of September 2, 1964, 78 Stat. 769, 792, 793; and USCCAN, 88th Cong., 2d sess., 1964, 2: 3457.

state, level.²⁰

The Elementary and Secondary Education Act of 1965 was amended to increase benefits to Indian students. In 1966, special education provisions were extended to include Indian children who were enrolled in public schools. In 1968, assistance to handicapped pupils was expanded to include federal Indian schools; and public school construction assistance was increased through a formula based on the number of Indian children registered in a particular district.²¹

The Johnson administration also contributed a landmark law for Indians--Title II of the Civil Rights Act of 1968. The President had strongly recommended this kind of legislation in his "Forgotten American" Special Message of 1968. Title II, frequently referred to as the Indian Bill of Rights, was also bolstered by Titles III through VII.²²

Title II, Rights of Indians, essentially extended the first ten amendments of the Constitution to relations of individual Native Americans with federal, state, and tribal

²⁰Act of October 10, 1966, 80 Stat. 880; and USCCAN, 89th Cong., 2d sess., 1966, 1: 1040, 2: 3146.

²¹Act of November 3, 1966, 80 Stat. 1191; and Act of January 2, 1968, 81 Stat. 804, 807. Although not a legislative measure, Indian education received added emphasis in January 1967, when Commissioner of Indian Affairs Robert L. Bennett appointed sixteen tribal leaders to a new National Indian Education Advisory Committee, created to aid in determining Indian needs and to increase Indian participation in the education system. Administrative History, DOI, pp. 11-12.

²²Act of April 11, 1968, 82 Stat. 77-81.

governments. Prior to this enactment, federal courts generally refused to impose constitutional standards on tribal governments on grounds that such standards applied only to state and federal governments, and tribes were not considered to be states under the Fourteenth Amendment. Thus individuals who confronted tribal authority were sometimes deprived of the right to be represented by council, or had their tribal membership revoked, or were taxed without benefit of due process. Title II also provided for appeals of criminal convictions from tribal courts or Courts of Indian Offenses to district courts, and limited Indian courts to imposition of six-month sentences or \$500 fines, or both. Title III, Model Code Governing Courts of Indian Offenses, was designed to implement Title II provisions. It directed the Secretary of the Interior to recommend to the Congress a model code to govern Indian courts regarding on-reservation offenses.

Title IV, Jurisdiction Over Criminal and Civil Actions, repealed section 7 of Public Law 83-280 (1953), a termination measure which most tribes had strongly opposed. The new law authorized states to assume civil and criminal jurisdiction in Indian country only after the concerned tribe had consented through a popular referendum. Although this title permitted the United States to accept retrocession by any state of any or all measures of jurisdiction already acquired under Public Law 83-280, it did not otherwise alter the tribal-state relationship. Title V, Offenses Within Indian Country, added another offense to those already

contained in the prevailing Major Crimes Act of 1885. Because of sentencing limitations on tribal courts, federal courts were allowed to impose harder sentences for "assault resulting in serious bodily injury." Previously the list of major crimes had included murder, manslaughter, rape, incest, assault with intent to kill, assault with a dangerous weapon, assault with intent to commit rape, carnal knowledge, arson, burglary, robbery, embezzlement, and larceny.

Title VI, Employment of Legal Counsel, provided automatic approval of tribal applications to retain attorneys, submitted to the Secretary of the Interior or the Commissioner of Indian Affairs, if not otherwise approved or denied within ninety days from the filing date. Frequently, requests had gone unanswered for periods exceeding one year, which constituted a denial of due process. Title VII, Material relating to Constitutional Rights of Indians, authorized and directed the Secretary of the Interior to revise, prepare, and publish, specified documents and materials for use in helping Indians achieve their rights as citizens. Charles Kappler's Indian Affairs, Laws and Treaties was to be revised and extended to include all treaties, laws, Executive Orders, and regulations relating to Indian affairs in force on September 1, 1967; and Felix Cohen's Federal Indian Law, updated in 1958, was to be revised and republished. In addition, the Secretary was to prepare, for the first time, an accurate compilation of the official opinions, published and unpublished, rendered by

the Solicitor of the Department of the Interior relating to Indian affairs prior to September 1, 1967.²³

Mounting Opposition

While Congress responded favorably to BIA requests for appropriations and important legislation, it opposed outright endorsement of new policy and refused to approve extensive long-range Indian legislation. The first attempt in Congress to frame a new national Indian policy statement occurred in October 1966, when Senator George McGovern proposed a concurrent resolution which would override HCR 108. Although it received little support and was not approved, the NCAI fully endorsed it and requested that it be reintroduced. In February 1967 it was again submitted, as Senate Concurrent Resolution (S. Cong. Res.) 11, this time with several new cosponsors from western states.²⁴

Congressional response was slow. The Senate Committee on Interior and Insular Affairs waited until March 1968 to hold hearings. Its report (S. Rept. 1535) was not released until the following September, but it clearly acknowledged that the termination policy expressed in HCR 108 did not

²³Ibid., USCCAN, 90th Cong., 2d sess., 1968, 1: 94-99, 2: 1864-67; and 18 U.S.C.A. 1153.

²⁴U.S. Congress, Senate, "Indian Policy-1966," 89th Cong., 2d sess., October 13, 1966, C. Rec. 112: 26571-76; National Congress of American Indians, "National Congress of American Indians Policy Statement, Resolution Number 1," 23d Annual Convention, Oklahoma City, Oklahoma, [October] 1966; and U.S., Congress, Senate, "Indian Policy Resolution," 90th Cong., 1st sess., February 17, 1967, C. Rec., 113: 3747.

enhance, economically or socially, Native American well-being. Rather, "it may well have delayed" the opportunity for Indians to become "self-sufficient citizens." The Committee saw the resolution as a means to insure Indians that future federal programs would be adequate for their needs. And, in effect, by approving and recommending its passage, confessed that past federal policy had been detrimental to the relief of Indian suffering and that the BIA and the HEW's Division of Indian Health needed support from other federal, state, and local agencies. Further, accepting the resolution meant that Congress would continue to protect trust property, respect Indian culture and identity, and provide across-the-board support for the Johnson administration's endeavors to improve Indian economic and social status.²⁵

These points were clearly identified in S. Con. Res. 11 which also declared the sense of Congress to be that

. . . the deplorable conditions of American Indians and Alaska natives can only be alleviated through a sustained, positive, and dynamic Indian policy with the necessary constructive programs and services directed to the governing bodies of these groups for application in their respective communities offering self-determination and self-help features for the people involved;

In short, "a new National Indian policy" was required to formalize government concern and fulfill the "Nation's moral and legal obligations" to Native Americans. The

²⁵U.S., Congress, Senate, National American Indian and Alaska Natives Policy Resolution, S. Rept. 1535 to accompany S. Con. Res. 11, 90th Cong., 2d sess., 1968, pp. 1-2.

Senate supported the administration's efforts to enliven and freshen Indian affairs when it agreed to the resolution on September 12, 1968, although the House failed to consider the proposal.²⁶ Termination remained a clouded issue on Capitol Hill.

Ironically, the centerpiece of Great Society Indian legislation did not clear Congress. The Interior Department submitted its Indian Resources Development Bill on May 16, 1967.²⁷ The administration believed the bill would enable Indians to "participate more fully in American . . . life" and "permit them to exercise greater initiative and self-determination." Secretary Udall considered it to be the most important Native American measure since the Wheeler-Howard Act of 1934, and Commissioner Bennett described it as a sequel to that law.²⁸ Conversely, Vine Deloria, Jr., referred to it as a "bitter betrayal," and the NCAI, at its convention in October 1967, considered it not in keeping

²⁶U.S., Congress, Senate, "National American Indian and Alaska Natives Policy Resolution," 90th Cong., 2d sess., September 12, 1968, C. Rec., 114: 26656-57; and U.S., Congress, Senate, "Senate Concurrent Resolution 34--Concurrent Resolution Relating to National Indian Policy," 91st Cong., 1st sess., July 10, 1969, C. Rec., 115: 19030-31.

²⁷This measure was recorded as H.R. 10560 and S. 1816, 90th Cong., 1st sess., 1967.

²⁸Department of the Interior News Release, May 16, 1967, Box 7, DOI Records; and Robert L. Bennett, address delivered at the Western Washington State Indian Conference, Everett, Washington, November 2, 1967, Box 33, DOI Records.

with tribal needs, capabilities, and circumstances.²⁹ The most serious objections from Native American leaders were that their views were not incorporated into the proposal, and, if enacted, the new law would result in further alienation of Indian lands.³⁰

The Indian Resources Development Bill required a \$500 million appropriation to be expended over a period of several years. It would underwrite an Indian loan guarantee and insurance fund; authorize issuance of federal charters to tribal business corporations and allow them to issue tax-exempt bonds for municipal improvements; empower tribes to invest, mortgage, sell, or otherwise hypothecate trust property; and allow the escheatment of fractionated trust or restricted lands, valued at less than one hundred dollars, to tribes or to the United States. Further, tribes could establish a procedure whereby off-reservation members could forfeit their tribal membership, and thus their right to receive special federal services, in exchange for a share of tribal financial assets. If passed, the administration believed the bill would expand industrial activities on or near reservations; increase employment; generally improve

²⁹Vine Deloria, Jr., to Sol Tax, January 20, 1967, Ex, In, WHCF; and National Congress of American Indians, "Resolution Number 1, as amended, Indian Resources Development Act of 1967," 24th Annual Convention, Portland, Oregon, October 2-6, 1967.

³⁰Clarence Acoya, "Guest Editorial," Amerindian, September-October 1968, 17: 3; and Administrative History, DOI, p. 27.

Indian communities; increase available commercial credit; attract private capital to reservations; and permit tribes to successfully operate in the modern business world while gradually assuming management of their own affairs.³¹

The Interior Department's major effort to promote the bill had begun at a conference in Santa Fe, in April 1966, which coincided with Robert Bennett's elevation to BIA leadership. This meeting of BIA Directors and Bureau Superintendents was called to discuss Bureau reorganization and legislative planning. Although it was to have been closed to the public NCAI leaders objected and were allowed to observe the proceedings. Subsequently, in November and December 1966, nine regional meetings were held with Indian authorities, representing 153 tribes, so that they might consider the legislative proposals which Interior and the Bureau deemed important. The delegates made 1,950 recommendations which covered the entire spectrum of issues involved in government-Indian relations. During and shortly after these regional meetings, draft bills were circulated which led many Indians to believe that the administration had completed its work without incorporating their views.³² In

³¹"Statement of Secretary of the Interior Stewart L. Udall, on S. 1816, 'Indian Resources Development Act of 1967' Before the Subcommittee on Indian Affairs," July 11, 1967, Box 7, DOI Records.

³²Administrative History, DOI, pp. 26-27; and D'Arcy McNickle, "The Dead Horse Walks Again," Nation, December 25, 1967, pp. 677-78. Because the Santa Fe conference was intended to be closed to the public, the NCAI scheduled an emergency meeting to be concurrently held

January 1967, Commissioner Bennett invited Indian leaders, including the chairmen of the nine regional meetings, to Washington to discuss the proposed legislation.³³

The following month, Indians held the Indian Conference on Policy and Legislation in the nation's capital and passed resolutions opposed to any action which might cause further alienation of Indian lands. Native American views and objections concerning the proposed bill were made known to President Johnson in a letter from the Conference chairmen. Although Commissioner Bennett had met with many Indian leaders, there was not enough time to make an "intelligent analysis" of the measure. They requested more time for study. They were concerned that the "managerial techniques" concerning "mortgage, hypothecation, and sale of Indian lands" would render Native Americans vulnerable to "subversive economic forces" and destroy their "social and economic culture." They considered the bill a "breach of trust" based on Indian treaties and insisted that heirship lands should not be sold without unanimous agreement of all owners.

Indian leaders recognized the value of loan guarantee and revolving fund provisions. They agreed that federal corporation charters were "worthy of consideration" and that

there. Secretary Udall, aware of the NCAI action, had hoped to confer with the assembled Indian leaders, but not necessarily during the Interior-BIA conference sessions. Agency Report, April 12, 1966.

³³Charles F. Luce, Undersecretary of the Department of the Interior, to Joseph A. Califano, January 24, 1967, General Legislation File, In, WHCF.

the overly long and complicated proposal would undoubtedly, upon close scrutiny, "reveal other meritorious provisions." The letter suggested that the Indian Reorganization Act of 1934--which "saved Indian lands," insured Indian self-government, and "opened the door to financial credit"--should be revised and updated to form the basis of federal policy. It stated that Indians "paid more than adequate consideration" when they gave up their valuable lands, which were the basis of their existence; therefore, their right to ownership and occupation of remaining lands should be reaffirmed. Termination (HCR 108) should be repudiated; states should not be allowed to extend jurisdiction over Indians under Public Law 83-280; and social and economic agencies serving other people should be legislatively mandated to provide equal service to Indians.³⁴

By early 1967, then, an atmosphere of distrust existed. Clearly, the Indian Resources Development measure would generate controversy, even though both the Senate and House Committees on Interior and Insular Affairs were believed to be favorably disposed. Therefore, Secretary Udall and Joseph A. Califano, Presidential Special Counsel, advised President Johnson to let the Department of the Interior send it to the Hill and thus divorce the White House from

³⁴Norman Hollow, Chairman, Earl Old Person and Roger Jourdain, Co-chairmen, Indian Conference on Policy and Legislation, to the President, February 2, 1967, Box 151A, Files of Robert L. Bennett, R.G. 75, NA.

the anticipated furor.³⁵

Although the bill would have given tribes greater authority in the management and disposal of their property, Indian leaders spoke out against it at Congressional hearings in July 1967. Their opposition centered on three major provisions of the final proposal: authority to obligate Indian lands as collateral for loans; the possibility of escheatment of fractionated lands to the federal government; and discretionary authority of the Interior Secretary to implement loan grants and other features of the bill. Regardless of the enthusiastic support of Interior and the BIA, and in spite of Presidential endorsement, the bill died with the adjournment of the Ninetieth Congress in October 1968.³⁶

Beause of the demise of the Indian Resources Development Bill, the Johnson administration's major effort to propose far-reaching Indian legislation was not succesful. On the other hand, the Indian Bill of Rights, the change in Public Law 83-280, and the achievement of other significant laws were momentous. These, coupled with the Economic Opportunity Act and enactments affecting the education of Indians, helped to attain short-range goals and reverse the termination trend of the 1950s.

³⁵Administrative History, DOI, pp. 27-28; and Joseph A. Califano to the President, May 13, 1967, memorandum, General Legislation File, In, WHCF.

³⁶Administrative History, DOI, p. 29.

CHAPTER VI

CONCLUSIONS

The nation's laws and historical commitment have established the legal obligation of the federal government to manage Indian affairs. To terminate the existing relationship, without the approval and desire of Native Americans, would constitute a miscarriage of justice. More important, the moral aspect of withdrawing special federal services would undermine Indian morale. Yet, termination prevailed in Congress during the 1950s.

When termination faltered during the later years of the decade, so did government concern. The Eisenhower administration was inactive in seeking to fulfill Indian needs, and Congress simply failed to react to the demoralizing effects of its latest, unwise attempt to "assimilate" Native America. Indian leaders steadfastly renounced federal policy and legislation which would deny their people the wherewithal to achieve lasting dignity and maintain their cultural heritage within American society. Their voices were heard and recognized in the 1960s, and the government favorably responded, however slowly, to their suggestions. It was both encouraging to Native Americans and unique in the history of federal-Indian relations. Although termination was both reviled and short-lived, it was perhaps the greatest incentive to induce

Indian and government leaders to unite in their efforts to reverse trends of the recent past.

The foundation for change appeared during the Kennedy-Johnson years. In 1961, the insight of Indian Task Force participants and the views of Indian leaders, expressed through the "Declaration of Indian Purpose" at the American Indian Chicago Conference, set aside any doubt as to the challenge that confronted the federal government.¹ Native Americans had to be given the means to help themselves overcome extreme poverty and attain self-sufficiency without destroying their culture, land base, or freedom to live on or off reservations.

Under President Kennedy, the BIA followed Task Force recommendations and shifted its emphasis from termination to promoting the use of human and natural resources. The major areas of concentration were on-reservation education, housing, employment, and economic involvement. The most important steps taken along the "New Trail" were feasibility studies, reorganization within the Bureau to further economic advancement, and encouragement of private industry to locate on or near reservations. By November 1963, the new direction for

¹Vine Deloria, Jr., in his compiled and edited Of Utmost Good Faith (San Francisco: Straight Arrow Press, 1971; reprint ed., New York: Bantam Books, 1972), p. 334-5, notes that prior to the Chicago Conference Indians had spoken out on their own behalf against "Congressional oppression" through NCAI resolutions passed in the later half of the 1950s, "EXCEPT NO ONE HAD LISTENED." It was not, he wrote, a "new spirit" revealed at Chicago in 1961, "it was merely the first time that a certain group of scholars began to understand what had been happening in Indian country over the previous decade."

Indian affairs was evident, though a future course had yet to be determined.

Soon after Lyndon Johnson assumed the presidency, the obvious needs of Native Americans were addressed by promise and action. In early 1964, the White House Conference and the American Indian Capitol Conference on Poverty, both symbols of Indian initiative and determination, resulted in the administration's commitment to attack poverty on reservations and to support the necessary legislation. That Indians were included in the Economic Opportunity Act of 1964, without special provision or amendment, was both significant and historically remarkable. It brought hope and progress to reservation inhabitants; broadened and accelerated programs previously confined to the BIA and the PHS; and demonstrated the President's desire to fight poverty throughout the entire nation. In effect, additional federal agencies would be involved in Indian affairs. This promise and action did not, however, drastically change governmental policy.

In 1966, the attitude of the Senate Committee on Interior and Insular affairs indicated that Congress did not envision a new direction. In April, at the same time the Committee approved Robert Bennett's appointment as Commissioner of Indian Affairs, it also reprimanded the BIA for not carrying out the 1953 Congressional mandate to end federal supervision of Indian tribes; and Bennett was ordered to answer specific questions about his future plans. Clearly, the executive and legislative branches were pursuing different

ends. Legislators were still seeking forced assimilation. Bennett's report in July challenged that view. It both admonished Congress and requested its cooperation in improving the lot of Native Americans. In the meantime, President Johnson's remarks at Bennett's swearing-in ceremony sparked an unsuccessful attempt in the Senate to reverse and restate national policy. As such, the sincerity of federal commitment toward Indian matters remained uncertain.

The two presidential Task Forces of 1966 and 1967 reinforced the recommendations and assessment set forth in 1961. Their findings loudly reiterated the need to provide incentives and procedures which would allow Indian participation in planning. They endorsed self-help as a means to improve reservation living standards and economic conditions. And both Task Force reports urged public renunciation of past policy in order to promote progress and restore Indian confidence in the federal government. The specific recommendations of the 1967 study group; coupled with Secretary Udall's urging, were instrumental in eliciting a White House response.

President Johnson's unprecedented Special Message concerning American Indians, in March 1968, constituted a watershed. He appealed to Congress to enact legislation that would bolster recent Indian progress; announced new goals of self-help and self-determination; and called for the renunciation of termination. He proclaimed Native American freedom of choice, without jeopardizing cultural

ties, economic opportunity, or social standing. Congress should unite to support "The Forgotten American," and it should abandon the obsession with forced assimilation.

The major shift in federal-Indian relations was a conspicuous undertaking of the Johnson administration. That it was not fully sanctioned in Congress does not weaken its significance for the future. The failure of the House of Representatives to endorse a fresh and promising policy amplified the frequent lack of cooperation between branches of government in attempting to meet difficult objectives. The strained exchanges between Bennett and the Senate committee, during and after his conformation hearings, reflected the prevailing differences. An editorial, "LBJ's Indian Policy," which appeared in the Phoenix Arizona Republic shortly after "The Forgotten American" message, succinctly stated the problem:

The BIA has backed and filled, and occasionally changed the direction of its Indian policy. But it has done so at the insistence of Congress and the various presidents, all of whom felt they knew what was best for the Indian. To blame BIA for the shortcomings of our Indian policy is like blaming the Bureau of Printing and Engraving for creating inflation by printing too much money.²

The Johnson administration's endeavors to place the conduct of Indian affairs on a higher plane incorporated the views of Indian leaders, governmental officials, and other prominent, concerned Americans. The effort was to improve the status of Native Americans and to strengthen the govern-

²Arizona Republic (Phoenix), March 11, 1968, p. 6.

ment's efforts to meet one of its oldest legal and moral obligations. Legislative enactments, new programs, and increased appropriations certainly aided that cause and inspired the recipients of those measures. The Economic Opportunity Act of 1964 served as a major step toward lasting progress. It both complimented and supplemented BIA activities, now redesigned and reinforced to fulfill new, accessible goals. Even though the major Indian legislative effort of the Johnson years, the Indian Resources Development Bill, was rejected, lesser enactments helped to displace the regressive acts of the 1950s.

Although the fact has seldom been recognized, the War on Poverty permitted reservation-dwellers to achieve improvements which yielded social and economic progress. A new policy--freedom of choice and self-determination--encouraged and provided momentum for Native Americans to participate in the building of a Great Society.

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