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Citizens with Reservations: Race, Wardship, and Native American Citizenship in the Mid-Twentieth-Century American Welfare State

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### Publication Date

2017

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UNIVERSITY OF CALIFORNIA, SAN DIEGO

Citizens with Reservations: Race, Wardship, and Native American Citizenship in the  
Mid-Twentieth-Century American Welfare State

A dissertation submitted in partial satisfaction of the requirements for the degree  
Doctor of Philosophy

in

History

by

Mary Cameron Klann

Committee in charge:

Professor Rebecca Plant, Chair  
Professor Ross Frank  
Professor Nancy Kwak  
Professor Natalia Molina  
Professor Nicole Tonkovich

2017

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Chair

University of California, San Diego

2017

## DEDICATION

For my family - Eric, Nellie, Sarah, Brad, Sally, Jane, and Woody

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## LIST OF ABBREVIATIONS

AAIA – Association on American Indian Affairs

AB – Aid to the Blind

ADC – Aid to Dependent Children

AIDA – American Indian Defense Association

BIA – Bureau of Indian Affairs

ICA – Indian Citizenship Act

ICC – Indian Claims Commission

IRA – Indian Reorganization Act

NCAI – National Congress of American Indians

OAA – Old Age Assistance

OAI – Old Age Insurance

SSB – Social Security Board

VA – Veterans' Administration

VFW – Veterans of Foreign Wars



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## ACKNOWLEDGEMENTS

Words cannot express how grateful I feel for those who have provided support, guidance, and inspiration for this project and for the past six years I have spent at UC San Diego. I would not have been able to do this without them. My advisor, Rebecca Plant, has been a consistent source of support since I began at UCSD. I am thankful for her patient and thoughtful comments, criticism, and encouragement. Her special ability to pull out the significance of my messy drafts has challenged me to push this project in new directions. I am grateful for her tireless dedication to her students, I'm lucky to be one of them. Over the past six years, Ross Frank has encouraged me to learn more and more about Native history and epistemology by providing guidance on my work and suggesting new books, theories, and viewpoints to consider. I hope one day to make indigenous history and theory as accessible and significant for my students as he did for me. Nancy Kwak has challenged me to improve my work in many ways, encouraging me to consider history in a global context. Her generosity towards her students is unmatched. I am grateful for the opportunities she has given me to grow as a scholar, teacher, and member of the profession. I would also like to thank Natalia Molina and Nicole Tonkovich for their comments on this project. In addition to their thoughtful criticism, their scholarly work has also informed my research for this dissertation.

Other members of the faculty at UCSD and elsewhere have greatly contributed to my intellectual and professional trajectory and helped me to become a better writer and teacher. At UCSD, I would like to thank Nayan Shah, Rachel Klein, Michael

Parrish, David Gutiérrez, and Heidi Keller-Lapp for their productive and thoughtful feedback. At the 2016 American Society for Ethnohistory conference, Nicolas Rosenthal offered particularly useful comments on an early draft of Chapter 2 and a fruitful and energetic conversation with Katherine Osburn helped me to hone this dissertation's arguments and framework. I am also immeasurably grateful for my previous faculty mentors, Leslie Dunlap at Willamette University and Komози Woodard, Priscilla Murolo, and especially Mary Dillard at Sarah Lawrence College, for inspiring me to travel this path, and giving me the building blocks for historical research and analysis.

I am especially grateful for the archivists and librarians who helped me locate and access the source material for this project. Special thanks to Matthew Law at the National Archives and Records Administration in Riverside, CA; Adam Berenbak at the NARA Legislative Archives in Washington DC; Nathan Sowry at the National Museum of the American Indian Archive Center; and Michal Maher at the Nevada Historical Society. I also extend great thanks to the staff at the Harry S. Truman Library, Arizona Historical Society, Labriola National American Indian Center and Law Library at Arizona State University, and the Special Collections at the University of Nevada, Reno.

This project would not have been possible without the generous funding support of the Charles Redd Center for Western Studies at Brigham Young University, the Harry S. Truman Library, the UCSD Center for the Humanities, the Coordinating Council for Women in History, and the UCSD Department of History. An American

Association of University Women dissertation fellowship facilitated this project's completion.

I would also like to extend heartfelt thanks to the members of the 2015-2016 UCSD Center for the Humanities Interdisciplinary Dissertation Workshop, for their feedback on an earlier draft of Chapter 3. Their thoughtful comments and varying perspectives helped me to see the project in a new light. Thank you to Natalie Aviles, Amanda Cachia, Ivana Guarrasi, Lisa Ho, Mark Kelley, Audrey Lackner-Price, Salvador Zarate, and especially Stanley Chodorow.

I have benefitted from the friendship and support of many colleagues at UCSD, who have read drafts, listened to complaints, offered advice, and gave emotional sustenance. Kate Flach has read countless chapters, cover letters, teaching statements, and grant applications. More importantly, she has been a constant source of inspiration, and served as my intellectual sounding board and close confidant. Her friendship means more to me than I can say. Jorge Leal was my first friend at UCSD. Through his tireless dedication to improving UCSD's academic and campus community, he taught me the value of linking history to the present. Alina Méndez provided me with thought-provoking feedback on many projects. I am grateful for her kindness and intelligence. I learned so much from the long conversations I had with Jorge and Alina after seminars. Maki Smith provided generous and detailed feedback on various aspects of this project, and has offered crucial advice whenever I've needed it. Kelly Silva has inspired me since my first year at UCSD, not only providing me with an example of exceptional scholarship, but also showing me it is possible to

manage academia and motherhood with grace. At UCSD, I've met so many people who have challenged and encouraged me to become a better scholar and teacher. Special thanks to Mayra Avitia, Michele Brewster, Theodora Dryer, Cutler Edwards, Stephanie Fairchild, Laura Gutiérrez, Gloria Kim, William McGovern, Mychal Odom, Russell Peck, Ulices Piña, Ryan Reft, Luis Sánchez-López, Elizabeth Sine, Rich Smith, Carrie Streeter, Camielyn West, Geoff West, and Rosana Womack.

Finally, there is no way this dissertation could have been completed without my support system of family and close friends. Ham, Ana, Elizabeth, and Maria Keddie provided shelter from 100-degree heat in Phoenix, Arizona. Kimi Sato and Maureen Simpson got me out of the archives in Washington, DC. My siblings, Sally, Jane, and Woody Klann have been consistent sources of support and love in my life since they all were born. When I was seven months pregnant, Sally drove me all the way from San Diego to Phoenix, scrolled through microfilm for hours, and sorted through archival documents with me. She has provided countless hours of childcare, and is always there when I need her. Jane is my Klann connection on the science side of UCSD's campus. I often called upon her for a breath of fresh air. Her feedback has been crucial at various stages of this process. Woody is a source of humor and light, and his own work provided the musical backdrop for many hours of writing. My parents, Sarah and Brad Klann, have been integral parts of this project. Their love and support gave me the confidence to do this in the first place. My mother, Sarah, sat side by side with me at the archives in Nevada. Moreover, she keeps my daughter safe while I'm at work. I'll be forever grateful to both my parents for nurturing my love of

history and exemplifying for me and my siblings the powers of determination and generosity.

My daughter, Nellie, has developed in conjunction with this project. She traveled with me *in utero* on many trips to the archives. Her due date became my deadline for my first chapter. Since her arrival, she has been the best distraction from this project I could ask for. She provides me with the most joy, every single day. I hope one day she realizes that from the very beginning, history has helped her grow. Most of all, I give thanks to my husband, Eric Lam. Eric has moved thousands of miles for my academic pursuits, not once, but twice. He has photographed hundreds of archival documents as my tireless research assistant, listened intently to my ideas, calmed my anxiety, and stayed up into the night to keep me company as I furiously finished writing course lectures. I am inspired and awed by the love he has for our daughter and the care he shows for his family and mine. I could not have done this—or anything else—without his support.

Chapter 6, in part is currently being prepared for submission for publication of the material. Klann, Mary. “Full Citizenship for “Competent” Indians: Race and Gender in Indian Emancipation Bills, 1944-1954.” The dissertation author was the sole author of this material.

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ABSTRACT OF THE DISSERTATION

Citizens with Reservations:  
Race, Wardship, and Native American Citizenship in the Mid-Twentieth-Century  
American Welfare State

by

Mary Cameron Klann

Doctor of Philosophy in History

University of California, San Diego, 2017

Professor Rebecca Plant, Chair

This dissertation investigates how conflicts of mid-twentieth-century Indian wardship and citizenship manifested in political debates and public opinion. By considering Indian termination policies in conjunction with welfare policies of the same era, *Citizens with Reservations* explores how Native people challenged broad definitions of American citizenship undergirded by racialized and gendered notions of dependency and opportunity. This dissertation defines what Indian wardship and



citizenship meant for both non-Native and Native people in ideological terms, and explores how Native people experienced wardship and citizenship in their day-to-day lives. While non-Native politicians, state agents, and the public defined wardship as Indians' perpetual dependency on the federal government, Native people saw it as the United States' legal obligation to fulfill the terms of historical agreements and treaties negotiated with Indian tribes. Throughout the nineteenth and twentieth centuries, state agents employed "ward" a racialized and gendered term positioned in opposition to "proper" American citizenship.

*Citizens with Reservations* is a history of Native peoples' pursuit of welfare benefits, and a history of how the racialized construct of "Indian wardship" shaped larger political debates over welfare dependency within the United States. To explore the complex intersections between wardship and welfare, this dissertation examines the "quotidian structures of wardship"—the daily decisions, conversations, and correspondence between Native people and BIA agents. After situating wardship within a longer history of Indian racialization, *Citizens with Reservations* examines how wardship impacted Native peoples' efforts to obtain welfare benefits under the Social Security Act, Servicemen's Dependents Allowance Act, and the GI Bill; and explores eleven unsuccessful termination bills proposed by conservative congressmen between 1944-1954 which would have "emancipated" "competent Indians from wardship. It analyzes how and why Native people claimed rights to welfare benefits as citizens, while retaining their right to wardship as they defined it. By interrogating the racialized and gendered constructions of "proper" citizenship in the mid-twentieth

century, this dissertation puts debates and battles over Indian access to welfare into a longer history of assimilation and settler colonialism in the United States.

## Introduction

“If the judgment of the ward is to prevail over the judgment of the trustee-guardian, then the special relationship should be terminated.” – Roger Ernst, Assistant Secretary to the Interior, 1957<sup>1</sup>

“The BIA is a great resource, if you know how to use ’em. And we know how to use ’em.” – Larry Calica, Secretary-Treasurer, Warm Springs Tribe<sup>2</sup>

In 2014, Shawn Regan, research fellow at the Property and Environment Research Center, a think tank devoted to free-market environmentalism, published an opinion piece in *Forbes*. In his first paragraph, Regan set a bleak scene for the reader: “Imagine if the government were looking after your best interests. All of your assets must be managed by bureaucrats on your behalf. A special bureau is even set up to oversee your affairs. Every important decision you make comes with a mountain of regulations.”<sup>3</sup> Regan argued that this dark depiction of governmental control over individual choice was Native peoples’ actual experience in the United States. “How well would this work?” Regan asked. “Just ask Native Americans.” He asserted that extensive government administration had made Indian reservations “the poorest communities in the United States.”<sup>4</sup> Overall, Regan proclaimed, the extensive reach of

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<sup>1</sup> Ernst to Murray, 1957, Folder 22 - Public Law 280 and Amendments 1948-57, Box 16, William Zimmerman Papers, Center for Southwest Research, University of New Mexico.

<sup>2</sup> Quoted in Valerie Lambert, “The Big Black Box of Indian Country: The Bureau of Indian Affairs and the Federal-Indian Relationship,” *American Indian Quarterly* 40, no. 4 (Fall 2016), 339.

<sup>3</sup> Shawn Regan, “5 Ways the Government Keeps Native Americans in Poverty,” *Forbes*, March 13, 2014, <https://www.forbes.com/sites/realspin/2014/03/13/5-ways-the-government-keeps-native-americans-in-poverty/#97c85122c274>.

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

the federal government into Native peoples' lives had deprived them of economic success and left them "locked in poverty and dependence."<sup>5</sup>

This contemporary view of Native poverty and dependence is based upon decades of historical ambivalence and uncertainty about where Indian people fit within the American polity. Regan's described Native people as "wards" of a federal government charged with complete responsibility for their financial and social welfare. He claimed that the government had failed in that responsibility. Recapitulating longstanding racialized stereotypes about Native peoples' relationship with the state, Regan argued that the government exercised ultimate authority over Indians, keeping them in perpetual dependence. Native poverty could not be solved by increased funding for social welfare programs or historical recognition of the colonial relationship between the United States and tribal groups. Rather, Regan claimed, Native people needed freedom from government regulation of their land, natural resources, and assets.

This is a familiar refrain. Regan's assertions echo the concerns of non-Native politicians in the mid-twentieth century who advocated for the abolition of the Bureau of Indian Affairs (BIA), and the "emancipation" of Native people from wardship. Underneath these calls for Indian freedom lay politicians' and policymakers' racialized and gendered conceptions of what it meant to be a successful citizen and the danger of dependency on government resources.

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<sup>5</sup> Ibid.

Native activists and tribes in the mid-twentieth century contended that wardship did not connote Indian dependence. Rather, they claimed that the term should be understood as the United States' legal obligation to fulfill the terms of historical agreements and treaties. In exchange for land, Native people were entitled to certain protections and services. As sovereign nations within the United States, they expected the state to make good on its promises. Native people were also citizens of the United States. Their wardship and citizenship statuses tenuously coexisted, especially as they navigated through the expansion of the federal welfare state in the mid-twentieth century. They were not only a group of racialized citizens or solely members of tribes. They were both.

This dissertation investigates the specific ways in which conflicts over Native wardship and citizenship manifested in political debates and public opinion in the mid-twentieth century. My goal is to define what Indian wardship and citizenship meant for both non-Native and Native people in ideological terms, and to explore how Native people experienced wardship and citizenship in their day-to-day lives. To do so, I examine the ways in which wardship—the distinct relationship between tribes and the United States—impacted Native peoples' access to the mid-century expansion of the American welfare state. The New Deal and World War II led to an expansion of the federal state in the 1930s-1950s. Expanded welfare programs caused Americans to reassess how citizenship functioned as a “reciprocal relationship” between the federal government and individual citizens.<sup>6</sup> Citizens who fulfilled their increased obligations

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<sup>6</sup> Paul Rosier, *Serving Their Country: American Indian Politics and Patriotism in the Twentieth Century* (Cambridge: Harvard University Press, 2009), 70.

to the state began to understand themselves as entitled to state social welfare benefits as “rights.”<sup>7</sup> This understanding of a “right” to welfare was not one-sided. New Deal policymakers and administrators also “spread rights language throughout the nation,” changing the way Americans thought about relief and aid to the poor.<sup>8</sup> In this era, Native people, BIA agents, politicians, and other members of the public asked, could Indians claim the same right to welfare benefits?

In a legal sense, the answer is simple. Having been universally declared to be American citizens in 1924, Native people were entitled to welfare benefits just like other citizens. However, in the mid-twentieth century, Native people were not only considered citizens, but wards. This dissertation shows that “ward” functioned as a racialized and gendered signifier which not only limited Indians’ access to welfare benefits, but shaped the ways in which they interacted with the state in general. Thus, welfare benefits serve as a lens through which to view persistent ambiguities within Native peoples’ “reciprocal relationships” with the US state.

### **Wards, Citizens, and the State**

Historians of American Indians often pit the goals and policies of the state against the wishes and worldviews of Native tribes. Federal Indian policies have imposed non-Native systems of governance, family structure, religion, culture, and

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<sup>7</sup> Lizabeth Cohen, *Making a New Deal: Industrial Workers in Chicago, 1919-1939* 2<sup>nd</sup> ed. (Cambridge: Cambridge University Press, 2009), 285. See also James T. Sparrow, *Warfare State: World War II Americans and the Age of Big Government* (Oxford: Oxford University Press, 2011), 4, 14; and Meg Jacobs, *Pocketbook Politics: Economic Citizenship in Twentieth-Century America* (Princeton; Oxford: Princeton University Press, 2005), 220.

violence onto Native people. However, the “official” documents of the state archive expose a cacophony of negotiations, conflicts, and exchanges between Native people and the state. At the conjunction of Indian policy and welfare policy, historians can find that Native men and women have directly inserted their voices into the official record, speaking in the “language” of the state, to interject their opinions on Indian policies, demand recognition from federal and state governments, and engage with state agents. Linda Tuhiwai Smith argues that history is “mostly about power. It is the story of the powerful and how they became powerful.”<sup>9</sup> However, Smith also claims that research must encompass “dialogue across the boundaries of oppositions,” as indigenous peoples are “struggling to make sense of [their] own world while also attempting to transform what counts as important in the world of the powerful.”<sup>10</sup> Historians can certainly find many stories of the powerful within state archives, but we can also find many of these “dialogues across the boundaries of oppositions,” indigenous peoples’ alternative interpretations of and challenges to policy. Thus, policy documents should not be read solely as transcripts of state control and influence over Indian peoples’ lives, but rather, read as ambiguous dialogues across oppositional boundaries.

*Citizens with Reservations* explores how Indian policy and social welfare legislation unfolded within Native peoples’ lives. It is an analysis of Native peoples’ engagement with state action, and also, to use Margot Canaday’s phrase, a study of

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<sup>8</sup> Karen Tani, *States of Dependency: Welfare, Rights, and American Governance, 1935-1972* (New York: Cambridge University Press, 2016), 8.

<sup>9</sup> Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (Dunedin, NZ: University of Otago Press, 1999), 34.

“state-building from the bottom up,” an examination of state formation as “what officials do.”<sup>11</sup> I explore the motivations and actions of those officials who shaped both Indian and welfare policy, including those who worked for the BIA, the Department of the Interior, state boards of public welfare, the Office of Dependency Benefits, the Veterans’ Administration, and members of Congress. Based on their assumptions about Indian wardship and citizenship, these officials made specific choices about how and where Native people would be able to access welfare resources. They chose whether to disseminate certain information, whether to cooperate with other agencies, to intervene when they saw something “improper,” and to implement administrative processes which significantly impacted Native families, communities, and land.<sup>12</sup> Native peoples’ attempts to access welfare benefits reveal what “wardship,” an ambiguous racial and legal category, actually meant for both Indians and government agents. In examining Indians’ lived experiences of wardship, I seek to further open what Choctaw anthropologist Valerie Lambert calls, “the BIA as the big black box of Indian Country.”<sup>13</sup> In examining the “quotidian structures of wardship,”—daily decisions, conversations, and correspondence between Native people and BIA agents—I demonstrate that Native claims to welfare rights were undergirded by theories of Indians’ racialized dependency. However, to expand upon Lambert’s argument, I also aim to complicate these relationships between Native

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<sup>10</sup> Ibid., 39.

<sup>11</sup> Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth-Century America* (Princeton: Princeton University Press, 2009), 5.

<sup>12</sup> For more on the men and women who worked for the BIA, see Lambert, “Black Box of Indian Country;” and Cathleen D. Cahill, *Federal Fathers and Mothers: A Social History of the United States Indian Service, 1869-1933* (Chapel Hill: The University of North Carolina Press, 2011).



people and the BIA, to expose the “multidimensional and contradictory nature of these relations.”<sup>14</sup>

State officials defined wardship as a perpetual state of Native dependency, historically rooted in the federal government’s “self-proclaimed plenary power in Indian affairs.”<sup>15</sup> However, in the mid-twentieth century, some BIA agents, non-Native policymakers, and politicians also argued that eventually, under governmental guidance, Native people were supposed to become “full” citizens independent from government oversight. Proponents of this ideology proposed “termination” policies, which would integrate Indians into the polity, abolish the BIA, and “emancipate” Native people from wardship. This dissertation elucidates the dynamics of state-Indian interactions within the uneasy reconciliation of Indians’ perpetual wardship and their linear path to “full” citizenship through assimilation.

Native people were familiar with the rhetoric of “full citizenship” because “emancipation” had been policymakers’ goal since the late nineteenth century. Therefore, Indian emancipation should be considered part and parcel of ongoing process of American settler colonialism, “through which American Indians become invisibilized and minoritized within the United States.”<sup>16</sup> As Patrick Wolfe claims, “settler colonialism destroys to replace.”<sup>17</sup> Terminationists designed policies to destroy Native land rights and claims to BIA protections and resources, replacing the

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<sup>13</sup> Lambert, “Black Box of Indian Country,” 343.

<sup>14</sup> *Ibid.*, 357.

<sup>15</sup> N. Bruce Duthu, *Shadow Nations: Tribal Sovereignty and the Limits of Legal Pluralism* (Oxford: Oxford University Press, 2013), 150.

<sup>16</sup> Jodi A. Byrd, *The Transit of Empire: Indigenous Critiques of Colonialism* (Minneapolis: University of Minnesota Press, 2011), 137.

relationship Native people maintained with the federal government as wards, solely with racialized American citizenship. By rejecting efforts to “free” them from wardship, Native people articulated a different definition of “ward”—one that sat outside of the ideology of perpetual Indian dependency and Native need for guidance towards assimilation. Native people understood wardship to be a legal relationship, one based upon the US’ historical obligations to tribes. This dissertation explores and analyzes clashes between non-Natives’ and Natives’ dissonant conceptualizations of wardship.

*Citizens with Reservations* also examines competing conceptions of citizenship. While advocates of termination policy and members of the non-Native public assumed that wardship barred Native people from “full” citizenship, Indian activists and tribal groups argued that wardship should not prevent them from accessing their rights as citizens. In an era of expanding welfare policy, reformers and policymakers argued that “dependency” was antithetical to productive citizenship. Welfare recipients, mostly poor women and people of color, were “drains” on public resources. Those opposed to the expansion of the welfare state leveled the same types of racialized critiques at Native people. To these critics, Indian wardship and welfare dependency were two sides of the same coin—a group of (racialized and gendered) citizens completely dependent upon the federal government for guidance and assistance in their lives. However, Native people were adamant that “wardship” was not “welfare.” Within their pursuit of welfare benefits, Indians spoke of their rights as citizens,

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<sup>17</sup> Patrick Wolfe, “Settler Colonialism and the Elimination of the Native,” *Journal of Genocide Research* 8, no. 4 (December 2006), 388.

taxpayers, veterans, and humans. They also maintained their demand that the federal government provide resources and protections to tribes under the terms of wardship.

### **Citizens, with Reservations**

This dissertation examines conversations and debates between tribal representatives, Native welfare applicants, agents of the BIA and other federal agencies, state lawmakers, social workers, and organizations devoted to Indian affairs through analysis of correspondence, legal cases, proposed legislation, Congressional hearings, minutes of tribal councils and congressional subcommittees, organizational newsletters, and media coverage. My geographical focus is the American Southwest, specifically the states of Arizona, New Mexico, and Nevada. The dissertation centers on these states for three main reasons. First, these states' large Native populations and outspoken non-Native citizens resulted in battles over Indian eligibility for welfare benefits. Politicians and public welfare officials in Arizona and New Mexico adamantly denied that their states were responsible for providing benefits to Indians under the 1935 Social Security Act. Nevada politicians, including Pat McCarran and George Malone, consistently refused to recognize tribal land rights and were vocal supporters of termination policies. Second, Native tribes and organizations in this region actively inserted themselves into conversations about wardship, citizenship, and welfare. Many of the Native voices in this dissertation are from the Pyramid Lake Paiute, Navajo, Apache, Pueblo, and Tohono O'odham tribes, the Pima-Maricopa Indian Community of the Gila River Reservation, the Chemeheuvi and Mohave

communities of the Colorado River Reservation and other tribes in the Southwest. In addition to issuing resolutions, petitioning their state and federal governments, and corresponding with agents of the BIA, representatives from these groups frequently communicated with representatives from the National Congress of American Indians (NCAI) and sought legal advice from noted specialists in Indian law, including Felix Cohen, James Curry, and Normal Littell. Third, in the mid-twentieth century, intense media attention and public scrutiny was directed at Navajos in Arizona and New Mexico. Magazine and newspaper articles highlighted widespread poverty, hunger, and illiteracy on the Navajo reservation in the years following World War II. This coverage catalyzed public concern about the place Native people occupied within the American polity. Non-Native citizens roundly criticized the relationship between Navajos—and by extension, all Native people—and the federal government, arguing for the inclusion of Native people, as the “first Americans,” into the American body politic as full and equal citizens. This swirl of political tension, vocal Native resistance, and public perception makes the Southwest a fruitful site for examining the nature and scope of Indian dependency, entitlement, and need in the mid-twentieth century.

However, though battles over wardship and welfare were concentrated in the Southwest, this is also a national story. Critics of the welfare state looked to Indian wards as examples of what could go wrong if federal power continued to grow unchecked. Politicians proposed legislation to “emancipate” Indians on a national scale, rather than state by state. Media coverage of Native poverty and struggle

prompted outcry from non-Native citizens throughout the United States. Native people maintained two different “reciprocal relationships” with the *federal* government—one as citizens of the United States, and one as members of tribal nations. Citizenship and wardship were national constructs.

As a study of Native peoples’ relationship with the federal government, this project also engages with tribal sovereignty. When Native people applied for welfare benefits, whether based on need or in return for service, they did so as citizens. But they also did so with an awareness of their relationship with the federal government, and, in many cases, with the help and/or oversight of BIA agents. Although separate, wardship and welfare were messily entangled. Therefore, Native peoples’ political rights to both welfare benefits (as citizens) and to certain resources and trust protection on their land (as wards) were, in Kevin Bruyneel’s words, “not really about issues of exclusion and inclusion” within the United States polity.<sup>18</sup> Rather, in their claims to *both* distinct sets of rights, Native people challenged assimilationist ideologies and articulated a unique political autonomy—what Bruyneel terms the “third space of sovereignty.” Bruyneel argues that Native people exist on the “boundaries,” “neither inside nor outside the American political system.”<sup>19</sup> *Citizens with Reservations* utilizes Bruyneel’s conceptualization of the third space of sovereignty to explore sites of tension on the ideological boundaries of what constituted “proper” citizenship and “true” wardship.

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<sup>18</sup> Kevin Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of US-Indigenous Relations* (Minneapolis: University of Minnesota Press, 2007), 6.

<sup>19</sup> *Ibid.*, xvii.

To do so, I examine how Indians were racialized in mid-twentieth-century conversations about welfare eligibility, military service, and competency. “Ward” itself was a racial term, which became attached to Indianness to the extent that some politicians and government bureaucrats wanted to develop a process to purge “competent” Native people from the BIA’s purview. “Real” Indians were wards, dependent on BIA guidance. Joanne Barker has demonstrated that notions of “authenticity” reinforce racist ideologies—in this case, equating Indianness with dependency.<sup>20</sup> Citizenship is constituted by a relationship between the state and the individual based on a system of obligations and rights. “Dependency” on the government thus falls outside of the construct of “proper” citizenship. Native peoples’ expressions of political and cultural autonomy and persistent claims to the rights and protections due them under wardship crystallized into popular misconceptions that they were not “real” citizens. The title of this project, *Citizens with Reservations*, alludes to the ambiguous space Native people occupied within the polity. Simultaneously viewed by non-Natives as prisons and/or (tax-free) privileges, reservations seemed to hold Native people back from assimilation into the polity. However, reservations are protected Indian homelands. Because reservation land exists outside the jurisdiction of state power and is restricted from sale, reservations symbolize Native peoples’ “special” relationship with the federal government. Reservations represent tribes’ relationships with land and histories of resistance.

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<sup>20</sup> Joanne Barker, *Native Acts: Law, Recognition, and Cultural Authenticity* (Durham: Duke University Press, 2011), 6.

Therefore, reservations are imbued with power. Reservations thus qualified Native citizenship, for both Indians and non-Indians. This dissertation explains why.

## **Historiography**

### *Citizenship: Imposed, Restricted, Demanded*

Scholars have examined American citizenship as a racialized and gendered category which has functioned in a range of capacities—as a beacon of hope and freedom, gatekeeper of American values, and tool for assimilation and colonialism. This project explores these multiple conceptualizations of American citizenship, examining how Native people demanded rights within and outside of the traditional confines of citizenship in the mid-twentieth century. As such, the project engages a vast literature of citizenship, race, and gender.

Historians have considered how the imposition of American citizenship on Native families significantly undermined Indian cultural and family structures. Non-Native agents and reformers contrasted Indian “savagery” with racialized ideals of civilization. Campaigns to “civilize” Native people were made up of, in Robert Porter’s words, “a four-pronged attack that served as a kind of Four Horsemen of the Indian Apocalypse,” which included conversion to Christianity, coerced Western education for Indian children, allotment of tribal lands, and the extension of citizenship to Indians.<sup>21</sup> Driven by the desire to assimilate Indians into Americanized ideals of property ownership, gendered labor, language, and religion, reformers and

state officials forcibly attempted to educate Native people to become “proper” citizens.<sup>22</sup> For example, in the late-nineteenth to early-twentieth centuries, state agents and reformers divided Native communities into patriarchal nuclear family units to allot tribal land, disrupting existing systems of community and family governance.<sup>23</sup> Citizenship was involuntarily “granted” to Indians who conformed to assimilationist ideals—that is, it did not require Indian consent.<sup>24</sup> As Tuscarora chief Clinton Rickard asserted in his autobiography, “United States citizenship was just another way of absorbing us and destroying our customs and our government.”<sup>25</sup>

However, as Frederick Hoxie argues, assimilationist policymakers and reformers did not envision citizenship to elevate Native people to the status of whites. Rather, by 1920, “a new, more pessimistic spirit governed federal action.”<sup>26</sup> Native people were to be incorporated into the nation, but “their new status bore a greater resemblance to the position of the United States’ other nonwhite peoples” than it did to

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<sup>21</sup> Robert Porter, “The Demise of the *Ongwehoweh* and the Rise of the Native Americans: Redressing the Genocidal Act of Forcing American Citizenship Upon Indigenous Peoples” *Harvard BlackLetter Law Journal* 15 (1999), 108-109.

<sup>22</sup> See Jane Simonsen, *Making Home Work: Domesticity and Native American Assimilation in the American West, 1860-1919* (Chapel Hill: The University of North Carolina Press, 2011); Margaret Jacobs, *White Mother to a Dark Race: Settler Colonialism, Maternalism, and the Removal of Indigenous Children in the American West and Australia, 1880-1940* (Lincoln: University of Nebraska Press, 2009); Pablo Mitchell, *Coyote Nation: Sexuality, Race, and Conquest in Modernizing New Mexico, 1880-1920* (Chicago: The University of Chicago Press, 2005); Frederick E. Hoxie, *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920* (Lincoln: University of Nebraska Press, 1984); David A. Chang, *The Color of the Land: Race, Nation, and the Politics of Landownership in Oklahoma, 1832-1929* (Chapel Hill: The University of North Carolina Press, 2010).

<sup>23</sup> Rose Strelau, *Sustaining the Cherokee Family: Kinship and the Allotment of an Indigenous Nation* (Chapel Hill: The University of North Carolina Press, 2011), 128.

<sup>24</sup> Frank Pommersheim, *Broken Landscape: Indians, Indian Tribes, and the Constitution* (Oxford: Oxford University Press, 2009), 163.

<sup>25</sup> Quoted in Bruyneel, *Third Space of Sovereignty*, 113.

<sup>26</sup> Hoxie, *A Final Promise*, x.



idealized notions of “full” citizenship.<sup>27</sup> As nonwhite members of the American polity, Native people were restricted from “full” citizenship, a space defined not only by Americanized cultural, political, and social behavior, but also by race. Scholars have shown that throughout the early twentieth century, whiteness remained the prerequisite for full and equal citizenship.<sup>28</sup> This dissertation will examine the extent to which wardship restricted Native people from full citizenship within the American polity due to its racial connotations. Ideologically, non-Native politicians and members of the public viewed wardship as a racialized category which set Native people apart from the rest of the nation.

The history of American citizenship is shaped by dynamic exchanges between “second-class” citizens and the state. Marginalized peoples have demanded inclusion into the body politic, and challenged definitions and benefits of such inclusion. For example, African American civil rights and black power activists argued that despite growing twentieth-century discourses of pluralism and democracy, racialized peoples faced impediments to full citizenship. African American and Chicano/a activists connected the global struggle for decolonization in Asia and Africa with the struggle for “internal decolonization” within the United States.<sup>29</sup> In addition to demands for

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<sup>27</sup> Hoxie, *A Final Promise*, xi.

<sup>28</sup> See Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004); Natalia Molina, *Fit to Be Citizens? Public Health and Race in Los Angeles, 1879-1939* (Berkeley: University of California Press, 2006); Ian Haney-López, *White by Law: The Legal Construction of Race* (New York: New York University Press, 2006); Erika Lee, *At America's Gates: Chinese Immigration in the Exclusion Era, 1882-1943* (Chapel Hill: The University of North Carolina Press, 2003); David R. Roediger, *Working Toward Whiteness: How America's Immigrants Became White, The Strange Journey from Ellis Island to the Suburbs* (New York: Basic Books, 2005).

<sup>29</sup> See Nikhil Pal Singh, *Black Is a Country: Race and the Unfinished Struggle for Democracy* (Cambridge; London: Harvard University Press, 2004); Lorena Oropeza, *Raza Si! Guerra No! Chicano*

recognition and “full” citizenship, activists in the late 1960s and early 1970s reimagined categories of citizenship and belonging to “open the circle of common humanity.”<sup>30</sup> Scholars such as Daniel Cobb and Alyosha Goldstein have examined how Native people utilized federal welfare systems, including the War on Poverty’s Community Action Program, in order to combat Native poverty. As they participated in these governmental programs, Native people conceptualized their issues with the federal government in the language of international politics and development, drawing connections between their needs and the anticolonial struggles of indigenous peoples abroad.<sup>31</sup> As Native people “translated the politics of ‘cold war civil rights’ into the language of tribal sovereignty,”<sup>32</sup> they fashioned American citizenship from a tool of racialized gatekeeping into a means of claiming recognition of specific tribal histories within the United States.

*Citizens with Reservations* expands upon this scholarly work by examining sites of the explicit and messy confluence of race, sovereignty, and citizenship. Rather than focusing on the activism of the 1960s and 1970s, I draw the discussion back in time to examine how Native people experienced the largescale changes to citizenship which occurred because of New Deal and World War II-era welfare programs. When needy elderly Native people applied for Old Age Assistance, Native wives of

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*Protest and Patriotism During the Viet Nam War Era* (Berkeley: University of California Press, 2005); Penny Von Eschen, *Race Against Empire: Black Americans and Anticolonialism, 1937-1957* (Ithaca; London: Cornell University Press, 1997); Brenda Gayle Plummer, *Rising Wind: Black Americans and US Foreign Affairs, 1935-1960* (Chapel Hill; London: The University of North Carolina Press, 1996).

<sup>30</sup> Singh, *Black is a Country*, 44.

<sup>31</sup> See Daniel Cobb, *Native Activism in Cold War America: The Struggle for Sovereignty* (Lawrence: University Press of Kansas, 2008); Alyosha Goldstein, *Poverty in Common: The Politics of Community Action During the American Century* (Durham; London: Duke University Press, 2012).

<sup>32</sup> Cobb, *Native Activism in Cold War America*, 4.

servicemen claimed dependency benefits, or Indian veterans applied for business loans under the GI Bill, they attempted to access the benefits due to American citizens. However, in so doing, they were often assisted and/or controlled by BIA agents, and state welfare agencies and lenders often denied their claims. Thus, the subjects of this dissertation actively defined their identities as citizens from within the administrative exchanges, political assumptions, and long-lasting relationships which constituted wardship. Sharon Romeo has asserted, “as an identity, citizenship is constructed through daily contests for greater control over one’s life.”<sup>33</sup> This project delves into those daily contests, exploring how Native people made use of both the concepts of rights and sovereignty to support themselves, their families, and their communities.

#### *Welfare Dependency and Welfare Rights*

Historians of welfare have emphasized how the structure of the American welfare system has been split into two categories: “rights-based” and “needs-based.” Rights-based welfare provisions are more respected, less intrusive, and masculine; while needs-based provisions are more intrusive, less stable, and feminine.<sup>34</sup> Therefore, men have been more likely viewed as “entitled” to benefits like Old Age Insurance, Unemployment Insurance, and GI Bill loans, and women and racialized people have been viewed as “dependent” on government programs like Aid to Dependent Children or Old Age Assistance. Rights-based welfare programs have been

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<sup>33</sup> Sharon Romeo, *Gender and the Jubilee: Black Freedom and the Reconstruction of Citizenship in Civil War Missouri* (Athens: University of Georgia Press, 2016), 6.

<sup>34</sup> Linda Gordon, *Pitied but Not Entitled: Single Mothers and the History of Welfare, 1890-1935* (New York: The Free Press, 1994), 11.

more safely enshrined within material structures and popular ideologies, while needs-based welfare programs have been subject to frequent criticism and cited as dangerous to the financial well-being of the nation. As Suzanne Mettler demonstrates, the structure of welfare itself perpetuated these divisions. Mettler notes that “white men were incorporated into the uniform domain of the national government and women and nonwhite men were left under the auspices of the states,” leaving women and racialized men more vulnerable to local prejudices and attempts to preserve a gendered and racialized social order.<sup>35</sup> Karen Tani has further argued that although welfare administrators themselves proliferated the language of “welfare rights,” and the state “recognized all citizens, even the poorest, as rights-bearing members of the national polity,” the rights of the poor were subject to the “ebb and flow of politics,” and “continued to turn on exercises of local discretion.”<sup>36</sup>

Scholars have shown that citizens who accessed needs-based welfare benefits under programs highly susceptible to changing public opinion and local norms, were also more likely to be scrutinized and policed, in case they were “undeserving” of such benefits.<sup>37</sup> Welfare policymakers and caseworkers subscribed to a framework of gendered economic citizenship wherein male breadwinners should earn enough outside of the home to support their dependents. In return for certain types of wage work, the federal government disseminated entitlement benefits: “tangible, publicly

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<sup>35</sup> Suzanne Mettler, *Dividing Citizens: Gender and Federalism in New Deal Public Policy* (Ithaca: Cornell University Press, 1998), 5-6.

<sup>36</sup> Tani, *States of Dependency*, 19.

<sup>37</sup> See Michael Katz, *The Undeserving Poor: America's Enduring Confrontation with Poverty* 2<sup>nd</sup> ed. (Oxford: Oxford University Press, 2013); Gordon, *Pitied but Not Entitled*; Gwendolyn Mink, *The Wages of Motherhood: Inequality in the Welfare State, 1917-1942* (Ithaca: Cornell University Press,

provided rewards.”<sup>38</sup> Thus, as Alice Kessler-Harris notes, “employment emerged as a boundary line demarcating different kinds of citizenship.”<sup>39</sup> Welfare policymakers clung to the idea of the “family wage,” even as it failed to sustain many poor working families, including single mothers and their children who turned to Aid to Dependent Children.<sup>40</sup> In the mid-1940s, welfare reformers and social workers incorporated work as part of their policies to “rehabilitate” welfare recipients. Welfare reformers understood the psychological benefits of work to be the “value of not being dependent.”<sup>41</sup> Essentially, welfare reformers viewed welfare recipients’ poverty not as a symptom of larger structural inequalities, but the result of individual failings.<sup>42</sup> Because they were more likely to be eligible for “needs-based” aid, women and racialized men who applied for welfare benefits were stigmatized as lazy and unable to participate in the idealized economic structure of the American family.

Historians have shown how women welfare recipients actively challenged the widespread belief that they were “unworthy of support,” by recasting themselves as mothers, consumers, citizens, and feminists.<sup>43</sup> In their efforts to defy racialized stereotypes of their laziness and immorality, these women, many of them black, called

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1995); and Annelise Orleck, *Storming Caesar’s Palace: How Black Mothers Fought Their Own War on Poverty* (Boston: Beacon Press, 2005).

<sup>38</sup> Alice Kessler-Harris, *In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20<sup>th</sup>-Century America* (Oxford: Oxford University Press, 2001), 4.

<sup>39</sup> *Ibid.*

<sup>40</sup> Marisa Chappell, *The War on Welfare: Family, Poverty, and Politics in Modern America* (Philadelphia: University of Pennsylvania Press, 2010), 16.

<sup>41</sup> Jennifer Mittelstadt, *From Welfare to Workfare: The Unintended Consequences of Liberal Reform, 1945-1965* (Chapel Hill: The University of North Carolina Press, 2005), 59.

<sup>42</sup> *Ibid.*, 7.

<sup>43</sup> Premilla Nadasen, *Welfare Warriors: The Welfare Rights Movement in the United States* (New York: Routledge, 2005), 14-15, xvii. See also Orleck, *Storming Caesar’s Palace*; and Rhonda Y. Williams, *The Politics of Public Housing: Black Women’s Struggles Against Urban Inequality* (Oxford: Oxford University Press, 2004).

attention to racism within the welfare system and demanded a “share in the economic abundance that had come to define American society.”<sup>44</sup> Thus, they challenged popular notions of gendered economic citizenship and citizens’ relationship with the state, by asserting that their chance at economic opportunity in the United States should also be safeguarded by governmental protection. These kinds of claims on the state echoed those of workers and consumers in the 1930s and 1940s, who saw government protection as “something they deserved.”<sup>45</sup>

This dissertation does not argue that wardship was a federal welfare program. Native people demanded that the United States fulfill its obligations to tribes under existing treaties and agreements—but they did so from the position of members of sovereign nations, not as citizens. However, they did make claims on the state for welfare benefits—both “rights-based” and “needs-based.” These claims have heretofore been under-examined in the historiography.<sup>46</sup> Beyond their direct welfare claims, Native people factor into the history of how welfare itself was conceived. Wardship was conservative welfare critics’ biggest fear—if the welfare state continued to expand, all Americans could someday end up on reservations, completely dependent on the federal government. This dissertation unpacks these worries, examining how anxiety about racialized dependency ultimately prevented Native people from accessing the benefits they needed and deserved. Moreover, historians have not yet fully excavated how policymakers and politicians who championed “freeing” Native people from wardship drew upon their own racialized and gendered conceptions of

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<sup>44</sup> Nadasen, *Welfare Warriors*, 104.

<sup>45</sup> Cohen, *Making a New Deal*, 289. See also Meg Jacobs, *Pocketbook Politics*.

welfare dependency. This dissertation examines how gendered understandings of dependency and entitlement translated into political and public opinions about Indians' eligibility for welfare. Policymakers and members of the public believed all Native people were dependent, not just Native women. However, the quotidian structures of wardship were gendered. BIA agents exercised more oversight and control over Native women's receipt of federal welfare benefits than Native men's, reiterating the common gendered divisions of welfare discussed above. Additionally, non-Native desires to "emancipate" Indians from wardship were based on goals to integrate Native families into Americanized models of economic citizenship, where a male breadwinner would provide all needed resources to his dependents. Native men, particularly veterans, were understood to be especially restricted by their wardship status, because military service signaled readiness to assimilate. Therefore, my goal in *Citizens with Reservations* is to unpack the gendered and racialized intersections between wardship and welfare and examine how Native people navigated through the quotidian structures of wardship to demand their right to welfare benefits.

### *Termination*

The "termination era" in Indian affairs stretched roughly from the mid-1940s through the early 1960s. Historians of termination have noted that the policies proposed within this era are both familiar and different than those which came before. In many ways, termination policies echoed legislators' efforts behind the Dawes

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<sup>46</sup> The exception is Tani, *States of Dependency*, 141-149; 169-177.

Allotment Act of 1887, especially in their desires to assimilate Native people into the American polity, remove trust restrictions from Indian property, and “emancipate” Indians from federal wardship.<sup>47</sup> However, termination policies arose out of World War II. The war constituted a specific moment in the history of United States state-building, characterized by increased nationalism and a spirit of “unity and consensus” throughout the country.<sup>48</sup> Conservative Republican politicians, many from western states, viewed the trust restrictions on Indian property and other BIA services as “violations of a social and economic system based on property rights and private enterprise.”<sup>49</sup> Exploiting language of civil rights and equality, terminationist policymakers and politicians working under Presidents Harry Truman and Dwight Eisenhower spoke of “creating an America of one people,” but proposed to strip Native people of their sovereignty and heritage by assimilating them into the American polity.<sup>50</sup> Termination policies such as House Concurrent Resolution 108 and Public Law 280 (both passed in 1953), revoked federal recognition of certain tribes and authorized select states to assume civil and criminal jurisdiction over reservations without tribal consent.<sup>51</sup> Vine Deloria and Clifford Lytle describe the mid-twentieth-century as “the barren years,” because Native people became “subject to new forms of social engineering, which conceived of them as a domestic racial minority, not as distinct political entities with a long history of specific legal claims against the United

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<sup>47</sup> Donald L. Fixico, *Termination and Relocation: Federal Indian Policy, 1945-1960* (Albuquerque: University of New Mexico Press, 1986), xii.

<sup>48</sup> Larry W. Burt, *Tribalism in Crisis: Federal Indian Policy, 1953-1961* (Albuquerque: University of New Mexico Press, 1982), 4.

<sup>49</sup> *Ibid.*, 20.

<sup>50</sup> Fixico, *Termination and Relocation*, 77. See also Cobb, *Native Activism*, 11.



States.”<sup>52</sup> During the mid-1940s through the mid-1960s, terminationists argued that abolishing the BIA, and ending Native peoples’ relationship with the federal government would solve all Indian problems.<sup>53</sup>

Historians and scholars have also pointed to how Indian people pushed back against termination policies, speaking out against the removal of trust restrictions on Indian property and urging the United States to resolve its outstanding claims to Native tribes.<sup>54</sup> Notably, the NCAI, a pan-Indian organization which represented Native interests before Congress, was formed in late 1944.<sup>55</sup> Additionally, Native people rejected the erosion of tribal sovereignty perpetuated through specific policies which were design to “eras[e] Indian nations from the national landscape,” including the “relocation” programs of the mid-1950s.<sup>56</sup> Through relocation, Native people were offered job training opportunities in urban areas away from reservations. Scholars like Mishuana Goeman, Nicolas Rosenthal, and Renya Ramirez have emphasized how “relocated” Indians managed to not only keep close ties to their tribal communities, but also formed connections with Native people from other tribes in their urban locations.<sup>57</sup> Therefore, despite Congressional efforts to “de-Indianize” Native people

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<sup>51</sup> Cobb, *Native Activism*, 11.

<sup>52</sup> Vine Deloria Jr. and Clifford Lytle, *The Nations Within: The Past and Future of American Indian Sovereignty* (New York: Pantheon Books, 1984), 190.

<sup>53</sup> *Ibid.*, 191.

<sup>54</sup> See Kenneth Philp, *Termination Revisited: American Indians on the Trail to Self-Determination, 1933-1953* (Lincoln: University of Nebraska Press, 1999).

<sup>55</sup> *Ibid.*, 13-15.

<sup>56</sup> Mishuana Goeman, *Mark My Words: Native Women Mapping Our Nations* (Minneapolis: University of Minnesota Press, 2013), 96.

<sup>57</sup> Goeman, *Mark My Words*, 87-118; Nicolas Rosenthal, *Reimagining Indian Country: Native American Migration and Identity in Twentieth-Century Los Angeles* (Chapel Hill: The University of North Carolina Press, 2012); Renya Ramirez, *Native Hubs: Culture, Community, and Belonging in Silicon Valley and Beyond* (Durham: Duke University Press, 2007).

in this era, they continued to resist assimilation and articulate ideologies of self-determination.<sup>58</sup>

Scholars of termination policy have alluded to how conservative politicians connected wardship and welfare. For example, Larry Burt has stated that “conservatives gave the term ‘ward’ a welfare connotation in describing native dependence on material aid and services from the federal government,”<sup>59</sup> and Daniel Cobb has noted that by the end of WWII, a number of policymakers compared the trust relationship between tribes and the federal government to “a socialistic welfare system that not only fostered dependency but betrayed American values of liberty, democracy, and individualism.”<sup>60</sup> However, to date, no scholarly account of termination has analyzed the ways in which these comparisons actually translated into Indian policy. Moreover, historians have not examined the ways in which termination policies affected Indians’ eligibility for welfare benefits.

This dissertation expands upon the historical literature on termination in two ways. First, by adding welfare to the discussion of mid-century Indian policies, it further develops the historical considerations of racialized hostility leveled at Indians by state and local officials who feared that if reservations were incorporated into their jurisdictions, Native people would be a drain on their resources. Thus, by considering anti-Indian racial discrimination, the racial structures embedded in wardship, and the institutionalized racism of the welfare state, it complicates the understanding of a postwar popular “consensus” that Indians deserved the same rights as other citizens.

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<sup>58</sup> Fixico, *Termination and Relocation*, 77.

<sup>59</sup> Burt, *Tribalism in Crisis*, 20-21.

Second, this project adds to historical understandings of Native resistance to termination policies by examining how Indians' persistent claims upon the federal government under both wardship and citizenship intersected with one another. In their interactions with BIA agents over access to welfare benefits, Native people worked *within* the quotidian structures of wardship, in many cases utilizing the BIA as a resource to gain access to their rights as citizens. This dissertation examines the work of Native activists and tribal groups who did not necessarily reject wardship outright, but rather interpreted it in ways which served the economic stability and opportunity of tribal communities.

### **Chapter Organization**

*Chapter 1: Indians as a "Minority with a Difference": Racial Definitions of Wardship in the Nineteenth and Twentieth Centuries*

Chapter 1 contextualizes and defines how non-Native policymakers, politicians, and members of the public understood wardship as a racialized construct. The chapter situates wardship within a historical consideration of Indian racialization. I explore how non-Natives' assumptions about Indian race have positioned wardship in opposition to American citizenship. Non-Natives conceived of wardship as a temporary category, within a linear framework where it would eventually be replaced by full citizenship. If Native people adopted the social, cultural, and economic characteristics of whiteness, they would no longer be dependent on federal

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<sup>60</sup> Cobb, *Native Activism*, 12.

government benefits, and could be converted into responsible and self-sufficient individual citizens. I examine the legal and historical trajectory of wardship, starting with Chief Justice John Marshall's introduction of the term into the lexicon of Indian law in 1831. The chapter then examines non-Natives' conflation of wardship with dependency during late-nineteenth-century allotment and assimilation policies. Next, I trace the persistent use of the term during three major changes in Indian policy in the first half of the twentieth century: the Indian Citizenship Act of 1924, the Indian Reorganization Act of 1934, and finally the termination policies of the mid-1940s through the early-1960s. Policymakers, state agents, and others consistently used "ward" to describe Native people throughout the nineteenth and twentieth centuries. I argue that although the term was distinctly racialized, its definition remained ambiguous. The chapter concludes with an analysis of the impact of intensifying mid-century rhetoric of civil rights and integration on the definition of "ward." As non-Native state agents, policymakers, and members of the public began to understand Native people as one "minority" group of many in the United States, they conflated Indians' experiences of racial discrimination with the "disabilities" they believed wardship caused, which further complicated mid-twentieth-century understandings of Native citizenship.

*Chapter 2: A Heritage of Guilt and an Honest Debt: Wardship, Race, and the Mid-Twentieth Century Welfare State*

Chapter 2 examines mid-twentieth century confluences of wardship and welfare. To fully unpack the intersections between wardship and welfare, the chapter

analyzes two differing conceptualizations of wardship—that of non-Native members of the American polity (including legislators, judges, state agents, and members of the public) and that of Indian activists and tribal governments. Fundamental ideological differences between non-Natives and Indians resulted in a clash of conflicting definitions of wardship. The chapter discusses how “reservation” served as a euphemism for “ward.” Non-Natives simultaneously perceived reservations as prisons for Indians, forcefully segregating them from the rest of the citizenry, *and* as “privileges,” untaxed land that signaled the “special treatment” Indians received from the federal government. These conflicting perceptions were wrapped up in the notion that the United States had a moral responsibility to care for Indian citizens, and fulfillment of the ward/guardian relationship was a matter of “conscience.” Although some non-Native citizens argued that the federal government had a moral responsibility to continue to protect Native people, conservatives argued that the ambiguous sense of “guilt” that the American people felt towards Indians supposedly clouded the judgment of federal officials, causing them to overspend and coddle the “dependent” Indian population. To vocal Indian tribes and organizations, wardship was a legal relationship between the US and tribal nations, and the resources they received from the federal government were fulfillment of stipulations from legally binding treaties. For Indians, “wardship” served as a construct that preceded articulations of tribal sovereignty and self-determination which became more common in the 1960s and 1970s. They argued that conflating wardship with either civil rights

violations or welfare dependency misconstrued their specific historical relationship with the United States.

*Chapter 3: Indian Entitlement and the State's Responsibility: The Denial of Social Security Benefits to Indians in Arizona and New Mexico*

Chapter 3 focuses on a particularly contentious example of the conflicts between the federal government, individual states, and Native people over wardship's effect on Indian eligibility for welfare benefits. In this chapter, I explore Arizona and New Mexico's refusal to grant Indians access to Old Age Assistance, Aid to Dependent Children, and Aid to the Blind under the 1935 Social Security Act. State officials and the public in Arizona and New Mexico argued that as wards, Native people were the federal government's responsibility, and therefore ineligible for welfare benefits administered by the states. Welfare officials, politicians, and the public pushed Native people into a liminal space of non-citizenship, arguing that because reservation land was exempt from state property taxes, Native people were not entitled to benefits. The denial of Social Security benefits was driven by Arizona and New Mexico's insistence that Indian citizens of their states were outside of welfare jurisdictions, but also by racial discrimination. Native people pushed back against these efforts, petitioning the government, repeatedly filing applications with county welfare offices, and taking the states of Arizona and New Mexico to court. The chapter examines both the relationships and negotiations between Native people and BIA agents, but also between the BIA and public welfare workers, and between state politicians and federal agencies. Though they understood themselves to be entitled to

Social Security benefits as needy citizens, Indians were not motivated by a desire to simply integrate into the American polity and achieve illusive “first class citizenship.” Native people also demanded acknowledgment of their legal relationship with the United States, and, more broadly, recognition of their humanity.

*Chapter 4: Gendered Dependency and the Quotidian Structures of Wardship: Monthly Dependency Allowances and Wives and Parents of Native Servicemen During World War II*

While Chapter 3 assesses how Indians clashed with state governments over the concepts of wardship and citizenship, Chapter 4 explores the impact of wardship on Indians who needed to access benefits from the federal government. Under the Servicemen’s Dependents Allowance Act of 1942, wives, children, and other dependent relatives of men in the lower grades of the military were eligible for a monthly allowance from the soldier’s paycheck and the federal government. Native American wives and many elderly parents often faced difficulties in complying with regulations necessary to claim benefits because as wards, their claims were funneled through the BIA. Government officials in charge of disbursing benefits preferred to communicate directly with the BIA rather than Native recipients. In this chapter, I explore the “quotidian structures of wardship,” the daily assumptions and interactions between state agents and Native people which demonstrated governmental control and oversight over a “dependent” population. Agents with the Office of Dependency Benefits and Red Cross asked BIA agents and social workers to verify Native women’s claims for benefits, clarify uncertainty surrounding tribal custom marriage

and divorce, and judge whether Native women were spending their benefits appropriately. As a result, BIA agents wielded a certain amount of power over how Native women could utilize these welfare benefits. Although the term “ward” implied to many that Indians were helpless and needed guidance from the federal government, Native women worked within the quotidian structures of wardship as well. They used their years of experience with governmental red tape to capitalize on the financial benefits they were promised from their husbands’ military service. As they maneuvered through the bureaucratic process to access the benefits they were due, they asserted their rights as American citizens. However, in that process, they did not accept an assimilationist narrative or downplay how wardship had affected their lives. Rather, they challenged the racialized and colonial lens through which they were viewed by state agents and the public. As they asserted their right to welfare, they negotiated and challenged the definitions of American citizenship itself.

*Chapter 5: Military Service, Opportunity, and Assimilation: Native Veterans’ Experiences of Wardship and the GI Bill*

Chapter 5 interrogates both historiographical and historical narratives of the impact of Native men’s military service on Indian assimilation. Terminationists placed Indian veterans at the crux of their political rhetoric about wardship’s limitations on Indian citizenship. In other words, policymakers argued, if Native men could fight overseas for the United States, they should be able to live “free” of the “disabilities” of Indian wardship. However, although non-Natives saw Native veterans as “ready” for



full citizenship, Indian veterans experienced difficulties accessing benefits of the postwar welfare state due to wardship. This chapter probes the extent to which Native people benefited from postwar political efforts to provide opportunity for those who had served the US in war by examining Native veterans' experiences accessing the benefits of the GI Bill. Lending institutions denied loans for homes and business to returned Native servicemen based on misperceptions about BIA provision of all necessary credit and resources, unfamiliarity with the trust restrictions on Indian land, and racialized assumptions about Indian poverty. In addition, I explore how the quotidian structures of wardship impacted Native veterans' use of the educational provisions of the GI Bill. I investigate how GI Bill educational loans enhanced existing BIA training programs, particularly in agriculture. The chapter explores the dynamics and exchanges between individual Indian veterans, tribal councils, BIA agents, and members of other federal agencies to complicate common narratives which pit the "reservation" against the "white world."

*Chapter 6: First-Class Citizenship for Competent Indians: Race and Gender in Indian Emancipation Bills, 1944-1954*

Chapter 6 explores a set of bills which have not been fully examined in the historiography of termination policies. These were the eleven bills proposed between 1944 and 1954 which would have implemented a bureaucratic system to "emancipate" individual Indians from wardship, if they were deemed "competent" to manage their own affairs. Proposed by Republican congressmen from South Dakota, Nebraska, and

Montana, the bills represented non-Native efforts to impose Americanized definitions of “proper” citizenship onto Native people, terminate the trust relationship between tribes and the federal government, and free Indian land from trust restrictions. The chapter analyzes racialized language embedded in the bills which mandated that to receive “decrees” of competency, Native applicants must have demonstrated that they possessed the “moral and intellectual qualifications” necessary to live as responsible citizens who did not receive any public assistance from the state. Additionally, I utilize gender analysis to demonstrate that competency bills represented efforts to “exterminate” Indians and undermine tribal sovereignty. Proponents of competency legislation assumed that applicants would be men, and that decrees of competency should be involuntarily imposed on spouses and children of Native applicants. Therefore, the bills reveal political efforts to compel Native communities to divide into self-sufficient, patriarchal, nuclear family units who would no longer benefit from the BIA’s “gratuitous” services. Although the bills were never passed into law, they generated copious documentation, including Congressional correspondence, hearings, and meeting minutes. Native groups vocally opposed such legislation, through petitions, resolutions, and letters. Thus, this chapter’s analysis of competency legislation unearths new historical understandings of termination policies rooted in racialized and gendered assumptions about responsibility and dependency within individual families.

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*Citizens with Reservations* explores the enduring terminology and ideology of Indian wardship, assessing its impact on Native peoples' experiences well into the mid-twentieth century. As American citizens transformed their relationship with the state due to the mid-century expansion of welfare programs, they reimagined notions of dependency and entitlement. Non-Natives understood Indian wards to be completely dependent on the federal government. The relationship between tribes and the state was cast simultaneously as an example of racial discrimination and special privilege. Therefore, debates and conflicts over Native citizenship and wardship in this era provide a heretofore unexamined avenue through which to explore larger political responses to the concept of "welfare dependency." Native people actively challenged non-Native definitions of wardship as dependency, asserting that the United States was obliged to fulfill its promises to tribes under historical agreements and treaties. Wardship was not welfare. However, Native people claimed welfare benefits, maintaining their right to needs-based programs as poor citizens and to rights-based programs as citizens who had performed service for the nation. *Citizens with Reservations* expands historical understandings of wardship to consider the daily exchanges between Indians and the state—the quotidian structures of wardship—and how these structures impacted Native peoples' ability to access welfare benefits. By placing termination policies and welfare policies in conversation with one another, this dissertation demonstrates how political refrains of racialized dependency and gendered citizenship served to "exterminate" Indians through assimilation. However, utilizing both citizenship and wardship, Native people agitated for their right to welfare

benefits, tribal sovereignty, and recognition of their unique historical experiences within the American polity.

## Chapter 1

### Indians as a “Minority with a Difference”: Racial Definitions of Wardship in the Nineteenth and Twentieth Centuries

#### Introduction

During a 2014 community meeting in Flagstaff, Arizona, Republican congressman Paul Gosar caused an outcry. While addressing concerns about construction of a copper mine on the land of the San Carlos Apache Tribe, Gosar dismissed White Mountain Apache tribal member Paul Stago’s apprehensions about the mine’s impact on tribal sovereignty, claiming that Indians were “still wards of the federal government.”<sup>1</sup> Stago asserted that Gosar’s use of the “antiquated” term “ward” revealed “the true deep feeling of the federal government: ‘Tribes, you can call yourselves sovereign nations, but when it comes down to the final test, you’re not really sovereign because we still have plenary authority over you.’”<sup>2</sup> Former US Attorney Troy Eid spoke out against Gosar’s use of the term, deeming it inappropriate and outdated, and accused Gosar of “race baiting.”<sup>3</sup> Indeed, Eid asserted that the 1924 Indian Citizenship Act had made Indians citizens, not wards, and the 1934 Indian Reorganization Act had “pushed the concept of tribal sovereignty and self-

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<sup>1</sup> Gale Courey Toensing, “Are American Indian Nations ‘Wards of the Federal Government?’,” *Indian Country Media Network*, December 19, 2014, <http://indiancountrytodaymedianetwork.com/2014/12/19/are-american-indian-nations-wards-federal-government-158375?page=0%2C0>.

<sup>2</sup> Ibid.

<sup>3</sup> Felicia Fonseca, “Rep. Gosar’s Native American Remark Causes Outcry,” *AZ Central*, December 11, 2014, <http://www.azcentral.com/story/news/arizona/politics/2014/12/11/congressmans-native-american-remark-causes-outcry/20258071/>.

determination.”<sup>4</sup> Paul Gosar insisted that his comments revealed the hidden truth about the relationship between Indian tribes and the US state. He clarified his comments further to the *Indian Country Media Network*, arguing that “The federal government’s dirty little secret is that Native American tribes are not fully sovereign nations in today’s society as many people are led to believe.”<sup>5</sup>

“Ward” is a term with a long history and many racialized connotations. The legal and social construction of wardship has a convoluted and controversial relationship with the concepts of sovereignty, citizenship, and self-determination. Ultimately, whatever Gosar’s rationale, the media response to his comments simplified and generalized the historicity of wardship. “Ward” is not an antiquated term which has been banished to the corners of early American history. Gosar’s use of the term to clear a path for the utilization of Indian land in 2014 demonstrates that it is still alive and well. The outrage over the *racial* overtones of Gosar’s comments reveal a historical understanding of wardship as a marker of racial discrimination against Indians. The media coverage of this incident downplayed the living history of wardship’s continued impact on tribal sovereignty, racial identity, and Indians’ place within the American citizenry. Although it is commonly associated with the nineteenth century, “ward” is not a term that politicians, state agents, members of the American public, or Indian people can leave in the past. Wardship significantly contributed to the evolution of non-Natives’ understanding of Indians as a group of racial minority citizens of the United States. Throughout the nineteenth and twentieth centuries,

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<sup>4</sup> Fonseca, “Remark Causes Outcry.”

<sup>5</sup> Toensing, “Are American Indian Nations ‘Wards?’”

wardship intersected and conflicted with definitions of Indian citizenship, ultimately revealing the history of how Indian racialization developed in the United States.

This chapter provides a historical trajectory of wardship, how the American state has racially and legally conceptualized Native people. State agents defined wardship's as a dependent relationship between individual Indian people and the American federal government by the end of the nineteenth century. This definition was shaped by three important factors. First, the Supreme Court established that Congress held plenary power over Indian tribes. Congress' ultimate power to alter existing treaties undermined tribal sovereignty and weakened the "government-to-government" relationship between the US and Native nations. Second, the federal government constructed a sense of its "responsibility" to protect Indians (both from internal and external threats) for two reasons: Native societal and cultural practices were deemed deleterious to their civilization; and the American state "owed" Native people some form of protection as a remedy for past injustices it committed against Indian tribes. Third, the federal government understood its responsibility to protect Native "wards" as a necessary effort to effectively eradicate Indian savagery through Native assimilation into the American polity by adoption of the "white man's ways." Those "white man's ways" included ownership of individual plots of land, rejection of idleness in favor living a strenuous life, and severance of one's relationship with the tribe to live as an individual person within a non-Native community. Ultimately, the goal of the American state was to dissolve Native nations as sovereign entities, one "ward" at a time. Under this framework, state agents and politicians understood

wardship to be a temporary category—one that would eventually disappear. By adopting the social, cultural, and economic characteristics of whiteness, Indians would no longer be deemed to be dependent on federal government benefits, and could be converted into responsible and self-sufficient individual citizens.

In the late nineteenth century, “wardship” and “citizenship” were considered separate categories. Through various processes, Indian “wards” could and did become “citizens.” However, state officials’ construction of a neat ideological trajectory from “ward” to “citizen” was not as simple in practice. Crucially, “full” citizenship was synonymous with whiteness. Was it Bureau of Indian Affairs (BIA) personnel, reformers, and other state agents’ goal to transform Indians into whites? By adopting “the white man’s ways” could Indians *become* white and cease to be racially “Indian”? This linear path to “progress” was not easily achieved, because Indians were not a blank slate which could be completely transformed through assimilation policies. In their negotiations and clashes with state agents over the interplay between wardship, citizenship, and membership in Native nations, Indians employed their own epistemological and ontological conceptions of both American citizenship and the extent of the United States’ “responsibility” for Native people. These conflicts and Indians’ conceptualizations of wardship are the focus of this dissertation’s second chapter. First, I will examine how race defined Indians’ place in the American polity as “wards” rather than “citizens.” Ultimately, state officials, members of the media, and non-Native members of the public did not see Indians as white. Thus, to non-Natives, “wardship” was not simply a legal category which epitomized Native



dependency upon the federal government. Indian “wardship” signified a certain *non-whiteness*, a tribal identity that was far removed from the idea of a “proper” American citizen. Thus, historians need to analyze “ward” as a racial signifier.

Historically, wardship was associated with racialized assumptions about civilization, savagery, dependency, and protection. The term creates a unique opportunity for historical inquiry into the extent to which the relationship between Indians and the American state has been structured by racial categories and how easy it was for Indians to transcend racial boundaries. Scholars have shown that the policies and programs which constituted the mid-twentieth century expansion of the American welfare state were structured by political, social, and cultural assumptions about race, gender, and class.<sup>6</sup> Within this context, wardship took on added significance and incited heated debates about the place for Indians in the American polity. As will be demonstrated in subsequent chapters, “wardship” was presented as a “race-neutral” term borne of benign policy directives, but ultimately contributed to the denial of federal and state welfare benefits to Indians based on race. It is also useful to consider “wardship” a racialized category in the mid-twentieth century because the era was

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<sup>6</sup> For example, see Michael K. Brown, *Race, Money, and the American Welfare State* (Ithaca, NY: Cornell University Press, 1999); Marisa Chappell, *The War on Welfare: Family, Poverty, and Politics in Modern America* (Philadelphia: University of Pennsylvania Press, 2010); Linda Gordon, *Pitied But Not Entitled: Single Mothers and the History of Welfare, 1890-1935* (Cambridge: Harvard University Press, 1994); Ira Katznelson, *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America* (New York; London: W.W. Norton & Company, 2005); Robert C. Lieberman, *Shifting the Color Line: Race and the American Welfare State* (Cambridge: Harvard University Press, 1998); Suzanne Mettler, *Dividing Citizens: Gender and Federalism in New Deal Public Policy* (Ithaca; London: Cornell University Press, 1998); Jennifer Mittelstadt, *From Welfare to Workfare: The Unintended Consequences of Liberal Reform, 1945-1965* (Chapel Hill; London: The University of North Carolina Press, 2005); and Jill Quadagno, *The Color of Welfare: How Racism Undermined the War on Poverty* (New York: Oxford University Press, 1994).

marked by increased rhetoric and policies surrounding civil rights. As the United States constructed and utilized a new racial language of multiculturalism, Indians were increasingly viewed as a racial minority within the American polity. However, when it was conflated with racial discrimination, wardship complicated the perception of Indians as a racial minority.

To trace wardship's development as a racial term in the context of the expansion of the American welfare state, this chapter contextualizes both the racialization of Indians and the history of wardship. First, I explore citizenship's association with whiteness, calling attention to the disparities and contradictions between legal citizenship and experiences of full citizenship for people of color. Second, I address the ways in which Indians have been racialized in American history, through three specific conceptualizations: Indians as the "inheritance" of white Americans; Indians as a "race" instead of members of sovereign nations; and lastly, Indians as "wards." Third, I historicize how nineteenth-century Indian policies employed "wardship" in conjunction with and opposition to citizenship. And fourth, I unpack the racialization of Indian wardship by tracing three key twentieth century Indian policies and laws: the Indian Citizenship Act of 1924, the Indian Reorganization Act of 1934, and the termination policies of the mid-1940s through the mid-1960s. Ultimately, wardship precluded Indian people from accessing resources and benefits associated with US citizenship, because of its racial limitations. Ward Indians were *not* white. Crucially, this racialized disconnect between "ward" and "citizen" persisted even after all Indians were declared to be US citizens in 1924. This

chapter demonstrates that wardship's racialized definitions shifted and expanded throughout the nineteenth and twentieth centuries, providing an opportunity for slippage in three distinct ways. In terms of terminology, the rhetoric of wardship intersected with that of civil rights. In terms of ideology, wardship exposed conflicts over the impact of dependency on definitions of ideal citizenship. In terms of identity, wardship ambiguously placed Indians as members of the American polity, sovereign Native nations, and citizens of individual states. Thus, wardship's history reveals essential conflicts about the historical relationship between Indian tribes and the US state, *and* about the limitations inherent in the association of whiteness with full American citizenship.

### **Whiteness and Citizenship**

Scholars have demonstrated that from the mid-nineteenth century on, people of color experienced discrimination, economic exploitation, and severe limitations on their citizenship status in their daily lives, despite their entitlement to equal treatment under the law. Put another way, although legally full citizens, racialized Americans have been defined as "second-class citizens." Full citizenship had been extended to many non-white people by the middle of the nineteenth century. The 1848 Treaty of Guadalupe Hidalgo extended citizenship to Mexicans living in the ceded territories of the Southwest. After the Fourteenth Amendment was ratified in 1868, citizenship was extended to freed black slaves and their descendants. After the 1898 Supreme Court decision *Wong Kim Ark v. United States*, children of Asian immigrants born in the

United States were guaranteed citizenship under the Fourteenth Amendment. However, blacks, Mexican Americans, and Asian Americans continued to face segregation, harassment, and racial violence throughout the twentieth century. Citizenship, or at least the understanding of citizenship that was spelled out in the Constitution, was synonymous with whiteness.

Whiteness as the prerequisite for American citizenship dates to the founding of the American republic. The 1790 Naturalization Act had specified that only “free white persons” were able to naturalize. Although the law was amended in 1870 to include people of African descent to reflect the changes brought about by the Fourteenth Amendment, whiteness was the threshold through which most immigrants attempted to enter the American citizenry.<sup>7</sup> Naturalization law quite literally put racial requirements for citizenship in black and white.<sup>8</sup> Immigrants and residents of US territories who were not black and not white faced increasing difficulty in their efforts to obtain American citizenship specifically because they were viewed as “in between.” For example, Supreme Court cases from the 1920s explicitly rejected both Japanese and Asian Indian claims to citizenship via whiteness.<sup>9</sup> Though both Japanese and Asian Indian plaintiffs claimed that they should be viewed as “white” due to cultural and societal standards and/or scientific rationalization, ultimately the Court ruled that it was the “common man’s” opinion which would ultimately decide whether an

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<sup>7</sup> Natalia Molina, “‘In a Race All Their Own’: The Quest to Make Mexicans Ineligible for US Citizenship,” *Pacific Historical Review* 79, no. 2 (May 2010), 173. See also Ian Haney Lopez, *White by Law: The Legal Construction of Race* (New York: New York University Press, 2006).

<sup>8</sup> Molina, “In a Race All Their Own,” 168.

<sup>9</sup> See Mai Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton; Oxford: Princeton University Press, 2004), 37-50; Haney-Lopez, *White by Law*, 56-77.

immigrant was “white,” and thus, eligible for citizenship. In the 1923 case, *United States v. Bhagat Singh Thind*, the Court asserted, “What we now hold is that the words ‘free white persons’ are words of common speech, to be interpreted with the understanding of the common man.”<sup>10</sup> With this ruling, the Court imbued the American public with the power to judge who should be eligible for US citizenship by whether they could be seen as “white.”

During the early twentieth century, an immigrant's degree of “Indian blood” could prevent them from obtaining American citizenship. As Natalia Molina has shown, officials working for the Bureau of Immigration and Naturalization rationalized their decisions to refuse naturalization to Mexicans on the basis of early twentieth century Supreme Court cases which had ruled that Indians were not citizens and more importantly, not white.<sup>11</sup> Molina demonstrates that ironically, this rationale was applied even after 1924, when all Native people universally received American citizenship as a result of the Indian Citizenship Act.<sup>12</sup> In 1935, Timoteo Andrade applied for American citizenship and was denied by Judge John Knight of the US District Court in Buffalo, New York because Andrade had claimed that he had at least “fifty percent” “Indian blood” in his naturalization interview. Judge Knight reversed his ruling when Andrade appealed the decision and reframed his percentage of “Indian blood,” from fifty percent to “2 percent.”<sup>13</sup> Eleven years after Indians had been universally declared American citizens, the presence of too much “Indian blood”

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<sup>10</sup> Ngai, *Impossible Subjects*, 46.

<sup>11</sup> Molina, “In a Race All Their Own,” 178-179.

<sup>12</sup> *Ibid.*, 179.

<sup>13</sup> *Ibid.*, 195.

could prevent Mexicans' naturalization. Too much "Indianness" meant that Mexicans were not white enough for full citizenship.

Thus, as Ian Haney-Lopez asserts, "citizenship easily serves as a proxy for race."<sup>14</sup> Indian "wards" were encouraged and coerced into adopting cultural, economic, and social signifiers of whiteness to access US citizenship. Nineteenth and early twentieth-century assimilation policies followed the logic of the Supreme Court's definition of whiteness to determine Native peoples' "readiness" for citizenship. However, Haney-Lopez argues that whiteness was defined primarily as the "superior opposite" of non-whiteness—a purposefully vague definition, but understood to be salient to the "common man."<sup>15</sup> Despite the racial connotations of assimilation policies designed to make Indians act and think like white men and women, "wardship" was not removed with the acquisition of citizenship. Thus, Indians' "first-class citizenship" was not secured. In other words, Indians were not able to achieve either full citizenship or whiteness through the twentieth century because they were wards, and wardship was incompatible with whiteness.

### **The Racialization of Indians in American History**

It is necessary to fully explore *how* Native people have been racialized in American history to understand why they were denied the assumption of "full" citizenship and access to the benefits of whiteness. Indians have been understood as a racial group in three distinct ways: 1) Indian culture and property has been viewed as

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<sup>14</sup> Haney-Lopez, *White By Law*, 26.

<sup>15</sup> *Ibid.*, 20.

the inheritance of white America; 2) Native people are not viewed as members of individual, distinct, sovereign tribal nations, but as members of one ambiguous “Indian race;” and 3) Indians’ “racial status” has been defined by specific cultural stereotypes surrounding Native authenticity, which, I argue, have been intrinsically linked to Native people’s legal and political status as “wards” of the government. This section demonstrates that due to these three conceptualizations of Indians’ racial identity, the legal and political signifier of “ward” has been manipulated and extrapolated by politicians, state officials, and the public to become a *racial* signifier.

#### *Indian Culture and Property as White America’s Inheritance*

Throughout American history, non-Native appropriation of Indian culture and land has been one of the most significant ways Indians have been racialized. Cultural and property appropriation is fundamental to the process of settler colonialism. Patrick Wolfe has described settler colonial societies as “premised on the elimination of native societies.”<sup>16</sup> In the United States, racialization played a large role in carrying out the actions required to “eliminate” Indian people. For settler colonialism to function effectively and Indian land to be possessed by non-Native people, whites needed to reduce Indians to a nonthreatening population which could be “eliminated” through assimilation or adoption into the American polity. Of course, by viewing Indians and their land as property to be possessed by white settlers, whites rationalized violent actions as necessary for the perpetuation and evolution of American civilization. Thus,

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<sup>16</sup> Patrick Wolfe, *Settler Colonialism and the Transformation of Anthropology: The Politics and Poetics of an Ethnographic Event* (London; New York: Cassell, 1999), 2.

Indians could be violently disposed of through murder, removal, or war, leaving their property and elements of their culture to be enveloped into American society as part of whites' rightful "inheritance."<sup>17</sup>

White settlers in the early republic believed that indigenous definitions of property rights were invalid. Authorities deemed Indian epistemologies of land possession "too ambiguous and unclear."<sup>18</sup> As Cheryl Harris has shown, when the Supreme Court ruled in *Johnson v. M'Intosh* in 1823, they instituted whiteness as "a prerequisite to the exercise of enforceable property rights."<sup>19</sup> Indian land could be acquired by white settlers "either by purchase or by conquest."<sup>20</sup> In *Johnson*, Chief Justice John Marshall reasoned that because the courts could not undo the fact that white colonizers had taken possession of Indian land, they were obligated to legally sanction that possession. *Johnson* also stated that to possess a title enforceable in the Supreme Court, that title had to flow from the government directly.<sup>21</sup> This decision declared that the only legitimate way to possess property was to obtain a title from the government. As only whites were eligible to do so, the Court essentially discounted Indian forms of property ownership and possession. The rationale and ideology behind the *Johnson* ruling was pushed even further by the end of the nineteenth century.

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<sup>17</sup> See Yael Ben-Zvi, "Where Did Red Go?: Lewis Henry Morgan's Evolutionary Inheritance and U.S. Racial Imagination," *CR: The New Centennial Review* 7, no. 2 (Fall 2007): 201-229. Ben-Zvi describes Lewis Henry Morgan's use of the term "inheritance" as a scientific theory of US nation-building—as the United States evolved, US culture was nourished by "consuming" Native American cultures, and perfecting them, resulting in the pinnacle of civilization.

<sup>18</sup> Cheryl I. Harris, "Whiteness as Property," *Harvard Law Review* 106, no. 8 (June 1993), 1722.

<sup>19</sup> Harris, "Whiteness as Property," 1724.

<sup>20</sup> Philip P. Frickey, "Marshalling the Past and Present: Colonialism, Constitutionalism, and Interpretation in Federal Indian Law," *Harvard Law Review* 107, no. 2 (December 1993), 386.

<sup>21</sup> Frickey, "Marshalling the Past," 386-387.



Frederick Jackson Turner argued that for Europeans to fully transform into “Americans,” Indians needed to be cleared from the “frontier” permanently.<sup>22</sup> Taken together, the *Johnson* ruling and Turner’s thesis revealed a racialized understanding of legitimate and “rightful” land ownership predicated upon whiteness.

The way that Indians have been racialized was fundamentally different from the ways in which African Americans were racialized in American history. While whites and blacks have historically been kept “separate,” at least in legal and political terms (although certainly not in terms of personal, economic, and intimate relationships), Indians have been conceptualized as “predestined” to be incorporated into white American society.<sup>23</sup> Because Indian land and culture was defined by scientists, legislators, and academics in the nineteenth century as the “property of a white national community,” it was deemed less necessary to keep them completely separate from the rest of the American polity.<sup>24</sup> However, this in no way implied that Indians were *equal* to whites in a racial sense. Rather, as legal scholar Bethany Berger has shown, Americans in the early republic and nineteenth century intended to “use tribes as a flattering foil for American society and culture.” Thus, “It was therefore necessary to theorize tribal societies as fatally and racially inferior while emphasizing the ability of Indian individuals to leave their societies and join non-Indian ones.”<sup>25</sup> For whites to claim their rightful inheritance of Indian land, they needed individual

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<sup>22</sup> Steven Conn, *History’s Shadow: Native Americans and Historical Consciousness in the Nineteenth Century* (Chicago; London: The University of Chicago Press, 2004), 222.

<sup>23</sup> Ben-Zvi, “Where Did Red Go?,” 203.

<sup>24</sup> Ben-Zvi, “Where Did Red Go?,” 225.

<sup>25</sup> Bethany R. Berger, “Red: Racism and the American Indian,” *UCLA Law Review* 56 (2009), 593.

Indians to be able to leave racially inferior tribes characterized by fundamentally flawed systems of land ownership.

The conception of Indian property as the *inheritance* of whites has led to further appropriation of Indian culture, leading to the contemporary belief that is easy for “anyone” to be Indian. Indeed, scholars have shown how throughout modern US history, it was “popular” to be Indian. As Robert Berkhofer and Philip Deloria have shown, Native images served as a cultural and racial foil or mask for white Americans to grapple with their own issues of identity.<sup>26</sup> As “Indianness” has become more and more of a “costume” that non-Native people can put on and take off at will, critics have charged that those claiming Indianness have benefited from special resources and benefits reserved for Indians by the government.<sup>27</sup> This understanding of Indianness as a racial and cultural category which non-Natives were entitled to appropriate greatly diminished indigenous peoples’ legitimate claims to resources and benefits from the federal government. Furthermore, the appropriation of Indian culture undermined the “government-to-government” relationship tribes have with the US government. In this sense, Indian identities became malleable to serve non-Native populations’ need for self-expression or the construction of specific historical narratives.

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<sup>26</sup> See Robert F. Berkhofer, *The White Man’s Indian: Images of the American Indian from Columbus to the Present* (New York: Vintage Books, 1978); and Philip J. Deloria, *Playing Indian* (New Haven; London: Yale University Press, 1998).

<sup>27</sup> See Renne Ann Cramer, “The Common Sense of Anti-Indian Racism: Reactions to Mashantucket Pequot Success in Gaming and Acknowledgment,” *Law and Social Inquiry* 31, no. 2 (Spring 2006): 313-341; and Joanne Barker, *Native Acts: Law, Recognition, and Cultural Authenticity* (Durham: Duke University Press, 2011), 4.

Scholars who have explored the history of anthropology and ethnology in the United States have delved further into white America's "inheritance" of Indian property to examine the effect of this ideology on Indian bodies and culture. For example, Yael Ben-Zvi has demonstrated that the holding, cataloging, and displaying of indigenous human remains in the nation's museums meant that Native people were "considered primarily as property."<sup>28</sup> Ben-Zvi argues that anthropologists' and ethnologists' understanding of the historical and cultural significance of Native remains for American posterity developed as a direct result of the logic of "inheritance."<sup>29</sup> Scientists considered Native *people* as elements of American cultural property, essentially as "heirlooms of the US national public."<sup>30</sup> This view "logically" descends from the conception that Indian land was the rightful inheritance of white American settlers, and Indian culture could be adopted for the purpose of defining and constructing white American identity. This ideology has been discussed at length by scholars who have analyzed Native peoples' roles in World's Fairs, Wild West shows, living history exhibits, and other touristic events.<sup>31</sup> Thus, Indians' racial identity is predicated upon a non-Native sense of ownership of indigenous land, culture, and bodies.

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<sup>28</sup> Ben-Zvi, "Where Did Red Go?," 224.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> See Joy S. Kasson, *Buffalo Bill's Wild West: Celebrity, Memory, and Popular History* (New York: Hill and Wang, 2000); Amy Lonetree, *Decolonizing Museums: Representing Native America in National and Tribal Museums* (Chapel Hill: The University of North Carolina Press, 2012); Paige Raibmon, *Authentic Indians: Episodes of Encounter from the Late Nineteenth-Century Northwest Coast* (Durham: Duke University Press, 2005); and Robert W. Rydell, *All the World's a Fair: Visions of Empire at American International Expositions, 1876-1916* (Chicago; London: University of Chicago Press, 1984).

*Members of an “Indian Race,” Not Sovereign Nations*

Historically, American racial hierarchies have built upon the consolidation of many diverse groups of people into one crudely defined racial category. As theorists Michael Omi and Howard Winant have explained, the construction of racialized groups functioned to combat “oppositional racial consciousness and organization.” Thus, instead of a multitude of African and indigenous tribal groups, those who exercised power in the United States spoke of “black” people or “native” people.<sup>32</sup> Collapsing a diverse array of indigenous sovereign nations into one “Indian race” made it much easier for state agents to carry out their goals of assimilation. If tribes were not individual legitimate governments but rather one group of people held together by racial characteristics, state agents could encourage individual Indians to separate from a nebulously defined “tribal way of life” in order to be absorbed into the nation’s citizenry.<sup>33</sup> In the early twentieth century, reformers and state agents embarked on similar missions with ethnic immigrant groups.<sup>34</sup> In order to create better American citizens, reformers attempted to replace specific ethnic cultural practices

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<sup>32</sup> Michael Omi and Howard Winant, *Racial Formation in the United States: From the 1960s to the 1990s* (New York: Routledge, 1994), 66.

<sup>33</sup> Berger, “Red,” 618.

<sup>34</sup> See for example, Molly Ladd-Taylor, *Mother-Work: Women, Child Welfare, and the State, 1890-1930* (Chicago: University of Illinois Press, 1994); Gwendolyn Mink, *The Wages of Motherhood: Inequality in the Welfare State, 1917-1942* (Ithaca; London: Cornell University Press, 1995); Natalia Molina, *Fit to Be Citizens? Public Health and Race in Los Angeles, 1879-1939* (Berkeley: University of California Press, 2006); Mary E. Odem, *Delinquent Daughters: Protecting and Policing Female Sexuality in the United States, 1885-1920* (Chapel Hill: University of North Carolina Press, 1995); David R. Roediger, *Working Toward Whiteness: How America’s Immigrants Became White, The Strange Journey from Ellis Island to the Suburbs* (New York: Basic Books, 2005); Nayan Shah, *Contagious Divides: Epidemics and Race in San Francisco’s Chinatown* (Berkeley: University of California Press, 2001).

with practices that matched up with a white, middle-class American ideal. Captain Richard Henry Pratt famously articulated this philosophy in relation to Native people as “Kill the Indian, save the man.”<sup>35</sup> In Pratt’s mind, “Indianness” could be eradicated if Native people were removed from their tribes. In the late nineteenth century, state officials and Indian agents professed that separating individuals from tribal religious, cultural, and most importantly, land would speed up the process of Indian assimilation.<sup>36</sup> State officials considered this a two-step process—first, collapsing all indigenous nations into one “Indian race,” and second, squeezing the racial or tribal “Indianness” out of the individuals who made up that “race,”—a rational “step” on the United States’ predestined colonial path. After all, if the United States was the rightful “heir” to tribal land, tribes should not exist.

The amalgamation of hundreds of tribal groups into one “Indian race” was spurred on by the conceptualization of racialized blood. “Full-blood” Indians, or people with two Indian parents, were deemed “more” Indian than those with “mixed-blood.” Blood quantum became symbolic of Indian culture and authenticity.<sup>37</sup> The relationship between blood quantum and indigeneity was fundamentally different from common ideologies about blackness and blood. Whereas “one drop” of black blood automatically made a person black, the amount of “Indian blood” could be “bred” out

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<sup>35</sup> For more on Pratt’s ideology and history see Robert M. Utley, ed. *Battlefield and Classroom: An Autobiography by Richard Henry Pratt* (Norman: University of Oklahoma Press, 2003).

<sup>36</sup> Berger, “Red,” 634.

<sup>37</sup> Barker, *Native Acts*, 90.

as generations progressed.<sup>38</sup> More importantly, blood quantum provided a threshold for government agents, as when an Indian individual reached a small enough fraction, they would no longer be considered Indian for the purposes of federal recognition and/or federal guardianship.<sup>39</sup> Joanne Barker draws attention to how this process of racializing individual Native legal status by blood effectively undermines tribal sovereignty. Instead of dealing with the “collective rights Native peoples possess to sovereignty and self-determination” and respecting ways in which various tribes define their own membership, the state imposed racial qualifications for *individual* Native people to gain rights and recognition as Indians.<sup>40</sup>

Supposedly, “levels” of Indian blood could be diluted over generations, so that eventually individuals would no longer be “Indian enough” for governmental protection or recognition. Because of this perception, historically it has been easy for state agents, researchers, scientists, and the public to imagine “full blood” Indians on a precipice, ready to drop into extinction.<sup>41</sup> Thus, non-Natives viewed Indians as members of an “endangered” racial group, and not of distinct sovereign nations. Indians’ limited longevity was also been associated with their lack of “civilization,” and their occupancy of a fixed “spot” on the evolutionary chain of human

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<sup>38</sup> For more on ideas of race and blood see Peggy Pascoe, “Miscegenation Law, Court Cases, and Ideologies of “Race” in Twentieth-Century America,” *Journal of American History* 83, no. 1 (June 1996): 44-69.

<sup>39</sup> For more on the role of scientific conceptions of evolution and blood on Indian policy see Kim Tallbear, *Native American DNA: Tribal Belonging and the False Promise of Genetic Science* (Minneapolis; London: University of Minnesota Press, 2013); and Rebecca Tsosie, “Indigenous Peoples and Epistemic Injustice: Science, Ethics, and Human Rights,” *Washington Law Review* 87 (2012): 1133-1201.

<sup>40</sup> Barker, *Native Acts*, 40.

<sup>41</sup> Conn, *History’s Shadow*, 31-32.

development.<sup>42</sup> Since before the founding of the American republic, Indians have been conceptualized as “prehistoric,” outside the boundaries of progressive human history.<sup>43</sup> Instead, Native people have been relegated to archeology or “natural history,” which has separated them far apart from the rest of the American polity.<sup>44</sup> Indeed, Vine Deloria has argued that contemporary citizens have become so accustomed to thinking of indigenous people as prehistorical archeological subjects, they are surprised to find that Indians are offended by “racial slurs and insults.”<sup>45</sup> To Indian reformers and state agents, the less “Indian blood” one had, the more “civilized” one could potentially become. Moreover, Indian culture, society, and politics were understood to be so uncivilized and close to “prehistory” that their ultimate demise was preordained. Because of the perception that tribal societies and “full blood” Indians were predestined for extinction, reformers and agents understood assimilation to be a logical policy goal—Indians could not survive as Indians.

Theorizing the assimilability of indigenous people was one thing, but carrying out the process of incorporation was another. Marriage served as one tool for Americanizing individual Indians. This process was directly related both to Native peoples’ racialization as potentially assimilable, and to the property rights inherent in whiteness. Notably, marriage between whites and Indians was almost always conceptualized in the same gendered structure: white men married Indian women, as

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<sup>42</sup> Berger, “Red,” 639.

<sup>43</sup> Conn, *History’s Shadow*, 215.

<sup>44</sup> Conn, *History’s Shadow*, 183; Vine Deloria, Jr., *Red Earth, White Lies: Native Americans and the Myth of Scientific Fact* (New York: Scribner, 1995), 21.

<sup>45</sup> Deloria, *Red Earth, White Lies*, 21.

opposed to Indian men marrying white women.<sup>46</sup> Thus, marriage functioned as a legal, cultural, and societal tool to carry out the sentiment behind, “Kill the Indian, save the man.” After 1888, if a Native woman married a white male citizen and lived apart from her tribe, she could obtain US citizenship.<sup>47</sup> However, in these cases, this process can be more accurately described as “Kill the Indian, save the white man's property rights.” As Peggy Pascoe asserts, when marriages between white men and Indian women were recognized by state governments, indigenous epistemologies and methodologies of land ownership were usurped by American patriarchal systems of governance and power. Property rights and inheritance were filtered through the rights of the white male citizen. Thus, marriage was used “to confirm the land and property rights of white husbands.”<sup>48</sup> Furthermore, by marrying white men, it was understood that Native women would acculturate into Americanized standards of domesticity. Nineteenth and twentieth century Indian reformers viewed proper domestic roles for men and women as an essential part of the path to “civilization.”<sup>49</sup> Thus, Indians’ “racial” characteristics were inherently tied to cultural assumptions about proper gender roles and the superiority of a patriarchal system of land ownership which privileged white men.

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<sup>46</sup> For more on white womanhood and miscegenation see Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (Oxford: Oxford University Press, 2009), 108.

<sup>47</sup> Barbara Young Welke, *Law and the Borders of Belonging in the Long Nineteenth Century United States* (Cambridge: Cambridge University Press, 2010), 74.

<sup>48</sup> Pascoe, *What Comes Naturally*, 95-96.

<sup>49</sup> Jane E. Simonsen, *Making Home Work: Domesticity and Native American Assimilation in the American West, 1860-1919* (Chapel Hill: University of North Carolina Press, 2006), 72.



### *Racial Conceptions of Wardship*

Assimilation policies were rooted in racialized conceptions of Indian identity as oppositional and inferior to American societal, cultural, and political norms. American state agents and reformers constructed an image of Indians as people in need of guidance, protection, and regulation to better prepare them for assimilation into the American polity. Racialized stereotypes of Indians' lack of valid property rights, cultural and political inferiority, and existence outside of the American mainstream were inextricably intertwined with the historical and legal categorization of wardship. To unpack how wardship itself became a racial stereotype, it is necessary to further analyze common racial stereotypes associated with Indians, from the nineteenth century to the present day.

Indians are often represented in popular culture, literature, and state documents as “lazy, unwilling to properly work the land, drunken, and lacking productivity as measured on Western standards.”<sup>50</sup> This damaging and prevalent racial stereotype stems from consistent historical comparisons of Indians to white citizens’ “standards” of property rights, work ethic, and accumulation of wealth. Negative racial stereotypes about laziness and incompetency in property ownership have consistently been tied to “wardship.” These negative characteristics became so ingrained in non-Native perceptions of Indians that any Native person who did not outwardly possess them was deemed inauthentic—not *really* “Indian.”<sup>51</sup> Thus, racially and culturally “authentic”

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<sup>50</sup> Cramer, “Common Sense of Anti-Indian Racism,” 318.

<sup>51</sup> Cramer, “Common Sense of Anti-Indian Racism,” 328. See also Alexandra Harmon, *Rich Indians: Native People and the Problem of Wealth in American History* (Chapel Hill: University of North Carolina Press, 2010).

Indians were perpetual wards, unable to attain “ideal” citizenship. An excerpt from the 1932 Board of Indian Commissioners’ Annual Report illustrates the conflation of racial stereotypes, authenticity, and wardship quite clearly. The Board wanted to officially “define” who an Indian was, based on the “degree” of Indian blood individuals possessed. This, they reasoned, would “eliminate from all future rolls persons of a small degree of Indian blood who desire to become identified with a tribe simply to be able to share in its property.” Instead, “It will enable the Government to better direct its attention to the welfare of the *real Indians who still need its assistance and supervision.*”<sup>52</sup> “Real Indians” were those with a “large degree” of Indian blood, *and* those who still needed government assistance. Wardship signified Indian racial authenticity.

However, “blood” is not a simple way to regulate and structure tribal membership. Many Native tribes have retained the use of blood quantum requirements to determine tribal membership. This decision has been controversial in some cases, mainly because it seems to conflict with American notions of free and equal citizenship.<sup>53</sup> However, Kimberly Tallbear has noted that indigenous conceptions of blood contain other “symbolic meanings,” connecting an individual to numerous “tribal relations and ancestors.”<sup>54</sup> The notion of “shared blood” provides an important

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<sup>52</sup> United States Department of the Interior, *Annual Report of the Board of Indian Commissioners 1932*; Definition of an Indian; Box 16: Isolated Indian Allotments to Indian Policy, SEN 83A-F9 (1928-1953), Records of the Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, Records of the US Senate, Record Group 46 (RG 46), National Archives Building, Washington DC (NAB).

<sup>53</sup> For example, see Jodi A. Byrd, “‘Been to the Nation, Lord, But I Couldn’t Stay There’: American Indian Sovereignty, Cherokee Freedmen and the Incommensurability of the Internal,” *interventions* 13, no. 1 (2011): 31-52.

<sup>54</sup> Tallbear, *Native American DNA*, 64.

and distinct sense of tribal identity. Indeed, Tallbear asserts, “blood is identity.”<sup>55</sup> Thus, disparate notions of what constitutes tribal membership and Indian identity present conflicts and opportunities for collision between Native people and non-Native members of the American polity who hold tight to a racialized construction of who an Indian person is.

Wardship’s history as a legal category and policy directive has engendered frequent collisions over Indian identity. In the section below, I offer a brief history of the legal trajectory of the term “ward,” from the early nineteenth century through the early twentieth century. Although the ways in which state agents deployed wardship shifted over time, wardship was always a racialized term.

### **What is a “Ward”? Wardship’s Historical and Legal Trajectory, from Marshall to Allotment**

In his 1831 *Cherokee Nation v. Georgia* decision, Chief Justice John Marshall ruled that the Cherokee Nation was not a “foreign state” under the terms of the Constitution. Rather, Marshall reasoned, the Cherokees, and by implication, all Indians, should be considered “domestic dependent nations,” and “in a state of pupilage. Their relation to the United States resembles that of a ward to his guardian.”<sup>56</sup> *Cherokee Nation* marks the first application of the term “ward” to describe Native people within the United States. The Chief Justice’s words were quite vague. He defined neither “ward” nor “guardian,” and did not describe the relationship

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<sup>55</sup> Tallbear, *Native American DNA*, 50.

<sup>56</sup> Frickey, “Marshalling the Past,” 392.

between Indians and the United States in concrete language—it only “resembled” that of a ward to his guardian. As “domestic dependent nations,” Native tribes were situated in an area of “colonial ambivalence,” where sovereignty was both codified and restricted.<sup>57</sup> However, state agents, historians, and members of the court have used Marshall’s terminology to interpret the relationship between Indian tribes and the US government ever since. As legal scholar Frank Pommersheim notes, the notion of tribes’ statuses as “domestic dependent nations,” sovereign entities also reliant on the federal government, continues to exist in the present day, although “its particulars, its contours, and its borders remain elusive.”<sup>58</sup> The ambiguous definitions of this relationship between “ward” and “guardian” drastically affected all subsequent exchanges between Indians and the government (both federal and state). This section outlines the discursive history of “wardship,” establishing its roots in nineteenth-century legal history.

The development of Indian policy and law over the course of the nineteenth century has been characterized as “almost uniformly hostile to Indians.”<sup>59</sup> Significant court cases and policies undermined tribal sovereignty and emphasized the dependence of Indians upon the good will and guiding hand of the federal government. Those who wanted to extend the federal government’s reach over tribes employed wardship to do so. As lawyer and activist Felix Cohen argued in 1953,

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<sup>57</sup> See Kevin Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of US-Indigenous Relations* (Minneapolis; London: University of Minnesota Press, 2007), xvi.

<sup>58</sup> Frank Pommersheim, *Broken Landscape: Indians, Indian Tribes, and the Constitution* (Oxford: Oxford University Press, 2009), 105.

<sup>59</sup> Christian McMillen, “Native Americans,” in *A Companion to American Legal History*, ed. Sally E. Hadden and Alfred L. Brophy (West Sussex, UK: Blackwell Publishing, 2013), 138.

wardship was deployed as a “magic word,” used to justify “any order or command or sale or lease for which no justification could be found in any treaty or act of Congress.” “Wardship,” Cohen asserted, “always made up for any lack of statutory authority.”<sup>60</sup> Throughout the nineteenth century, this use of wardship was linked with a racialized understanding of Indians as uncivilized and savage, needing “protection” from the government not only from unscrupulous whites, but also from each other.<sup>61</sup> This racial and colonial ideology is clearly exemplified in the 1886 Supreme Court case, *United States v. Kagama*. In *Kagama*, the Court ruled that the Major Crimes Act of 1885 was constitutional. This act made it a federal offense for Indians to commit any of seven specific crimes against another Native person on a reservation.<sup>62</sup> The Court removed jurisdiction for these offenses from Indian tribes and placed it squarely under the purview of the federal government. *Kagama* challenged the Major Crimes Act because, since the federal government was exerting the power to regulate law and order and adjudicate disputes between Indians on sovereign Indian land, it undermined tribal sovereignty. This sovereignty argument was overruled by the Court, which determined that since Indians were “remnants of a race once powerful, now weak and diminished in numbers,” the federal government had the responsibility to exert their power over Indians living on reservations. Chief Justice Samuel Miller wrote that this

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<sup>60</sup> Felix Cohen, “Indian Wardship” (1953) in *The Legal Conscience: Selected Letters of Felix S. Cohen*, ed. Lucy Kramer Cohen (New Haven: Yale University Press, 1960), 331-332.

<sup>61</sup> Berger, “Red,” 603-617. See also Robert A. Williams, *Like a Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal History of Racism in America* (Minneapolis: University of Minnesota Press, 2005).

<sup>62</sup> The crimes covered by the Major Crimes Act were murder, manslaughter, rape, assault with intent to kill, arson, burglary, and larceny.

was “necessary for their protection, as well as to the safety of those among whom they dwell.”<sup>63</sup> The *Kagama* decision cemented wardship deep into the structure of the relationship between Indians and the federal government with legitimate legal and practical consequences. After *Kagama*, the state had the right to intervene to punish individual Indians as they saw fit—to safeguard Indians from themselves.

Cases like *Kagama* and later *Lone Wolf v. Hitchcock* (to be discussed below), utilized wardship to formally solidify Congress’ power over Indian tribes in matters of law and order and treaty enforcement. In the late nineteenth century, individual Indian people living in the United States also sought to define the parameters of their identity and status as “wards.” For example, in 1884 a Winnebago named John Elk brought a suit in the Circuit Court of the United States for the District of Nebraska against an Omaha registrar who had refused to register Elk as a voter in a city election. In the case, *Elk v. Wilkins*, Elk challenged that under the Fourteenth Amendment, he was legally a citizen of the United States and therefore entitled to vote in the election. Elk had severed his relationship with his tribe and was living off-reservation when he attempted to register to vote. He argued that the only reason he was denied registration was because he was an Indian.<sup>64</sup> The Court disagreed with Elk’s assertion of the Fourteenth Amendment, and argued that although technically Indians were born within United States territory, they were no more subject to US jurisdiction than

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<sup>63</sup> Bruyneel, *Third Space of Sovereignty*, 81.

<sup>64</sup> See Pommersheim, *Broken Landscape*, 164-166.

children of ambassadors or other officials of foreign nations born on US soil.<sup>65</sup> The Court ruled that an individual Indian, even one like John Elk who had severed his or her relationship with his or her tribe, could not claim US citizenship. Rather, Indians' status could only be altered "by the nation whose wards they are and whose citizens they seek to become."<sup>66</sup> Thus, *Elk v. Wilkins* more clearly defined wardship as the opposite of citizenship. Following the Court's logic in *Elk v. Wilkins*, individual Indians could not renounce their own wardship and wardship was viewed as "an impediment to citizenship."<sup>67</sup>

*Kagama* and *Elk v. Wilkins* represented the limitations wardship placed on Indian tribes. However, throughout the late nineteenth and early twentieth centuries, policymakers, reformers, and politicians argued that wardship was not Indian peoples' permanent status. In contrast to common legal and social practice governing the separation of whites and African Americans, Indians were subject to concentrated efforts of assimilation and "civilization." Beginning in earnest in late 1880s, state agents argued that by separating from his or her tribe, individual Indian "wards" like John Elk should and could attain citizenship. Thus, although they would still likely face racial discrimination on an individual basis, policymakers and reformers believed that individual Indians had the potential to be incorporated into the white American polity.<sup>68</sup> The most significant piece of legislation designed to accomplish this goal was

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<sup>65</sup> Robert B. Porter, "The Demise of the *Ongwehoweh* and the Rise of the Native Americans: Redressing the Genocidal Act of Forcing American Citizenship Upon Indigenous Peoples," *Harvard BlackLetter Law Journal* 15 (1999), 133.

<sup>66</sup> Pommersheim, *Broken Landscape*, 166.

<sup>67</sup> *Ibid.*

<sup>68</sup> Berger, "Red," 629.

the General Allotment Act of 1887, commonly known as the Dawes Act. The Dawes Act set into place a policy of allotting reservation land into individual plots, to be held in trust by the federal government for a period of 25 years, after which the trust restriction would be lifted and individual Indian allottees would assume ownership of the plot. Any “surplus” reservation land could be sold to white settlers after allotment was complete. By the policy’s official end in 1934, two-thirds of all Indian lands held in 1887 were lost to white settlers.<sup>69</sup> The ideology behind allotment was built upon the Jeffersonian model of private land ownership. At the turn of the twentieth century, ownership of land by individual nuclear families conformed to American social and economic ideals.<sup>70</sup> Policymakers and reformers reasoned that if Indians were forced to give up communal land ownership and assume individual property rights, they would become “civilized” and easily assimilated into the American citizenry.

Assumptions about the negative impacts of wardship, both for individual Indians and the nation, were woven into the fabric of the Dawes Act. Most clearly, in his agitation for the passage of the bill, Senator Henry Dawes of Massachusetts insisted that if allotment policy was not applied, the United States would continue to be responsible for Indian “paupers.” Dawes viewed allotment as the method through which Indians could assume ownership of land and individual well-being, and cease to

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<sup>69</sup> See Porter, “Demise of the *Ongwehoweh*,” 122; Frederick E. Hoxie, *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920* (Lincoln; London: University of Nebraska Press, 1984), 70-72.

<sup>70</sup> See David A. Chang, *The Color of the Land: Race, Nation, and the Politics of Landownership in Oklahoma, 1832-1929* (Chapel Hill: University of North Carolina Press, 2010); Hoxie, *A Final Promise*; Rose Stremlau, *Sustaining the Cherokee Family: Kinship and the Allotment of an Indigenous Nation* (Chapel Hill: University of North Carolina Press, 2011); Nicole Tonkovich, *The Allotment Plot: Alice C. Fletcher, E. Jane Gay, and Nez Perce Survivance* (Lincoln; London: University of Nebraska Press, 2012).



be a burden on the government. However, Dawes also pitched allotment policy as a method by which the United States government could “pay back” indigenous people. In 1885 he told the Mohonk Conference, “...every dollar of money, and every hour of effort that can be applied to each individual Indian, day and night...is not only due him in atonement for what we have inflicted upon him in the past, but is our own obligation towards him in order that we may not have him a vagabond and a pauper, without home or occupation among us in this land.”<sup>71</sup> Thus, Dawes and other politicians and reformers envisioned allotment as a program which would simultaneously benefit the country and individual Indian people by creating self-sufficient citizens who did not require assistance or policing from the state. Reformers and state agents who endeavored to increase Indians’ roles as “productive” citizens believed that allotment was “inspired by the highest motives.” Allotment would wipe the United States’ slate clean, as the policy would “make restitution to the Indian for all that the white man had done to him in the past.”<sup>72</sup> Thus, the Dawes Act revealed how goals of protecting Indians from undue hardship (or “pauperism”) and guiding Indians towards “civilization” were explicitly tied to denigration of indigenous social and cultural structures of land ownership and family formation. Allotment policy resulted in the opposite of “restitution”—the massive decrease of Indian-owned land.

Allotment provided a direct path to citizenship. In exchange for moving onto allotted land and adopting the “habits of civilized life,” an individual Indian would be

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<sup>71</sup> D.S. Otis, *The Dawes Act and the Allotment of Indian Lands*, ed. Francis Paul Prucha (Norman: University of Oklahoma Press, 1973), 8.

<sup>72</sup> Berger, “Red,” 629.

“declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States...”<sup>73</sup> Because the Dawes Act led Indians to citizenship, it was referred to by many politicians as the “Indian Emancipation Act.”<sup>74</sup> Just as Dawes argued that allotment would lead to the nation’s freedom from Indian paupers and vagabonds, supposedly allotment signified Indian peoples’ freedom from the interference and watchful eye of the federal government. However, “emancipation” proved to be a misnomer. The Dawes Act ushered in what is known by scholars as the “Allotment and Assimilation Era” in Indian affairs, which is marked by increased government surveillance, education, and supervision of Native people, all for the goal of creating acceptable racialized American citizens out of supposedly uncivilized tribal Indians.

In his 1887 annual report, Commissioner of Indian Affairs J.D.C. Atkins proclaimed that “The Government has entered upon the great work of educating and citizenizing the Indians and establishing them upon homesteads.”<sup>75</sup> “Citizenizing” indigenous people was a complex and multivalent task, requiring the deconstruction of Indian languages, religions, cultures, and family structures. This process of “citizenizing” was undergirded by a threat of violence if Indian people did not comply. In 1889, Commissioner of Indian Affairs Thomas J. Morgan clearly articulated the

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<sup>73</sup> General Allotment Act (Dawes Act) 1887, in *Documents of United States Indian Policy*, ed. Francis Paul Prucha (Lincoln: University of Nebraska Press, 1975), 174.

<sup>74</sup> Francis Paul Prucha, introduction to *The Dawes Act and the Allotment of Indian Lands*, by D.S. Otis, ed. Francis Paul Prucha (Norman: University of Oklahoma Press, 1973), x.

<sup>75</sup> “Use of English in Indian Schools,” Extract from the *Annual Report of the Commissioner of Indian Affairs* 1887, in *Documents of United States Indian Policy*, ed. Prucha, 174.

ideology behind governmental efforts to “civilize” Indian people: “The Indians must conform to ‘the white man’s ways,’ peaceably if they will, *forcibly if they must*. They must adjust themselves to their environment, and conform their mode of living substantially to our civilization. This civilization may not be the best possible, but it is the best the Indians can get. They can not escape it, and *must either conform to it or be crushed by it.*”<sup>76</sup> According to Morgan and other Indian Service officials, Native peoples’ only alternative to assimilation was death. Morgan’s policy guidelines removed any sense of paternalistic governmental “protection” or “guidance” from the goal of civilization, revealing the power dynamics at play in the conception of wardship. Wardship was predicated upon an expectation that Indians would eventually conform to the “white man’s ways,” even if that meant they would do so because of violent force.

The goal of assimilation, whether it was through allotment of reservation land, education of Indian children, prohibition of Indian cultures and religious traditions, or eradication of Indian languages, was to remake a Native person from a member of a tribe into an individual member of the American polity. Morgan emphasized, “...the relations of the Indians to the Government must rest solely upon the full recognition of their individuality. Each Indian must be treated as a *man*, be allowed a *man’s* rights and privileges, and be held to the performance of a *man’s* obligations.”<sup>77</sup> Morgan’s choice of the word “man” is significant here. Not only did it represent a gendered

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<sup>76</sup> Indian Commissioner Morgan on Indian Policy, Extract from the *Annual Report of the Commissioner of Indian Affairs*, 1889, in *Documents of United States Indian Policy*, ed. Prucha, 177. Emphasis added.

<sup>77</sup> *Ibid*, Emphasis added.

understanding of who the “ideal” American citizen was (male, not female), it also signified that to assume the obligations and privileges of citizenship, one needed to advance to a certain level of age or maturity. A “ward” was not a “man.” A “ward” was incapable of fulfilling obligations to the state, and in turn, a “ward” could not expect rights and privileges from the state. However, a “ward,” like a child, would eventually *become* a man. As a man, each Indian, Morgan argued, would be “entitled to his proper share of the inherited wealth of the tribe, and to the protection of the courts in his ‘life, liberty, and pursuit of happiness.’”<sup>78</sup> As American citizens, Indians would still be able to access and use the resources they were entitled to as tribal members. However, Morgan purposefully used the term “proper share,” indicating that the tribe’s wealth would be split up among individual Native people (or, more accurately, individual Native men). Morgan envisioned the culmination of Native people’s progression to citizenship as individual Native men owning individual plots of land. Furthermore, as citizens (and men), individual Indians were entitled to the protection of the courts. Morgan’s goal was for individual Indians to be protected by the same documents as other Americans, the Declaration of Independence and the Constitution. This seemingly egalitarian goal rested upon the assumption that the existing relationship between the US government and sovereign Indian nations needed to be fully eradicated.

Lastly, and perhaps most significantly, Morgan stressed that as a man, an Indian was “not entitled to be supported in idleness.”<sup>79</sup> Supposedly, as wards of the

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<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

government, Indians had no incentive to become self-sufficient. Idleness was also viewed as the opposite of “manliness.” To transform Indians from an “uncivilized” people to members of the American citizenry, they had to adopt the characteristics of the “American race,” which, as public figures like Theodore Roosevelt argued, was built upon both “racial superiority and virile manhood.”<sup>80</sup> As Gail Bederman has shown, Roosevelt’s ideology of the ideal American was based upon a strong sense of a racialized, strenuous work ethic. To uphold American civilization, American men could not fall victim to “unmanly racial sloth,” or “overcivilized decadence.”<sup>81</sup> Indian men were far removed from Roosevelt’s conception of ideal American manhood, because their economic and social status was firmly entwined with the federal government. Wardship was incompatible with manhood, and therefore, was something to be “outgrown,” if Indian men were to achieve citizenship status. Furthermore, as conceptualized by Senator Dawes, Indian policy was designed to remove the threat and burden of Indian “pauperism.” If an Indian man could overcome his “idleness,” through the US government’s practices and policies of “citizenization,” he would be one step closer to being considered as an individual racialized American citizen.

Education was a critical component in the campaign to assimilate individual Indians into American citizens. The state’s responsibility to educate Native children was predicated upon the idea that Indians were “destined to become absorbed into the

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<sup>80</sup> Gail Bederman, *Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880-1917* (Chicago; London: The University of Chicago Press, 1995), 183.

<sup>81</sup> *Ibid.*, 195.

national life, not as Indians, but as Americans.”<sup>82</sup> In Indian schools, Native students learned about the dimensions of wardship. Teachers were instructed to “point out to their pupils the provisions which the Government has made for their education,” which would demonstrate their future opportunities and would engender feelings of “reverence for the nation’s power, gratitude for its beneficence, pride in its history, and a laudable ambition to contribute to its prosperity.”<sup>83</sup> Not unlike the relationship between a minor “ward” and his or her guardian, as wards of the government, Indian students would be provided with an education and in turn, were expected to show their gratitude, respect, and loyalty to the state for such services. In this case, actual Indian minor “wards” were entrusted to the state for their protection and guidance. Although the state’s mission was “disintegration of the tribes,” school officials did not completely ignore their students’ indigeneity.<sup>84</sup> Teachers were instructed to acknowledge “the wrongs of their [Indian students’] ancestors,” and emphasize that, “the injustice which their race has suffered can be contrasted with the larger future open to them, and their duties and opportunities rather than their wrongs will most profitably engage their attention.”<sup>85</sup> This instruction to teachers to *use* the history of injustice perpetrated against Indians perfectly characterizes the dimensions of state officials’ understanding of wardship. Yes, Native people had faced hardship and had been treated unjustly, due to their ancestors’ “wrongs” (though interestingly, not the

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<sup>82</sup> “Inculcation of Patriotism in Indian Schools,” 1889, in *Documents of United States Indian Policy*, ed. Prucha, 181.

<sup>83</sup> *Ibid.*

<sup>84</sup> “Supplemental Report on Indian Education,” 1889, in *Documents of United States Indian Policy*, ed. Prucha, 180.

<sup>85</sup> *Ibid.*, 181.

“wrongs” committed against their ancestors). However, by fulfilling their duties as citizens and under the government’s guidance, they had the potential to access future opportunities which would overshadow these past injustices. Wardship was based upon both an acknowledgement of the past, and governmental officials’ “good intentions” for the future.

Although pitched as a lofty, idealized goal to create loyal, hard-working “citizens” from poor Indian wards, assimilation efforts and allotment further restricted Indians from the property benefits that whiteness could bring in American society.<sup>86</sup> Essentially, allotment functioned as an organized, bureaucratic methodology to deprive indigenous people of land. Allotment did not release Indians from wardship. Rather, under the guise of “civilizing” Indians through allotment, Congress established its absolute power over Indian tribes. This plenary power was solidified in the 1903 Supreme Court case, *Lone Wolf v. Hitchcock*. Lone Wolf, principal chief of the Kiowa, sued the government for implementing an agreement to allot the Kiowa and Comanche reservation. While Congress had approved the agreement, the Kiowas and Comanches had not, citing the provisions of the 1868 Treaty of Medicine Lodge Creek, which “stipulated that all land cessions must be approved by the tribe.”<sup>87</sup> The Court ruled that Congress had the right to abrogate existing treaties with Indian tribes, and that allotment could be carried out without tribal approval.<sup>88</sup> The Court used wardship to support the decision. Justice Edward Douglas White asserted that “The

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<sup>86</sup> Berger, “Red,” 595; Porter, “Demise of the *Ongwehoweh*,” 122.

<sup>87</sup> Hoxie, *A Final Promise*, 154.

<sup>88</sup> Hoxie, *A Final Promise*, 155.

Indian tribes are the wards of the nation. They are communities dependent on the United States.”<sup>89</sup> The Court recognized the role of the federal government in creating this “dependent” population, but reinforced wardship and reemphasized the responsibility of the government to protect Indian people. Chief Justice White wrote, “From their very weakness and helplessness, so largely due to the course of dealing of the Federal government with them and the treaties in which it has been promised, there arises the duty of protection, and, with it, the power.”<sup>90</sup> Essentially, wardship was a foil for divesting Indians of land. Because Congress had plenary power over Indian wards, allotment could be carried out without tribal consent.

Because of these court cases and federal policies in the late nineteenth and early twentieth centuries, lawmakers, the courts, and American state officials had a rough working definition of wardship. Wardship was predicated upon the power of Congress over Indian tribes. This power was motivated by a sense of responsibility to “protect” Indians from harmful aspects of society, including their own judicial systems. Therefore, wardship disempowered tribal systems of order and justice. Furthermore, wardship was used as a justification for giving Congress the ability to adjust existing treaty agreements, undermining tribal sovereignty. Individual Indians who wished to become US citizens were stuck within the confines of wardship. Furthermore, Indians who had no interest in becoming US citizens were also limited by wardship’s implications, since Congress exerted plenary power over Indian “wards.” These characteristics of wardship evolved and shifted throughout the twentieth century,

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<sup>89</sup> Porter, “Demise of the *Ongwehoweh*,” 132.

<sup>90</sup> *Ibid.*



especially in the context of heightened concerns over “non-white” immigration, the United States involvement in global racial conflicts, and changing rhetoric surrounding the place for “minorities” within the American polity.

### **Manifestations of Race and Wardship in Twentieth-Century Indian Policies**

Throughout the early to mid-twentieth century, debates raged between politicians, legislators, state agents, and members of the public over how and when Indians would be ready to be released from wardship and access the benefits of full citizenship. Politicians and state agents recycled nineteenth-century rhetoric of “emancipation” and “freedom from wardship” in twentieth century Indian policies. The primarily white state apparatus’ consistent use of “ward” to describe Indians represents their continual racialization as non-white and therefore “inferior.” Below, I discuss three major twentieth century policy shifts which were influenced by wardship as a legal category and racial signifier. The persistent use of “wardship” signified state agents’ efforts to fit Native people into the developing national discourse surrounding race and ethnicity. Namely, due to the development of twentieth-century conceptions of race, and the rise of civil rights activism, wardship was associated with racial discrimination. Thus, the history of wardship does not only illustrate federal control over individual Indians and Congressional limitation of tribal sovereignty. Rather, wardship’s persistence well into the mid-twentieth century reflects its intricate ties to conceptions of race and identity. Although nineteenth-century actors perceived

wardship as the opposite of citizenship, wardship and citizenship coexisted ambiguously in the twentieth century.

*Indian Citizenship Act (1924)*

As previously mentioned, in the 1884 case, *Elk v. Wilkins*, the Supreme Court ruled that citizenship was incompatible with wardship. In 1916, the Court reversed their decision and conferred a more ambiguous, dual status upon Native people. In the case *US v. Nice*, the court determined that “citizenship is not incompatible with tribal existence or continued guardianship, and so may be conferred without completely emancipating the Indians.”<sup>91</sup> The results of the *Nice* case contradicted much of the rhetoric surrounding allotment as a pure path to Indian citizenship. Even if Native people were living on allotted land and had received citizenship, they remained legally “wards” because the federal government retained power over many aspects of their lives.<sup>92</sup> In 1924, Congress extended the dual “citizen-ward” status to all Native people who had not been declared citizens through allotment, marriage, or as a result of military service.<sup>93</sup> The Indian Citizenship Act (ICA) universally declared all Indians in the United States to be citizens, stating, “that all noncitizen Indians born within the territorial limits of the United States be, and they are hereby, declared to be citizens of the United States: *Provided*, that the granting of such citizenship shall not in any

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<sup>91</sup> Porter, “Demise of the *Ongwehoweh*,” 134.

<sup>92</sup> *US v Nice* was a conflict over the federal regulations regarding sale of liquor to Indians. For more, see Porter, “Demise of the *Ongwehoweh*,” 134-135; Pommersheim, *Broken Landscape*, 169.

<sup>93</sup> In 1919, Native men who had served the US in WWI were granted a path to citizenship. However, as Gary Stein asserts, few Native veterans took advantage of this option. See Gary C. Stein, “The Indian Citizenship Act of 1924,” *New Mexico Historical Review* 47, no. 3 (1972), 264.

manner impair or otherwise affect the right of any Indian to tribal or other property.”<sup>94</sup> Although the act was sweeping and declarative, it was also mediated by the assurance that American citizenship would not infringe on Indians’ rights to tribal property. Thus, the ICA “neither denied [Indians’] citizenship in tribes nor fully incorporated them into the American polity.”<sup>95</sup> The act has been commonly referred to in historical literature as repayment for Native peoples’ efforts in World War I, but it also reflected Progressive legislators’ political efforts to minimize bureaucracy in the federal government.<sup>96</sup> The timing of this piece of legislation was also significant. In 1924, Congress also passed the most restrictive immigration law in the nation’s history, the Johnson-Reed Act. Thus, while Indians were universally declared American citizens, with the assumption of their eventual assimilation, Congress decided to drastically restrict the immigration of Eastern and Southern Europeans and Asians, privileging the immigration of those who were associated with common perceptions of whiteness in the early twentieth century.<sup>97</sup>

Why, when so many were restricted from entry into the United States and a path to naturalized citizenship were Indians declared citizens? The ICA retained elements of nineteenth-century efforts to impart the validity of the “white man’s ways” onto Indians, and racialized understandings of Indians as individual members of

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<sup>94</sup> Stein, “Indian Citizenship Act,” 257.

<sup>95</sup> Kevin Bruyneel, “Challenging American Boundaries: Indigenous People and the ‘Gift’ of US Citizenship,” *Studies in American Political Development* 18 (Spring 2004), 33.

<sup>96</sup> Stein, “Indian Citizenship Act,” 266.

<sup>97</sup> Christopher Capozzola, “Legacies for Citizenship: Pinpointing Americans During and After World War I,” *Diplomatic History* 38, no. 4 (2014), 725; for more on the Johnson-Reed Act see Ngai, *Impossible Subjects*.

one “Indian race.” Citizenship, in this case, was a method of coercive assimilation, undermining tribal sovereignty and classifying Indians as individuals rather than members of distinct tribal nations.<sup>98</sup> At the same time, the ICA further codified Indians’ “citizen-ward” status into the law, which enshrined nineteenth-century ideology of guardianship into twentieth century politics. The ICA thus created a status of “dual citizenship” for Indians (both as Americans and as members of Native nations),<sup>99</sup> and further served the US state’s goal to “eliminate Indian Country from the maps altogether.”<sup>100</sup> The ICA has a messy legacy which did not clear up questions over where Indians belonged in the American polity. Yes, they were citizens. But, they were citizens with rights to tribal property. And crucially, their citizenship did not connote whiteness, or equality with those considered to be white. Thus, the persistence of wardship precluded full assimilation of Indians into the American polity.

After the passage of the ICA, most of the public and even many in Congress did not realize that Indians were American citizens. For many in the early to mid-twentieth century, “ward” status trumped Native peoples’ “citizen” status, and conversations abounded over how to extend citizenship to Native people, and whether they were eligible for the benefits of citizenship. For example, the extension of social welfare provisions in the mid-1930s posed problems for state welfare workers who questioned whether Indians were citizens and residents of their states, eligible for benefits like Old Age Assistance, Aid to the Blind, or Aid to Dependent Children

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<sup>98</sup> Many Native critics of the ICA thought so too. See Bruyneel, “Challenging American Boundaries” for more.

<sup>99</sup> Bruyneel, “Challenging American Boundaries,” 31.

<sup>100</sup> Capozzola, “Legacies for Citizenship,” 725.

under the 1935 Social Security Act.<sup>101</sup> Lawyers working with the Department of the Interior and individual states reached similar conclusions—the ICA assured that Indians were citizens and eligible for welfare benefits. However, that eligibility did nothing to dissolve or clarify wardship status. State agents issued statements like, “All Indians, ward or non-ward, who were born within the United States meet the citizenship requirements of our social welfare laws, for all are made citizens of the United States by the Act of Congress of June 2, 1924.”<sup>102</sup> Or, “But an Indian ward, whether a ward because of his trust property or the maintenance of tribal relations, as a person and a citizen of the State where he resides, has the benefit of and is subject to State laws in manifold phases of his life. The necessity of proving abandonment of tribal relations in order to show an Indian a citizen and entitled to a citizen’s rights is unnecessary in view of the citizenship act of June 2, 1924.”<sup>103</sup> Thus, the ICA and subsequent interpretations of the act codified Indians’ simultaneous status as “wards” and “citizens.” Supposedly, as interpreters of the law at both the federal and the state level found, wardship status did not disqualify Indians from some benefits of citizenship.<sup>104</sup> However, as further chapters of this dissertation will illustrate, the

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<sup>101</sup> For more on this issue, see Chapter 3 of this dissertation.

<sup>102</sup> Webb Opinion on Indian Eligibility 1936, Social Security Legislation Correspondence, Box 168, Colorado River Central Classified Files (CRCC Files), Records of the Bureau of Indian Affairs, Record Group 75 (RG 75), National Archives and Records Administration - Pacific Region (Riverside) (NARA – Pacific Region (R)).

<sup>103</sup> Office of the Solicitor of the Department of the Interior, “The Applicability of the Social Security Act to the Indians,” 1936, Social Security Legislation Correspondence, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>104</sup> Indeed, wardship was used as a rationale to restrict Indian voting rights, especially in Western states. For more, see Daniel McCool, Susan M. Olson, and Jennifer L. Robinson, *Native Vote: American Indians, the Voting Rights Act, and the Right to Vote* (Cambridge: Cambridge University Press, 2007); and Willard Hughes Rollings, “Citizenship and Suffrage: The Native American Struggle for Civil Rights in the American West, 1830-1965,” *Nevada Law Journal* 5 (Fall 2004): 126-140.

ambiguous status of “citizen-ward” also allowed certain states to claim it was legal to restrict Indians from welfare benefits due to wardship.

The ambiguity of their “citizen-ward” status was also used to engage in negotiations about Indians’ duties as American citizens. For example, in 1940, Kearney Miller, a resident of the Colorado River Reservation in Arizona, used the category of “wardship” to argue that Indians should be exempt from the 1940 Selective Training and Service Act. Miller asserted that because Indians in Arizona were restricted from voting and from receiving Old Age Assistance based on wardship, they should not be subject to the draft. Miller addressed his concerns to the BIA and received a letter from Assistant to the Commissioner of Indian Affairs, Fred Daiker, in return. Daiker responded to Miller’s argument about the nature of Indian citizenship by reiterating Congress’ plenary power over both Indian wardship and citizenship: “Wardship is not dependent of itself upon the age of any individual, but rather upon his status,” Daiker wrote. “The Indian is a ward not by reason of his age or his mentality, but solely because the laws of Congress have so declared. These same laws have also made him a citizen with various rights.”<sup>105</sup> He conceded that just because Arizona had restricted Indians from the franchise and from receiving welfare benefits, “that fact in itself does not make the position of the state right.”<sup>106</sup> Daiker's letter revealed that wardship status did not outweigh Indians’ obligations as American citizens.

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<sup>105</sup> Letter from Daiker to Miller, 1940, Military Activities, Registration, Selective Service, Box 165, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>106</sup> Ibid. Chapter 3 addresses the conflict seen here between state and federal jurisdiction over Old Age Assistance in Arizona.

Wardship continued to present confusion for legislators and the public into the postwar period. Indeed, their status as wards obscured their status as citizens so much so that members of the House Public Lands Indian Affairs Subcommittee proposed legislation to “grant full citizenship rights to Indians,” in 1947.<sup>107</sup> Under this legislation, “Indian war veterans, Indians who have a high school education or its equivalent, Indians who have supported themselves off reservations for five years and others might apply for citizenship.”<sup>108</sup> Of course, legislation like this was completely unnecessary, due to the passage of the ICA more than twenty years earlier. In this case, the members of the House subcommittee betrayed both their misunderstanding of the nature of Indian citizenship *and* their racialized interpretations of Indian wardship. To members of the subcommittee, citizenship served as a “reward” for those Indians who had fulfilled requirements associated with assimilation and whiteness: military service, high school education, and, most crucially, living off the reservation for a substantial period. Furthermore, “If granted citizenship, the Indian would be released from government restrictions and he would be allowed to sell his allotted property if he desires.”<sup>109</sup> Submitted by Republican representative Francis Case of South Dakota, this proposed legislation reflected continued desire for valuable Native land which had been heretofore protected by trust restrictions and Indians’ wardship

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<sup>107</sup> This was one of many such proposals during the mid-century. Further examples are addressed in Chapter 6.

<sup>108</sup> “Indian Citizenship Occupies Indian Affairs Subcommittee,” Newspaper Unknown, Selective Service Miscellaneous, Box 201, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

<sup>109</sup> Ibid.

status. To these politicians, wardship prevented Indians from accessing full citizenship *and* unfairly restricted the sale of Indian land.

Thus, the ICA both propelled assimilation efforts and permanently attached wardship to Indians' citizenship status. Its ambiguity left a lasting impression on the twentieth century, spurring conflicts over both Native peoples' rights to the benefits of citizenship and their responsibilities to fulfill the duties of citizenship. Citizenship (and, in turn, revocation of wardship) continued to function as the proverbial "carrot" for Indian assimilation and abdication of land—even when it was not necessary, well into the mid-twentieth century.

#### *Indian Reorganization Act (1934)*

US Indian policy underwent a major change in 1934, with the passage of the Indian Reorganization Act (IRA). This key piece of legislation, known as the "Indian New Deal," was created by John Collier, Commissioner of Indian Affairs from 1933-1945. The IRA was undergirded by the argument that Native tribes should be recognized by the federal government as culturally distinct entities. Scholars refer to the IRA as the "tribal alternative."<sup>110</sup> The IRA abandoned assimilation as an official policy, ended the practice of allotment, and encouraged tribes to adopt constitutions and exercise self-government.<sup>111</sup> Though the IRA represents a significant shift in

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<sup>110</sup> Elmer Rusco, *A Fateful Time: The Background and Legislative History of the Indian Reorganization Act* (Reno; Las Vegas: University of Nevada Press, 2000), 115-116. Rusco borrows the term from Graham Taylor, *The New Deal and American Indian Tribalism: The Administration of the Indian Reorganization Act, 1934-45* (Lincoln: University of Nebraska Press, 1980).

<sup>111</sup> The concept of "self-government" has been critiqued by scholars who argue that it is not an "Indian idea," but rather provides a limited means for tribes to exercise local control and responsibility within



federal Indian policy, the legislation has been critiqued by scholars who argue that it perpetuated the reach of the BIA over Native tribes through the use of suggested constitutions prepared by the Indian Office.<sup>112</sup> Thus, the IRA further extended Native peoples' ambiguous status in the American polity. Although Collier and his supporters halted the process of allotment and instituted protections for Native cultural, religious, and artistic expression,<sup>113</sup> the IRA did not grant tribes full sovereignty or alter Congress' plenary power over them. Furthermore, BIA officials presumed that federal supervision was necessary for those tribes who wished to achieve federal recognition as incorporated tribes under the IRA, "as Indians gained more experience" in self-government, before government officials would "fade away."<sup>114</sup>

Collier framed the IRA as a bill to reinforce and expand Indians' experiences of American citizenship. The first line of Collier's bill stated:

"That it is hereby declared to be the policy of Congress to grant those Indians *living under Federal tutelage and control* the freedom to organize for the purposes of local self-government and economic enterprise, to the end that civil liberty, political responsibility, and economic independence shall be achieved among the Indian peoples of the United States."<sup>115</sup>

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the US political sphere. However, because of this characterization, self-government has proved to be a useful concept for Indians to use when dealing with government officials, because it provides a "context within which negotiations can take place." See Vine Deloria and Clifford Lytle, *The Nations Within: The Past and Future of American Indian Sovereignty* (New York: Pantheon Books, 1984), 15.

<sup>112</sup> Robert A. Nelson and Joseph F. Shelley, "Bureau of Indian Affairs Influence on Indian Self-Determination," in *American Indian Policy in the Twentieth Century*, ed. Vine Deloria, Jr. (Norman: University of Oklahoma Press, 1985), 182; Rusco, *A Fateful Time*, xi, n. 7.

<sup>113</sup> See Deloria and Lytle, *Nations Within*, 73; Kenneth R. Philp, *John Collier's Crusade for Indian Reform, 1920-1954* (Tucson: The University of Arizona Press, 1977); and Rusco; *A Fateful Time*.

<sup>114</sup> Deloria and Lytle, *Nations Within*, 71.

<sup>115</sup> Deloria and Lytle, *Nations Within*, 67. Emphasis added.

Collier constructed the IRA as an end to the practice of “Federal tutelage and control.” At the same time, he saw the act as an effort to support Indian integration and/or assimilation into the democratic ideologies of the United States. Thus, although the bill was interpreted by many critics as a “socialist” or “communist” endeavor, Collier proposed ending federal guardianship over Indians after they had adopted what he saw as the benefits of American “civil liberty, political responsibility, and economic independence.”<sup>116</sup> Collier’s goal was to alleviate Native poverty and the damage done by allotment, but he also wanted to remind state agents and the public that Native people were American citizens. A 1933 press release on the IRA from the Department of the Interior hails the goals of the act: “conservation and development of Indian lands and resources, the establishment of a credit system for the Indians, the arrangement of scholarships in institutions of higher education for Indian youths and the formation of Indian business organizations.”<sup>117</sup> However, the provisions set out in the IRA were not proposed as “aid” to a dependent and uncivilized population. Instead, the press release reads: “These are certainly elemental privileges to be sought for American citizens. However, curious, as it may seem, many Americans do not realize that Indians are citizens.”<sup>118</sup> By framing federal spending for Native peoples’ economic and educational opportunities simply as “elemental privileges” for American citizens, Collier emphasized Indian membership in the American polity as

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<sup>116</sup> For more on the critiques of the IRA as communism see Philp, *John Collier’s Crusade*, 172; and Taylor, *New Deal*.

<sup>117</sup> Press Release on Opposition to Wheeler Howard Bill, Series III - Commissioner’s Subject File, Part II 1933-1945, John Collier Papers (University Microfilms International, Reel 30), Arizona State University Law Library.

<sup>118</sup> *Ibid.*

citizens and wards. Through the IRA, the federal government fulfilled its responsibility to its wards by providing what was due to them as citizens.

The IRA did not resolve any issues about Indians' wardship status. Indeed, in the same press release where Indians' citizenship was highlighted, the Department of the Interior claimed that "Thousands of copies were called for by Indians who termed this their 'Proclamation of Emancipation.'"<sup>119</sup> If the IRA was Indians' "Emancipation Proclamation," the government was liberating Native Americans who had been "enslaved" by the government itself. By creating a racialized vision of freedom from bondage, the Department of the Interior equated wardship with slavery—the existing relationship between the federal government and individual Indians minimized their humanity to exploit their resources. Furthermore, the press release claimed that Indians themselves had equated the IRA with the document that would lead to the 13th, 14th, and 15th Amendments to the Constitution which had institutionalized the full, legal citizenship of freed African American slaves. The IRA was depicted as an act that signaled a clear, linear path for Indians, from "wards" to "citizens."

Was the IRA as "emancipatory" as the Department of the Interior had claimed? Debates between John Collier and Congressmen Theodore Werner (South Dakota) and Theodore Christianson (Minnesota) during the 1934 House hearings on Collier's bill reveal persistent ambiguities surrounding the nature of Indian wardship and if the IRA officially ended Indian "guardianship." Collier argued that "The guardianship of the Indian is definitely ended by this plan." Congressman Werner seemed to agree,

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<sup>119</sup> Ibid.

stating, “A man cannot maintain the right of citizenship and still be subject to guardianship.” However, Werner qualified his strict delineation between citizenship and guardianship: “He remains a *ward* nonetheless.” Collier attempted to clarify, arguing that Indians would still be under guardianship, but not the type of guardianship that “takes away from him his initiative, his self-respect, his power, his liberty and self-support.”<sup>120</sup> To Collier, this new type of guardianship did not infringe upon characteristics of ideal citizenship: liberty, power, self-support. Congressman Christianson attempted to establish a distinction between “two classes of guardianship which the law recognizes, guardianship of the person and guardianship of the estate.” He asked Collier, “Is not the guardianship the Government is exercising here more in the nature of the estate of the Indian than the person?” Collier confirmed, stating, “It becomes that under this bill.”<sup>121</sup> Therefore, Collier asserted that the IRA would retain the federal government’s powers of guardianship over Indian *land*, but would cease to serve as a guardian over Indian *people*. Although this distinction seemed simple, it was not easy to separate estate from person, especially considering decades of policy doctrine which had specified that Indians must be deemed “competent” by the state to take full ownership of their land without restrictions. Indeed, Congressman Christianson’s next comment to Collier reveals this complexity:

“Ordinarily when a guardianship is established over his estate, that guardianship terminates whenever the incompetent becomes competent to manage his own affairs, and is resumed if he becomes incompetent again, but I presume that the policy of the Government in this instance

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<sup>120</sup> Deloria and Lytle, *Nations Within*, 84.

<sup>121</sup> *Ibid.*, 85.

is to assist the Indian until he develops full competency and then terminate the guardianship.”<sup>122</sup>

Christianson’s assumption that Indians lacked the competency to terminate federal guardianship and that the government would continue to assist them until they developed competency demonstrated that despite Collier’s emphasis that the IRA would help Indians establish their citizenship, these politicians continued to understand Native people predominantly as wards. Ultimately, Congressman Werner was correct: Indians remained wards nonetheless.

#### *Termination Policies (Late 1940s-1960s)*

John Collier left the BIA in 1945, and his departure, coupled with the context of post-World War II political discourse about race, ushered in a new era in Indian policy, known as the “Termination and Relocation Era.” As Donald Fixico has noted, mid-century politicians and state agents ascribed to “an undaunted devotion to conforming all segments of society into one unified nation,” and the “dream of creating an America of one people.”<sup>123</sup> They saw the trust relationship between Indians and the federal government as negatively impact this vision of a unified nation. With these philosophies in mind, they proposed to “terminate” the relationship between Indian tribes and the BIA. “Successful” termination policies included the passage of Public Law 280 in 1953, which authorized the states of Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin to assume civil and criminal jurisdiction

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<sup>122</sup> Ibid.

<sup>123</sup> Donald Fixico, *Termination and Relocation: Federal Indian Policy, 1945-1960* (Albuquerque: University of New Mexico Press, 1986), 76-77.

over reservations without tribal consent,<sup>124</sup> and the “relocation” programs of the mid 1950s, which provided job training and other incentives for Native people to move off of reservations and relocate in urban areas.<sup>125</sup> Terminationists were motivated by their desire to fully assimilate Indians into American society. However, though their rhetoric was reminiscent of nineteenth-century assimilation, twentieth-century politicians and policymakers couched termination squarely within language of mid-century celebrations of American liberty, equality, and prosperity. In this way, termination was not necessarily abrupt “backtrack” to the policies of the nineteenth and early twentieth centuries, interrupted by the IRA, but rather one additional stop on a long line of policies centered on ambiguous conceptions of Indian citizenship. Wardship was an essential part of the practice and rhetoric of termination. Terminationists argued that before Indians could fully integrate into the “unified nation,” wardship must be eradicated.

To advocates of termination, ending the relationship between Indians and the federal government meant ending the “dependency” implicit in the “ward-guardian” relationship. If Indians were no longer “dependent” upon the federal government, they would be able to achieve the same levels of prosperity and economic success as other American citizens. However, questions lingered over the role of the special relationship between Indian tribes and the federal government and racialized tropes associated with wardship. In 1948, the Committee on Indian Affairs organized by the

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<sup>124</sup> Fixico, *Termination and Relocation*, 112; Deloria and Lytle, *Nations Within*, 199.

<sup>125</sup> Fixico, *Termination and Relocation*, 147; See also Nicolas Rosenthal, *Reimagining Indian Country: Native American Migration and Identity in Twentieth Century Los Angeles* (Chapel Hill: University of North Carolina Press, 2012).

Commission on the Organization of the Executive Branch issued a report which engaged with Native racialization and citizenship. The committee asserted, “Assimilation must be the dominant goal of public policy.” They supported this strident statement by pointing to the separation between (dependent) Indians and “reasonably prosperous non-Indians.” Although the committee assured that Indians would “preserve some of their own values and attitudes,” it was clear to them that Native people “d[id] not want to be 19th century story-book Indians.”<sup>126</sup> In this case, the committee did not represent assimilation as a coercive policy backed by the threat of extinction. Rather, they asserted that assimilation “must” be the policy goal because *Indians* wanted to “master and benefit from the culture of our times.”<sup>127</sup> The committee utilized the familiar racial trope of “19<sup>th</sup> century story-book Indians” to highlight the danger of failing to enact assimilation as policy. In their eyes, if the government did not do something to bring Indians up to speed, there was a danger that this group of American *citizens*, despite their own desires, would be unable to access the benefits of living in the postwar United States.

Formulated in the language of postwar equality, the committee’s report drew upon wardship to support Native peoples’ citizenship status. For example, the committee asserted, “Regardless of treaties and agreements with Indian tribes in which a good many specific commitments have been made as to both educational and economic assistance toward assimilation, the Indian deserves at least a fair break

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<sup>126</sup> Report of the Committee on Indian Affairs 1948, p.54, Indians – Report of the Committee on Indian Affairs to Commission on Organization of the Executive Branch of the Government October 1948 (1 of 3), Box 43, Philleo Nash White House Files (PNWH Files), Harry S. Truman Library (HSTL).

<sup>127</sup> Ibid.

because he is a human being and a citizen of the United States.”<sup>128</sup> The Committee acknowledged treaties made with Indian tribes only to bring up the duties of the federal government as “guardian” to its “wards,” educational and economic assistance toward assimilation. However, the committee pitched assimilation as something that the US owed Native people, not because of those treaties, but because of their humanity and citizenship. Ultimately, the committee reasoned, regardless of their status as wards, because Indians were citizens, Congress should promote assimilation policies.

The committee argued that wardship hampered Indian progress. Crucially, the committee situated Indians’ failure to break free of the control of the federal government within a naturalized narrative of Manifest Destiny. They stated:

“The thing that has been most lacking and most needed is Indian motivation. For 150 years policies have been imposed by the government. The policies have been Indian policies, not Indians’ policies. If Indian tribes resisted, they could win battles, but they always lost the wars. If they retreated and withdrew to the west, they were always overtaken by the tide of westward migration.”<sup>129</sup>

Although the Committee represented “westward migration” as a “tide” taking place independent of human action, Indians were both human casualties of this tide *and* humans who did not resist *enough* to stop that tide. The committee argued that the biggest problem (what was “most lacking” and “most needed”) was Indian *motivation*. In the context of federal wardship (and receipt of federal benefits in general), “motivation” was a decidedly racialized term. Postwar assimilation—ironically, a

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<sup>128</sup> Ibid., p.56.

<sup>129</sup> Ibid., p.59.



government policy—would supposedly allow Indians to gain the strength they had needed for the past 150 years to resist the imposition of government policies.

In the 1940s and 1950s, legislators, reformers, and policymakers asserted that Indians needed to be emancipated because as wards whose resources were provided by the BIA, they were more likely to “shirk” their duties of citizenship. To be “free” of the BIA would mean that a Native person was “free” of wardship. In 1953, the passage of House Concurrent Resolution 108 institutionalized these impressions of wardship. House Concurrent Resolution 108 mandated that Indians living in the states of California, Florida, New York, and Texas, as well as the Flathead Tribe of Montana, the Klamath Tribe of Oregon, the Menominee Tribe of Wisconsin, the Potawatamie Tribe of Kansas and Nebraska, and the Chippewa Tribe living on the Turtle Mountain Reservation in North Dakota would be released from the supervision and control of the BIA.<sup>130</sup> This legislation drastically affected the relationship between members of these Native nations and the states in which they resided.<sup>131</sup> This resolution proposed “to end [Indians’] status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship.”<sup>132</sup> Notably, in addition, the bill also declared that Indians “should assume their full responsibilities as American citizens.”<sup>133</sup> Thus, Congress proposed that if Native people broke free from

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<sup>130</sup> House Concurrent Resolution 108, 67 Stat. B122 (1953).

<sup>131</sup> See Fixico, *Termination and Relocation*; and Kenneth R. Philp, *Termination Revisited: American Indians on the Trail to Self-Determination, 1933-1953* (Lincoln; London: University of Nebraska Press, 1999).

<sup>132</sup> House Concurrent Resolution 108, 67 Stat. B122 (1953); See also Harmon, *Rich Indians*, 214.

<sup>133</sup> Virgil K. Whitaker, Chapter 1, “Pictures and Policy,” p.24-25, Report of the Commission on the Rights, Liberties, and Responsibilities of the American Indian, 1959, Memo #110 – Memorandum to Accompany Chapter 1 of Commission Report 11-11-59, Box 72, William Brophy Commission on the Rights, Liberties, and Responsibilities of the Indian Papers, HSTL.

the chains of wardship, they could access the rights due to them as citizens. At the same time, politicians implied that thus far, wardship had precluded Native people from fulfilling their obligations as American citizens.

If Native people were to live outside of the confines of federal wardship, they would become subject to the laws, taxes, and regulations of the individual states where they resided. Dillon Myer, Commissioner of Indian Affairs from 1950-1953 and major advocate of termination policies, argued that “the Bureau of Indian Affairs has no desire to continue providing the Indians with any service which can be rendered just as efficiently and cheaply by some other agency or organization.”<sup>134</sup> Myer reasoned that the Fourteenth Amendment had determined that “all persons born or naturalized in the United States, and subject to the jurisdiction thereof,” were citizens both of the United States and “of the State wherein they reside.”<sup>135</sup> Myer used the Fourteenth Amendment as a legal excuse to terminate the “ward-guardian” relationship Indians had with the federal government. However, in doing so, Myer glossed over the historical intricacies of the jurisdictional boundaries of Indian welfare. When Myer made these declarations in 1952, Indians’ citizenship in individual states was still in flux, the subject of vigorous debates in individual states and localities who saw themselves as unfairly burdened with the welfare of a population supposedly under federal jurisdiction. Wardship, to many state and local governments, precluded Indians’ rights as guaranteed by the Fourteenth Amendment.

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<sup>134</sup> Dillon Myer, Address Before the Western Governors’ Conference, Phoenix, AZ, 1952, Indians – Address by Commissioner of Indian Affairs Dillon Myer December 9 1952, Box 42, PNWH Files, HSTL.

<sup>135</sup> Ibid.

For example, hearings held in Reno, Nevada by the Subcommittees of the Committees on Interior and Insular Affairs in 1954 over the extension of the provisions of House Concurrent Resolution 108 to Nevada Indians revealed persistent racialized resistance to the incorporation of Native people into county and state bureaucracy. Eleanor Myers, the representative for the Lovelock Paiute Indian Colony,<sup>136</sup> testified before the committee, arguing that “Most of our families are in agreement with the plans for termination of Federal service *if we can be better prepared for this extreme change before the actual termination is accomplished.*”<sup>137</sup> Myers went on to request from the committee concrete repairs and services her community needed, such as fire protection, police protection, improvement of street lighting, installation of indoor toilets, and provision of regular (non-seasonal) work opportunities. Myers’ testimony demonstrated the Lovelock Paiutes’ distinct understanding of the “ward-guardian” relationship, which will be discussed further in the next chapter. First, I will focus on how officials from the surrounding town of Lovelock and Pershing County felt about the proposal to terminate Nevada Indians. Myers asserted, “The Pershing County commissioners have said the county is financially unable to assume any care of Indians because the maximum of \$5 tax rate has nearly been reached. They cannot meet hospitalization for Indians or assume any

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<sup>136</sup> In Nevada, many Indians lived in urban “colonies,” Indian land adjacent to towns and cities. For more demographic information on Nevada Indians, see Russell R. Elliott, *History of Nevada*, 2<sup>nd</sup> ed. (Lincoln: University of Nebraska Press, 1987), 396-399; and Jack D. Forbes, ed., *Nevada Indians Speak* (Reno: University of Nevada Press, 1967).

<sup>137</sup> *Termination of Federal Supervision Over Certain Tribes of Indians: Joint Hearing on H.R. 7552, Part 10, Before the Subcommittees of the Committees on Interior and Insular Affairs*, 83<sup>rd</sup> Cong. 1235 (1954) (Testimony of Eleanor Myers, Representative of Lovelock Indian Colony), Nevada Indians, Box 90, General File – Indians, Papers of William Brophy and Sophie Aberle Brophy (WBSB), HSTL.

other responsibilities.”<sup>138</sup> Citing financial burdens that would prevent the county from taking on the responsibility for medical resources, law and order, and other aspects of public infrastructure, Myers recognized how the town and county rationalized their refusal to consider Indians purely as state citizens instead of federal wards.

Furthermore, Myers also highlighted the role of racial discrimination and racialized definitions of wardship which undergirded those refusals. She stated, “The commissioners say, too, the county is not prepared to accept the Indians on an equal basis with non-Indians. We realize there is a definite social adjustment to be made.”<sup>139</sup>

She cited the “looks of the poor houses and dusty roads” of the Lovelock Colony as the reason why the county was not prepared to accept Indians as equals.<sup>140</sup> Thus, to Myers and the Paiutes of Lovelock Colony, wardship’s characteristics (manifested through inadequate housing, jobs, and public services on their reservation) undergirded Pershing County’s racialized discrimination. Although individual states and counties represented their refusal to take financial responsibility for Indian wards as a “race-neutral” response based on jurisdiction, authorities’ rationale was fundamentally tied to Indians’ racialized identities as “wards.” In the mid-twentieth century, as specific rhetoric surrounding assimilation, integration, and race became increasingly common among state agents, legislators, and the American public, these tensions between jurisdictional responsibility for this racialized population reached new heights.

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<sup>138</sup> Ibid., 1236.

<sup>139</sup> Ibid.

<sup>140</sup> Ibid.

### **Conclusion: Moving Towards a Mid-Century Definition of Wardship**

During World War II, the nonprofit organization, the Public Affairs Committee, published a pamphlet titled, “The Races of Mankind.” Along with a visual display, comic book, and film, this pamphlet traveled throughout the nation’s schools to emphasize the importance of American unity and call attention to the differences between the United States’ and Hitler’s conceptualizations of race.<sup>141</sup> The authors, Ruth Benedict and Gene Weltfish, argued that, “This war, for the first time, has brought home to Americans the fact that the whole world has been made one neighborhood.” Benedict and Weltfish argued the United States was quite familiar with the idea of a diverse global “neighborhood”: “In our country men of different color, hair texture, and head shape have lived together since the founding of our nation. They are citizens of the United States.”<sup>142</sup> In the postwar period, the United States actively tried to construct an international impression of itself as multicultural, a nation made up of disparate parts, but unified in its goals of equality and liberty.<sup>143</sup> For Indians to fit into this narrative, they were often represented as members of one of many racial groups or “nationalities” who had contributed to the creation of an “American” identity. For example, when Benedict and Weltfish described the

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<sup>141</sup> Zoe Burkholder, *Color in the Classroom: How American Schools Taught Race, 1900-1954* (Oxford: Oxford University Press, 2011), 215 n121.

<sup>142</sup> Ruth Benedict and Gene Weltfish, *Races of Mankind*, Minorities – General – Publications “Races of Mankind” (Versions of), Box 50, PNWH Files, HSTL.

<sup>143</sup> See Mary Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy* (Princeton: Princeton University Press, 2000); Takashi Fujitani, *Race for Empire: Koreans as Japanese and Japanese as Americans During World War II* (Berkeley: University of California Press, 2011); Brenda Gayle Plummer, *Rising Wind: Black Americans and US Foreign Affairs, 1935-1960* (Chapel Hill: The University of North Carolina Press, 1996).

“American diet,” they noted the importance of French and Italian salads, Russian soups, chile and tortillas from Mexico, “appetizers” from the Scandinavian countries, and from Indians, “turkey, corn, and cranberries.”<sup>144</sup> By highlighting the contributions Native people had made to American culture, Benedict and Weltfish conceptualized Indians as assimilable, but also distinct in their culture. Benedict and Weltfish emphasized that the diversity and multiculturalism of the United States demonstrated the country’s racial progressivism, equality, and inclusivity. In this ideology, Indians’ citizenship outweighed their cultural differences.

How did state agents, politicians, and members of the public reconcile this vision of Indians’ contribution to multicultural American identity with a racialized conception of wardship? This chapter has shown that key policies and laws in twentieth-century Indian history, the ICA, IRA, and termination, continued to perpetuate ambiguous definitions of Indian wardship and citizenship built upon nineteenth-century legacies. Wardship’s racialized connotations impacted where Indians “fit” into the American polity. This question of “fit” had real consequences for determining eligibility for welfare resources, determining how and by whom communities would be policed, and which political entity (town, county, state, etc.) assumed jurisdiction for Native people. For example, BIA superintendents at a 1940 meeting in Salt Lake City attempted to define what “wardship” meant. One agent tied wardship to the receipt of government benefits, asserting that it was “a fact that any Indians who receive gratuity from the Government are wards of the Federal

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<sup>144</sup> Ruth Benedict and Gene Weltfish, *Races of Mankind*, Minorities – General – Publications “Races of Mankind” (Versions of), Box 50, PNWH Files, HSTL.

Government.”<sup>145</sup> However, the superintendents decided that an individual Indian “*can* be both a ward and citizen of the United States Government. An Indian cannot renounce his status as a ward.”<sup>146</sup> It did not matter if Indians paid taxes. This obligation of citizenship would not impact his or her wardship status. A “certificate of competency” would not remove wardship.<sup>147</sup> In addition, “degree of blood does not enter into wardship.”<sup>148</sup> The only way that the wardship category could be removed was if Congress enacted legislation to do so.<sup>149</sup> However, certain superintendents were still unclear on the subject, arguing that although “the courts, in the early days particularly, pointed out that all Indians of the United States were theoretically wards of the Government,” there were some Indians, particularly those in Maine, Vermont, Rhode Island, and Massachusetts, “over whom the Government has exercised no protection.”<sup>150</sup> The superintendents failed to come to a conclusion about how to categorize these populations, who were racially and culturally Indian, but who were not under federal guardianship.

If BIA superintendents were unsure about wardship’s definition, the public was even more perplexed. In 1949, the BIA and the Haskell Institute<sup>151</sup> published a pamphlet entitled, “Answers to Your Questions on American Indians.” Questions included “Are Indians citizens?” “Do Indians receive money from the Government

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<sup>145</sup> Intermountain Superintendents Council Meeting Minutes 1940, Untitled Folder 1, Box 3, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>146</sup> *Ibid.* Emphasis added.

<sup>147</sup> See Chapter 6 for more on certificates of competency.

<sup>148</sup> Intermountain Superintendents Council Meeting Minutes 1940, Untitled Folder 1, Box 3, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>149</sup> *Ibid.*

<sup>150</sup> *Ibid.*

<sup>151</sup> The Haskell Institute was an Indian boarding school which opened in 1884 in Lawrence, Kansas.

just for being Indians?,” and “Why is there an Indian Service?” The BIA and Haskell’s efforts to clarify common questions they received about Indians reflected the public’s struggle to reconcile rhetoric about American equality and the distinct “special” treatment Indians received from the government. If Indians were like other citizens, why was there a branch of the federal government devoted solely to them? Pamphlet authors assured readers that the government did not pay Indians “just for being Indians,” but issued checks for some Native people based on income associated with renting their land. However, they also relied on common, racialized understandings of the necessity of government guidance over Indian wards. In response to the question, “Why is there an Indian Service?” they reasoned that the government “established and expressed repeatedly one consistent policy in dealing with Indians. It bound itself to ‘civilize’ the redmen; and find for them a continuing, equal and self-supporting place with other citizens of the democracy.”<sup>152</sup> The BIA and Haskell represented citizenship as the culmination of federal efforts to “civilize” Indians, drawing on familiar tropes of Indians as uncivilized wards who needed protection and guidance from the government. Thus, although they asserted that Indians “were not restricted in person” by wardship, and that wardship only applied to Indians’ trust property, Haskell and the BIA also reiterated the differentiation between Indians and other American citizens by rehashing racialized understandings of “civilization.”<sup>153</sup> Wardship disrupted the idea that Indians were just one of many minority groups of citizens. Wardship *separated*

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<sup>152</sup> United States Indian Service, “Answers to Your Questions on American Indians,” Indians – Pamphlets and Reports (1 of 3), Box 43, PNWH Files, HSTL.

<sup>153</sup> Ibid.



Indians from other citizens, whether by bestowing upon them a “special” status or revealing their inability to reach American citizenship, the culmination of “civilization.”

Many ordinary people and politicians argued in favor of terminating wardship and treating Indians like other “normal Americans.” Even organizations heavily involved in Indian affairs, like the Association on American Indian Affairs (AAIA), framed the “remov[al] [of] all special statuses” as a prevention against “a tendency in the Indian Bureau to prolong a state of dependency.”<sup>154</sup> “Special status” was simultaneously damaging Indians’ ability to exercise authority and responsibility over their own affairs, *and* exemplified Indians’ lack of responsibility and motivation. In language that was strikingly similar to rhetoric surrounding other racialized groups’ receipt of welfare, members of the general public questioned the characterization of Indians as “responsible citizens.” For example, in 1946, Philleo Nash, BIA official (and future BIA Commissioner) and member of the AAIA, sent his sister an AAIA pamphlet about to be printed. Nash’s sister, “disagreed with a blanket statement—‘The American Indians are responsible citizens.’” Nash wrote of his sister’s comments to AAIA Executive Secretary Patricia McDermott, noting “You and I know why people who have been pushed around do not make responsible citizens, but I can understand the resistance which is aroused by the blanket statement.”<sup>155</sup> As late as 1959,

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<sup>154</sup> Association on American Indian Affairs, “Restatement of Program and Policy in Indian Affairs,” 1950, Association on American Indians File – Correspondence 1950, Box 75, Philleo Nash White House/Association on American Indians Files, HSTL.

<sup>155</sup> Letter from Nash to McDermott, 1946, Association on American Indians File – Correspondence 1945-1946, Box 75, Philleo Nash White House/Association on American Indians Files, HSTL.

government officials working with President Eisenhower's Commission on the Rights, Liberties, and Responsibilities of the American Indian made efforts to address derogatory assumptions made by the public and politicians that Native people had not "assumed their full responsibilities as American citizens," did not know how to manage their money or pay taxes like other citizens.<sup>156</sup> In a draft of their official report, the Commission argued that Indians had "borne their fair share of the most onerous responsibility of all, namely, military service." They also asserted that Indians had the right to vote and many had better voting records than non-Indian communities.<sup>157</sup> More importantly, the Commission asserted that Indians had provided "a very special and unique service to the American people," in "surrendering most of their estate."<sup>158</sup> With this rationalization, the Commission argued that their tax-exemptions (which, the Commission emphasized, only applied on land held in trust by the federal government), made sense, as Indians received them in return for giving up their land, as a "service" to the American people. The Commission combatted the perception that wardship prevented responsible citizenship by classifying the ward-guardian relationship as repayment for Native "service."

In their efforts to propel Native people into American citizenship, non-Native governmental agents and members of non-profit organizations minimized the legal and political contours of wardship and made a concentrated effort to consider Indians

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<sup>156</sup> Virgil K. Whitaker, Chapter 1, "Pictures and Policy," p.30, Report of the Commission on the Rights, Liberties, and Responsibilities of the American Indian, 1959, Memo #110 – Memorandum to Accompany Chapter 1 of Commission Report 11-11-59, Box 72, William Brophy Commission on the Rights, Liberties, and Responsibilities of the Indian Papers, HSTL.

<sup>157</sup> Ibid.

<sup>158</sup> Ibid., 31.

as a specific minority group within the United States—one which, if given the opportunity, could achieve equality and “first-class citizenship” in line with American values of democracy. For example, in a 1946 field report on the Navajo commissioned by the Home Missions Council of North America, Elizabeth Clark argued that Indian policy and legislation and the BIA itself were “drawn on racial lines,” which “makes for a system contrary to the principles of American democracy.” For the “Indian problem” to be solved, Clark asserted, the United States needed to “work against discrimination in all parts of the country,” “give all citizens the vote,” support “the development of economic, educational and social opportunity of the poorer states and regions,” and “promote equal justice before the law.”<sup>159</sup> Clark viewed the BIA as a racialized state agency holding Native people back from achieving full citizenship on an “equal” playing field as other citizens. This kind of belief privileged Native peoples’ citizenship over their legal relationship with the United States as “domestic dependent nations.” In a 1956 meeting with White Mountain Apache tribal representatives, Commissioner of Indian Affairs Glenn Emmons used a similar conceptualization to support his policy goals to integrate Indians into the American polity. Emmons expressed exasperation at “people who have never seen an Indian,” who assumed that, “they are still savages, or something, that will take a hundred years before the Indian can be recognized as a real American citizen.” “It makes me mad when I hear those people talk like that,” Emmons continued, asking the group gathered

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<sup>159</sup> Elizabeth Clark, Report on the Navajo, 1946, Navajo, Box 93, Rio Grande Federal Irr. Project, Texas & New Mex. To Navajo Current, SEN83A-F9, Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, Records of the US Senate, RG 46, NAB.

for the meeting, “I don’t think you people want to be museum pieces, do you?”<sup>160</sup> To Emmons, the situation was clear: those who clung to an outdated, racialized impression of Native people as uncivilized “savages” were in the wrong. Emmons, who wanted to help Indians reach their potential as twentieth-century American citizens, was in the right. However, although both Clark and Emmons may have had good intentions, their goals to help Indians achieve “equality” with others downplayed wardship’s legal and political complexities.

In 1961, the United States Commission on Civil Rights published *Justice*, a report which analyzed minority groups’ experiences of racial discrimination in the United States. The authors of *Justice* attempted to establish whether Native people should be considered a “minority,” and ultimately issued a rather vague proclamation: “If American Indians are a minority, they are a minority with a difference.”<sup>161</sup> The Commission on Civil Rights qualified this statement further, arguing, “to think of the Indian problem solely in terms of bias, discrimination, or civil rights would be a mistake. For unlike most minorities, Indians were and still are to some extent a people unto themselves, with a culture, land, government, and habits of life all their own.”<sup>162</sup> In this case, Indians’ “special” qualities precluded their inclusion in a conversation of discrimination and civil rights. On one hand, the Commission argued that wardship limited Native peoples’ access to full citizenship, writing, “For one reason or another,

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<sup>160</sup> Commissioner’s Meeting, White Mountain Apache, 1956, Folder 9 – Indian Affairs Commissioner’s Conference Phoenix Area, El Paso, Box 3, Glenn Emmons Papers, Center for Southwest Research, University of New Mexico.

<sup>161</sup> United States Commission on Civil Rights, *Justice*, 1961, p.115, Publications – Civil Rights (Folder 2), Box 111, Files of Indian Health, WBSB, HSTL.

<sup>162</sup> *Ibid.*, p.116.

the numerous and dominant people have not been able to make up their minds what to do with the ‘colonies of troublesome strangers.’”<sup>163</sup> On the other hand, according to the Commission, Indians “have not made up their minds to abandon their tribal communities and to join white society.”<sup>164</sup> Thus, although the Commission recognized tribal autonomy of “culture, land, governments, and habits,” ultimately they presented a linear interpretation of integration into the American citizenry, stalled by both the mindsets of mainstream Americans and the uncertainty of Indian people.

Throughout the nineteenth century, wardship was presented as a “temporary” precursor to full citizenship. The term was enmeshed with the racialized ideology of assimilation. Nineteenth-century state officials and judges determined that Indians would conform to the “white man’s ways,” even if through violent force. As “wards” of the government, Indians required oversight, guidance, and protection from governmental officials before their transition from “ward” to “citizen” could be completed. However, before adapting a way of life which closely adhered to ideal white citizenship, Indian wards needed to surrender their tribal identity. These violent and oppressive ideals of assimilation were based upon the assumption that tribal nations should be dissolved, Indian land should be relinquished for white settlement, and individual Indian “wards” should eventually become “citizens.” Despite non-Natives’ widespread understanding of the linear trajectory from “ward” to “citizen,” this chapter has shown that the two categories were not mutually exclusive. In the early twentieth century, despite and because of legal rulings and acts of Congress,

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<sup>163</sup> Ibid., 124.

<sup>164</sup> Ibid.

Indians did not lose their “wardship status” when they attained American citizenship. Racially, Indian “wards” could never access the ideal of white American citizenship, because members of the public, the courts, and state agents did not view them as white. The bestowal of universal citizenship, although reflective of reformers’ and state agents’ persistent efforts to impose the “validity” of the “white man’s ways” onto racialized populations, did not transform how Indians experienced race—legally, politically, or socially.

However, Indians’ non-whiteness developed additional dimensions in the twentieth century, especially due to the new racial language of multiculturalism, civil rights, and integration. Wardship’s development in the twentieth century expanded the ways in which Indians were racialized. Wardship’s ambiguous definitions presented difficulties for state agents and the public who subscribed to a linear view of progress to citizenship for America’s racial minorities. In the next chapter, I will explore how differing conceptualizations of wardship introduced complications for those attempting to access the benefits of the expansion of the mid-twentieth century welfare state.

## Chapter 2

### A Heritage of Guilt and an Honest Debt: Wardship, Race, and the Welfare State

#### Introduction

“Do you think that complete government control and patronage will give you a life in which you do not have to lift a hand?” wrote the author of a 1950 editorial in the *Los Angeles Herald-Express*. “You have such an example in the security given the American Indians. For more than 100 years they have been wards of the government.”<sup>1</sup> According to the editorial, Indian wards were unable to access “the common rights of citizenship,” evidenced by their extreme poverty, lack of food and clothing, poor education, and subpar housing. The author concluded with a warning: “There could be no more damning indictment of the so-called welfare state than the standard of living to be found among our government-cared for American Indians.”<sup>2</sup> This editorial’s conflation of wardship with an expansive and oppressive welfare state capitalized on racialized assumptions about wardship ingrained in the term’s ambiguous definitions. Supposedly, wardship prevented Indians from accessing full citizenship, kept them in poverty, and made them dependent upon a federal government which, despite extensive regulation, did nothing to safeguard their welfare.

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<sup>1</sup> “Reservations Perfect Example of the Welfare State,” *Los Angeles Herald-Express*, May 16, 1950; Myer, Dillon S. Commissioner of Indian Affairs, Box 26: McCabe, George N. to National Congress of American Indians, SEN 83A-F9 (1928-1953), Records of the Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, Records of the US Senate, Record Group 46 (RG 46), National Archives Building, Washington, DC (NAB).

<sup>2</sup> Ibid.

But, was wardship really such an extreme departure from other forms of more established welfare benefits? And, was welfare in general as dangerous as the editorial's author implied? Other citizens received "compensation" and "protection" from the state—indeed, some came to expect this as fulfillment of the rights of citizenship and something deserved in return for service. Especially after World War II, and the institutionalization of the Servicemen's Readjustment Act (GI Bill), the public understood that veterans deserved benefits and protected status from the federal government.<sup>3</sup> State officials defended Indians' "special status," especially their tax exemptions, by comparing Indians to veterans. For example, in the pamphlet, "Answers to Your Questions on American Indians," the Bureau of Indian Affairs (BIA) and the Haskell Institute asserted that "Indians do not pay taxes on some restricted land or on restricted personal property. *In this, Indians are in the same class as war veterans in many states.*"<sup>4</sup> Similarly, Felix Cohen, noted lawyer for many Indian tribes and organizations devoted to Indian affairs, argued in 1952, "The fact that the United States has certain obligations to its Indians citizens no more removes their land from the confines of the State than do the special obligations of the Federal Government towards Government bond holders, veterans, members of the armed forces..."<sup>5</sup> When state agents and others conflated Indian wards' "special" benefits

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<sup>3</sup> See Glenn C. Altschuler and Stuart M. Blumin, *The GI Bill: A New Deal for Veterans* (Oxford: Oxford University Press, 2009), 61; and Suzanne Mettler, *Soldiers to Citizens: The GI Bill and the Making of the Greatest Generation* (Oxford: Oxford University Press, 2005), 10.

<sup>4</sup> United States Indian Service, "Answers to Your Questions on American Indians," Indians – Pamphlets and Reports (1 of 3), Box 43, Philleo Nash White House Files (PNWH Files), Harry S. Truman Library (HSTL). Emphasis added.

<sup>5</sup> Felix Cohen, Amicus Brief of Association on American Indian Affairs, Hualapai Tribe of Arizona, and San Carlos Apache Tribe of Arizona, *State of Arizona v. Oscar R. Ewing*, Civil Action No. 2008-52, 7 (United States District Court for District of Columbia 1952), Folder 20 – *Arizona v. Ewing, Oscar*



from the government with those benefits received by “deserving” populations, they attempted to fit Indians into mid-century definitions of citizenship tied to the expansion of the American welfare state. As mid-century welfare programs became “entitlements” for American citizens, some state agents and Indian advocates claimed that Native peoples’ receipt of protections and benefits from the state were no different from the protections and benefits to which all citizens were entitled. In 1961, the Commission on the Rights, Liberties, and Responsibilities of the American Indian made this comparison even more explicitly in their report, *A Program for Indian Citizens*. The Commission compared New Deal welfare benefits to the “help” Indians received from the government: “The United States has supplied comparable relief through Social Security, and aid to the old, the blind, and dependent, crippled children, and the unemployed as well as by free distribution of surplus commodities. In other respects also, it has been extending *to the entire population* the kind of help formerly given only to Indians.”<sup>6</sup>

These conflation of wardship with welfare reveal the term’s continuing salience into the mid-twentieth century, and Americans’ increasingly complicated understandings of Native peoples’ place in the polity. Was wardship synonymous with Indian poverty? Was wardship welfare, or welfare wardship? If veterans’ benefits were extended in exchange for service to the country, should wardship be understood

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R. (Federal Social Security) 1952, Box 328, Association on American Indian Affairs Papers (AAIA Papers), Seeley G. Mudd Manuscript Library, Princeton University (MML).

<sup>6</sup> Commission on the Rights, Liberties, and Responsibilities of the American Indian, *A Program for Indian Citizens: A Summary Report*, 1961, p.3, A Program for Indian Citizens – A Summary Report January 1961, Box 78, William Brophy Commission on the Rights, Liberties, and Responsibilities of the Indian Papers, HSTL. Emphasis added.

in a similar way? More broadly, does the introduction of racial and colonial history into discussions of the role of the state in ordinary citizens' lives alter the understanding of what the state "owes" its citizens? This chapter explores these questions by putting three debates in conversation with one another: the role of wardship in the mid-twentieth century welfare state, conflicts over the relationship between the state and Indian tribes, and shifting political rhetoric about race, civil rights, and multiculturalism.

Race played a crucial role in defining the relationship between the welfare state and Indian wardship. For many politicians, state agents, members of the media, and non-Native citizens, Indian membership in the American polity—as one group of many "minority" citizens—was threatened by the racial discrimination they saw in wardship. When non-Natives defined wardship as federal oppression of Indian citizens, they compared it with civil rights violations. However, many policymakers, state agents, and Indians themselves attempted to distinguish Indians' experiences of racial discrimination *from* their experiences of wardship. Because of the expansion of the welfare state, racialized assumptions about wardship took on added significance for Indians' daily lives (especially their eligibility for welfare benefits) and place in the American polity as citizens.

To explore the intersections between wardship, race, and welfare, this chapter interrogates both Native and non-Native definitions of wardship in the mid-twentieth century. First, I explore conversations and debates about wardship and racial discrimination. I unpack policymakers' attempts to relegate wardship to a

bureaucratic, legal status. These attempts were not always successful, because the public understood wardship as federal oppression of Indian tribes, precluding citizenship. For example, wardship was commonly connected to racialized stereotypes of reservation residence. In the second section of this chapter, I examine how residence on reservations was conflated with the limitations of wardship. Non-Natives were confused about the extent to which Indians were trapped within the confines of reservations. Additionally, in the context of post-World War II rhetoric of US democracy and equality, Americans' discussions of Indian wardship were also often tinged with the concept of national "guilt." The third section examines persistent allusions to American guilt over the United States' violent and coercive history with Indian tribes. Guilt ultimately reinforced wardship as a racialized category, playing off the idea that the nation "owes" Indians protection due to their status as a colonized race. While seemingly a recognition and acknowledgement of colonialism, ultimately, paying "lip service" to the United States' violent history with Indians did nothing to alleviate what people saw as the negative characteristics of wardship. Lastly, the chapter concludes with an assessment of Indians' rhetoric of wardship. To Native tribes and activists, the term signified unfulfilled legal agreements between the United States and Native nations, and acted as a precursor to Native demands for sovereignty and self-determination. When tribal leaders and Indian activists spoke of wardship, they did so in conjunction with their demands for the United States to honor its obligations to tribes and govern Native nations by consent. Thus, although racialized rhetoric about "oppression" or "protection" infused non-Native debates and arguments

about wardship's definition, to Indians, wardship was neither. Indians could be both citizens and wards—indeed, those categorizations represented two completely different relationships between Native people and the United States.

Thus, this chapter explores the impact of the expansion of the welfare state on conflicting definitions of wardship. The incorporation of racialized rhetoric into those definitions shaped how Indians experienced Indian policy, welfare policy, and civil rights in the United States. In turn, this chapter explores the impact of those conflicting definitions of wardship on non-Native opinions about the welfare state itself. The correlation between “wardship” and “welfare” held significant meaning for Indians' place within the American polity.

### **“The line between protection and oppression”: Racial Discrimination and Wardship**

As civil rights became increasingly prevalent in postwar political and cultural consciousness, politicians and state agents tried to determine if wardship was an example of racial discrimination. In their 1947 report for President Truman's Committee on Civil Rights, “Civil Rights of American Indians,” Milton Steward and Rachel Sady first asserted that “Indians stand in a special relationship to the federal government, which has been somewhat loosely called ‘wardship.’”<sup>7</sup> Steward and Sady

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<sup>7</sup> Memo: “Civil Rights of American Indians,” Prepared by Milton Steward and Rachel Sady, 1947, p.2, Staff Memoranda, Witnesses, Statements to the Committee, and Other Committee Documents, Box 16, Records of the President's Commission on Civil Rights, Record Group 220 (RG 220), HSTL.

had trouble explaining how wardship infringed upon Native peoples' civil rights and shaped their experiences of discrimination. They wrote,

“Part of this discrimination is the result of prejudice, but an overwhelming portion results from *a misunderstanding of the nature of the Office of Indian Affairs' responsibility for Indians*. Many people believe that the government supports most Indians by grants of special federal benefits. Actually, the majority of Indians support themselves and do not receive direct and continuous federal aid.”<sup>8</sup>

Although Steward and Sady divided discrimination against Indians into the two distinct categories of “prejudice” and “misunderstanding,” these two components were inextricably linked together. Non-Native racial discrimination against Indians was fundamentally tied to their misconceptions over the government's responsibility for Indian welfare. In other words, non-Natives believed that Native people received benefits from the government purely because of their racial identity as Indians. Therefore, the legal characteristics of wardship were often misconstrued by non-Indians as an unusual—and unfair—relationship between the United States and a group of its racialized citizens.

In the civil rights framework of the mid-twentieth century, for discrimination against people of color to end, racialized people needed to be integrated into the citizenry and have equal access to social, cultural, and political institutions. If civil rights activists' ultimate objective was first-class citizenship, understanding Indians' experiences of discrimination within a civil rights framework was potentially dangerous for tribal autonomy and sovereignty. The trust relationship between the

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<sup>8</sup> Ibid., 6. Emphasis added.

federal government and Native tribes should be considered an arrangement between two governments, not as a relationship between the state and one group of citizens. Stereotypes and misperceptions of wardship were at the root of racial discrimination against Indians. But wardship itself was not racial discrimination. This idea was particularly difficult to grasp, especially for politicians and policymakers who analogized Indians' experiences of racial prejudice with African Americans' experiences of civil rights violations.

For example, when D'Arcy McNickle testified on behalf of the National Congress of American Indians (NCAI) in front of Truman's Committee on Civil Rights in 1954, he was asked, "Does the Indian encounter difficulty in the East generally, in securing hotel accommodations and securing the same eating facilities in Washington?" McNickle replied, "Not as bad as the Negroes must face, but when the Indian Service Headquarters was in Washington—it had been in Chicago during the war—an Indian-appearing person often found it very difficult to get an apartment." When asked if these instances reflected Indians being mistaken for blacks, he explained further, "I would assume that's a prejudice against color."<sup>9</sup> Though McNickle argued that Indians *did* face "color prejudice," he also attempted to separate out for the committee the impacts of wardship and the impacts of racial discrimination. He stated, "I don't mean to indicate that Indians are not segregated, as I said a while ago, because of skin color. That occurs, but the greatest difficulty that

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<sup>9</sup> Statement of D'Arcy McNickle 1954, p.9, Correspondence with Institutions, Organizations, Etc. – National Congress of American Indians, Box 12, RG 220, HSTL.

Indians face is that they are segregated because their situation is misunderstood.”<sup>10</sup> By highlighting Indians’ experiences of segregation McNickle provided a familiar way for the Committee to understand discrimination against Native people. However, he also called attention to how Native people were subject to misunderstandings of wardship *in addition to* racial discrimination. He stated further, “Indians occupy a situation which is not understood, and because of that lack of understanding they suffer certain disabilities.”<sup>11</sup> In response, one member of the Committee replaced the “and” in McNickle’s explanation with “or,” arguing that Indians experiences reflected “a lack of understanding, *not* a matter of prejudice.”<sup>12</sup> The Committee tried to separate their discussions of wardship from the topic of civil rights violations and treat instances of racial discrimination against Indians based on skin color purely on an individual case-by-case basis. However, in so doing, they misinterpreted McNickle’s explanation, and reified a false distinction between prejudice and misunderstanding. In reality, racial prejudice against Indians was rooted in the misunderstanding of their relationship with the government.

Wardship was also tied to racial discrimination in another way. Some non-Native people viewed Indians as a group “oppressed” by the federal government based on their racial identity. This view was based upon an understanding of the BIA as a federal institution which, despite their numerous policies designed to “protect” Native people, perpetually kept Indians in a state of dependence which restricted their access

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<sup>10</sup> Ibid., 6.

<sup>11</sup> Ibid., 8. Emphasis added.

<sup>12</sup> Ibid., 8.

to the rights and duties of citizenship. For example, in their 1947 report, Steward and Sady argued that one of the reasons that Indians had not yet made the “transition from wardship” was because, “The administration sometimes fails to distinguish the line between protection and oppression.”<sup>13</sup> From a civil rights standpoint, “emancipating” Indians from wardship would allow them to become full citizens. In the 1948 pamphlet, “Answers to Your Questions on American Indians,” the Haskell Institute and the BIA attempted to convince Americans that as citizens, Indians were *not* under the thumb of the government. In response to the question, “What is meant by ‘Set the Indian free?’” the pamphlet stated, “This statement implies that the Indian is in some ways restricted in his person, or is not a citizen. Neither of these things is true.” However, in the same paragraph, the authors describe the restriction of sale of Indian trust property, arguing, “This policy is designed to *protect* Indian property from exploitation by the unscrupulous.”<sup>14</sup> Thus, according to this pamphlet, wardship did not impede Indian citizenship, but did imply that the government was responsible for protecting Indians from those that would usurp their control of tribal land.

In 1946, Commissioner of Indian Affairs William Brophy responded to terminationists’ calls to “emancipate Indians from wardship,” by asserting that Indians did not need to be “set free.” Brophy explained, “The trusteeship which the Government exercises over Indian property is an obligation which the Government

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<sup>13</sup> Memo: “Civil Rights of American Indians,” Prepared by Milton Steward and Rachel Sady, 1947, p.8, Staff Memoranda, Witnesses, Statements to the Committee, and Other Committee Documents, Box 16, RG 220, HST.

<sup>14</sup> United States Indian Service, “Answers to Your Questions on American Indians,” Indians – Pamphlets and Reports (1 of 3), Box 43, PNWH Files, HSTL. Emphasis added.



accepted from the Indians in order to protect their lands from further alienation.”<sup>15</sup>

Brophy also asserted that wardship applied “to the property rather than to the person of an Indian,” and thus reasoned that the federal government’s “protection” of Indians applied only to land.<sup>16</sup> To Brophy and many others in the BIA, Indians’ citizenship, and “freedom” was not impeded by wardship. Furthermore, Brophy emphasized that the government had “accepted *from* the Indians” the obligation of protecting their property. Brophy conceptualized “protection” as something Native people had desired, a request that the government was obliged to fulfill. Other important players in Indian affairs shared this ideology. For example, in 1951, former Commissioner of Indian Affairs John Collier wrote an article responding to a *Washington Post* story about Sac and Fox Olympic athlete Jim Thorpe which claimed that as an Indian ward, Thorpe was not an American citizen. Collier distinguished between the “personal status” of citizenship and the legal category of wardship. Wardship, he argued, was “really a misnomer,” and “refers to the fact that the United States has treaty obligations to render certain services to Indians with respect to the administration of Indians’ trust and restricted property.”<sup>17</sup> Thus, although popular rhetoric pitched wardship as a racialized status that prevented Indian access to full American citizenship, both Brophy and Collier interpreted mid-century wardship purely as the fulfillment of the government’s obligations to protect Indian land.

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<sup>15</sup> William Brophy, “Story of the Indian Service,” 1946, p.4, Correspondence with Institutions, Organizations, Etc. – National Congress of American Indians, Box 12, RG 220, HSTL.

<sup>16</sup> *Ibid.*, p.2.

<sup>17</sup> John Collier, “Indians as American Citizens,” *Washington Post* 1951, Indian File 1946-1952 Correspondence, Box 24, Philleo Nash Files, Harry S. Truman Staff Member Office Files (PNSF), HSTL.

To Brophy, Collier, and others in the BIA, separating a Native “person” from their “property” seemingly resolved the tension between protection and oppression and between wardship and racial discrimination. However, in the minds of politicians, state agents, and the public, this was nearly impossible. Land ownership was the source of nearly all historical problems between the United States and members of Native nations. Societal racialization of Native people was based on assumptions about Indian property. Was it truly possible to separate “citizenship” status from “wardship” status using land as the point of division? As the next section demonstrates, reservations were a fundamental method of Indian racialization because they called into question the receipt of “special” federal benefits for Indians in an age of multicultural equality. The next section will unpack how reservations shaped definitions of wardship, and the role of reservations in defining Native peoples’ membership within the US polity.

### **“An anomaly of segregation and dependency”: Indian Wardship and Reservation Land**

From the mid-nineteenth century forward, one of the most common physical, visual, and epistemological tropes of “Indianness” was reservation residence. In the nineteenth and early- twentieth centuries, reservations acted as bounded spaces within which state agents could track and identify each Indian for the purposes of

“education,” administrative matters, and legal control.<sup>18</sup> After the 1887 Dawes Act, Indian policymakers attempted to allot reservations for use by individual nuclear family units. However, in their simultaneous efforts to dissolve reservations and “protect” Indian land from sale to unscrupulous whites, state agents increased their systems of control and management of individual Indians, instituting systems to judge when an Indian was “ready” to take control of allotted land and assume the rights and responsibilities of American citizenship.<sup>19</sup> Thus, nineteenth-century reservations acted simultaneously as tools for state agents to “oppress” and “protect” Indians, seemingly created as much to keep Indians *in* as they were to keep others *out*. As the twentieth century progressed, reservations continued to symbolize to non-Natives how different Indians were from other citizens, whether that difference demanded increased control over their “lack of civilization,” or protection from the outside world. Ultimately, as Barbara Welke argues, reservations served to relegate Indians outside of the “borders of belonging” in the American polity.<sup>20</sup>

Additionally, reservations represented a demarcation of federal jurisdiction that could not be penetrated by individual state governments, preventing Indians from fully assuming the responsibilities of the individual state citizenry. For example, during a protracted legal battle between Indian tribes in Arizona and the state’s Board of Public Welfare over whether Indians were eligible for state welfare funds under the Social

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<sup>18</sup> Barbara Young Welke, *Law and the Borders of Belonging in the Long Nineteenth Century United States* (Cambridge: Cambridge University Press, 2010), 70-71; Philip Deloria, *Indians in Unexpected Places* (Lawrence: University Press of Kansas, 2004), 26.

<sup>19</sup> Welke, *Borders of Belonging*, 75.

<sup>20</sup> *Ibid.*, 86.

Security Act, Arizona newspapers equated wardship with the reservation system. In 1953, the *Phoenix Gazette* argued, “The Indian problem is essentially a federal one. It can’t be solved at the state level until the reservation system is abandoned.”<sup>21</sup>

Similarly, the *Arizona Republic* published an article that same year which contended, “This state’s belief is that the privileges of citizenship must await the responsibilities. As long as federal wardship stands in the way of state tax revenue and jurisdiction with respect to the reservation, state payments of benefits should at the most be only nominal.”<sup>22</sup> Thus, to many Arizonans, reservations represented a dividing line between federal wardship and state citizenship which needed to be dissolved for Indians to assume the benefits of full citizenship, such as receipt of welfare benefits.

To state and local governments, the reservation system symbolized Indian separation from the rest of the state and demonstrated that Indians were out of the reach of state law enforcement and tax collection. As the 1961 United States Commission on Civil Rights report, *Justice*, established, “Some States resent the fact that while on a reservation, Indians are beyond the reach of State law; this resentment is occasionally expressed in attempts at ‘retaliation.’”<sup>23</sup> Certain states reasoned that because Indians were removed from the responsibilities of state citizenship in ways other citizens were not (through legal jurisdiction and exemption from property taxes) a state did not have the obligation to “provide the same measure of care to Indians that

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<sup>21</sup> “A Federal Problem,” *Phoenix Gazette*, February 25, 1953, Folder 21: *Arizona v. Hobby, Oveta Culp* (Hualapai and San Carlos) 1952-1954, Box 328, AAIA Papers, MML.

<sup>22</sup> “A System Long Outgrown,” *Arizona Republic*, March 3, 1953, Folder 21: *Arizona v. Hobby, Oveta Culp* (Hualapai and San Carlos) 1952-1954, Box 328, AAIA Papers, MML.

<sup>23</sup> United States Commission on Civil Rights, *Justice*, 1961, p.156, Publications – Civil Rights (Folder 2), Box 111, WBSB, HSTL.

it does to its other citizens.”<sup>24</sup> Arizona even made a concentrated effort to remove certain rights associated with citizenship from Indians living on reservations. In response to a 1959 case where the Supreme Court ruled that the state had no jurisdiction over a transaction which had occurred on the Navajo reservation, “the State sought to remove all polling places from the reservation.”<sup>25</sup> In New Mexico, state agents argued that since the Navajo Nation was held to be a “separate tribal nation and not subject to criminal laws or other laws of our State,” “votes cast by Indians within the reservation are invalid because cast outside the State.”<sup>26</sup> Thus, to particular states, Indians on reservations were the responsibility of the federal government, and as a result, restricted from the rights of state citizenship.

Although individual states like Arizona and New Mexico rationalized that Indians’ legal status as wards justified restricting Native peoples’ citizenship within the states, state officials also judged Indians on reservations based on race. Reservation residence symbolized Indians’ “uncivilized” nature and their supposed unassimilability. Dating back to the mid-nineteenth century, many Native people periodically left and returned and returned to reservations, taking advantage of familial, economic, political, and cultural “opportunities for Indian mobility.”<sup>27</sup> As Philip Deloria argues, this led to a new non-Native fear of “outbreak.” “Outbreak was more rebellion than war,” Deloria writes, “and more intimately concerned with the

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<sup>24</sup> Ibid., 149.

<sup>25</sup> Ibid., 156.

<sup>26</sup> New Mexico: 1961 Report to the Commission on Civil Rights from the State Advisory Committee, p.418, Publications – Civil Rights (Folder 4), Box 112, WBSB, HSTL.

<sup>27</sup> Deloria, *Indians in Unexpected Places*, 27.

extent to which Indians had or had not been assimilated or forcibly incorporated into American civil society.”<sup>28</sup> If Indians left reservations, and joined non-Native society, did they cease to be Indian? As was demonstrated through court cases like *Elk v. Wilkins*, no. Even into the twentieth century, Bethany Berger writes that, “Despite the advocacy of assimilation, Indians leaving reservations to join the broader community often found themselves shut out of public and social institutions.”<sup>29</sup> Thus, because reservations were places where large groups of racialized Indians lived, reservations themselves became symbols of racialized Indian wardship. For example, in 1961, the authors of the Commission on Civil Rights report, *Justice*, separated the Indian “racial minority” into three groups: reservation, nonreservation, and off reservation.<sup>30</sup> They noted that discrimination affected all these groups, by their racialized identity as Indians. Reservations acted as racialized spaces which divided Indians into “degrees” of wardship. The racialized implications of former reservation residence followed any Indian who left, marking him or her with the status of wardship, even if he or she was removed from tribal property.<sup>31</sup>

In the mid-twentieth century, state agents frequently referred to reservations as barriers to Indians’ assumption of full citizenship. In these conversations and conflicts, reservations acted as a symbol of either federal wardship and dependence, or dangerous incubators of Indian nationalism and tribal sovereignty. Both dependence

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<sup>28</sup> Deloria, *Indians in Unexpected Places*, 27-28.

<sup>29</sup> Bethany R. Berger, “Red: Racism and the American Indian,” *UCLA Law Review* 56 (2009), 635.

<sup>30</sup> United States Commission on Civil Rights, *Justice*, 1961, p.117, Publications – Civil Rights (Folder 2), Box 111, Files of Indian Health, WBSB, HSTL.

<sup>31</sup> Berger, “Red,” 635.

on the federal government and assertions of Native nationalism contradicted idealized notions of multicultural, democratic postwar American citizenship. Native peoples' American citizenship was seemingly limited by their "dual citizenship" in the United States and their respective tribal nations. For example, Thomas Shiya, an Indian Affairs consultant in Arizona, delivered a speech to the Phoenix Area Land Operations Conference of the BIA in 1955, where he described reservations' limitations on Indians. Shiya argued, "In isolating the Indian on reservations and in protecting his land on a tribal basis, we denied him the opportunity to find his rightful place in our competitive society."<sup>32</sup> Shiya's main critique was of the "artificial barriers between Indian tribes and the world surrounding them," which contributed to a "great contradiction of dual citizenship."<sup>33</sup> Indians needed to choose: "either a mutual working toward full fledged citizenship with his fellow American or else full fledged tribal citizenship on his reservation 'island.'"<sup>34</sup> For Shiya, reservations represented both physical and ideological isolation from American citizenship.

However, despite Shiya's depiction of reservations as "islands," reservations were not independent, fully functioning, national entities with built-in infrastructures. The federal government was still quite enmeshed in reservation life. Furthermore, although states were restricted from reservations in some areas, government officials understood that "Indians who remain wards of the Federal Government are not in a

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<sup>32</sup> Thomas S. Shiya, "What Indian Tribes Can Do To Assume Their Responsibilities," Phoenix Area Land Operations Conference, 1955, Publicity Ethnology, Box 6, Phoenix Area Office Central Classified Files, Records of the Bureau of Indian Affairs, Record Group 75 (RG 75), National Archives and Records Administration – Pacific Region (Riverside) (NARA – Pacific Region (R)).

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

water-tight compartment into which State laws and functions do not penetrate.”<sup>35</sup>

Lawyers arguing on behalf of Arizona Indians who wanted access to Social Security benefits claimed that “no Indian reservation in Arizona is self-sufficient and no resident of any such reservation can avoid travelling beyond its borders, nor can he escape ordinary State cigarette, gasoline, sales or use taxes.”<sup>36</sup> Thus, to demand Indians separate their tribal membership, federal wardship, and state citizenship was unnecessarily complicated. Although Native nations understood themselves to be sovereign, it was impossible to dissolve all connections with surrounding state governments and live independently on reservations.

In legal and policy terms, wardship was linked to reservation land. In 1946, William Brophy conceptualized wardship as a status purely relating to *tribal property*, not individual Indian personhood.<sup>37</sup> Referencing Chief Justice John Marshall’s 1831 Supreme Court decision, *Cherokee Nation v. Georgia*, Brophy argued, “Note, however that it was the various tribes and *not* the individual Indians which occupied a position similar to that of a ward.”<sup>38</sup> He stated further that an Indian “is free to live and work wherever he may choose, subject only to the restrictions that apply to all of us.”<sup>39</sup> However, common political and media portrayals of reservations as “prisons” which

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<sup>35</sup> Department of the Interior, Office of the Solicitor, “The Applicability of the Social Security Act to the Indians,” 1936, p.4-5, Social Security Legislation Correspondence, Box 168, Colorado River Agency, Central Classified Files, RG 75, NARA – Pacific Region (R).

<sup>36</sup> Felix Cohen, Amicus Brief of Association on American Indian Affairs, Hualapai Tribe of Arizona, and San Carlos Apache Tribe of Arizona, *State of Arizona v. Oscar R. Ewing*, Civil Action No. 2008-52, 11 (United States District Court for District of Columbia 1952), Folder 20: *Arizona v. Ewing, Oscar R. (Federal Social Security)* 1952, Box 328, AAIA Papers, MML.

<sup>37</sup> William Brophy, “Story of the Indian Service,” 1946, p.1, Correspondence with Institutions, Organizations, Etc. – National Congress of American Indians, Box 12, RG 220, HSTL.

<sup>38</sup> *Ibid.*, 1.

<sup>39</sup> *Ibid.*, 2.



held Indians back from full integration and assimilation into the American polity obscured complicated histories of individual tribal treaties and removal. In the pamphlet, “Answers to Your Questions on American Indians,” one of the key questions listed was “Are Indians still *kept* on reservations?” The Haskell Institute and the BIA’s answer to this question stressed that “The Indians usually *own* the reservation lands, either individually or as tribal groups. They are free to leave or return to the reservations whenever they wish.”<sup>40</sup> In 1947, Senator Hugh Butler of Nebraska proposed a bill to “free” Indians from the Bureau of Indian Affairs, arguing that despite the 1924 Indian Citizenship Act, “thousands of Indians, particularly those living upon reservations, have never been emancipated.” He explained further, “They are restricted in property rights. They live under conditions of *racial segregation*. They are subject to limitation and exemption because they are Indians.”<sup>41</sup> Similarly, when the Commission on the Rights, Liberties, and Responsibilities of the American Indian performed research for their report in 1959, they found that “More than one American has asked whether an Indian can leave the reservation at will,” and that many members of Congress also believed that “Indians suffered far more restraints than they do.”<sup>42</sup> Likewise, in a 1950 letter to Commissioner of Indian Affairs Dillon

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<sup>40</sup> United States Indian Service, “Answers to Your Questions on American Indians,” Indians – Pamphlets and Reports (1 of 3), Box 43, PNWH Files, HSTL. Emphasis added.

<sup>41</sup> Statement by Senator Hugh Butler in Explanation of Bills Introduced to Remove All Restrictions on the Indian Tribes, 1947, Indian Bureau Liquidation, Box 15, Amos and Marie Hamilton to Indian Land Allotments, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB. Emphasis added.

<sup>42</sup> Commission on the Rights, Liberties, and Responsibilities of the American Indian, Chapter 1, p.29 and 28, Memo #110 – Memorandum to Accompany Chapter 1 of Commission Report 11-11-59, Box 72, Files of the Commission on the Rights, Liberties, and Responsibilities of the American Indian, WBSB, HSTL.

Myer, the American Missionary Association argued that the reservation system was an “anomaly of segregation and dependency.”<sup>43</sup> In the mid-century, when many residential areas, public services, and private businesses *were* segregated and restricted on the basis of race, it is not completely shocking that the public believed reservations to be systems of segregation. However, Indians’ experiences of “segregation” were viewed differently than segregation in the Jim Crow South. As the American Missionary Association argued, Indians were not only supposedly segregated, they were also seemingly kept *dependent* upon the government. Thus, in the minds of non-Native Americans, reservations meant that Indians were controlled by the federal government.

To the mid-twentieth century American public, reservations symbolized Indian racial difference and inability to integrate. Racial stereotypes of Indian “backwardness” and romanticized primitivity were tied to non-Native impressions of reservations as spaces of physical and symbolic limitations for Native people. If Indians could not “leave” the reservation, both literally and figuratively, they could not achieve full citizenship. Reservations were continually positioned as the opposite of the civilized space of the “white man’s world.” Moreover, both governmental and non-governmental agents argued that as a system, wardship kept Native people exclusively on reservations and prevented them from accessing full citizenship. For example, in 1943, the Senate Committee on Indian Affairs published a partial report of a survey of “conditions among the Indians of the United States.” The committee

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<sup>43</sup> Weaver to Myer, 1950, Personal Correspondence 1950 (1 of 2), Box 4, Personal Correspondence File, Papers of Dillon S. Myer (DM Papers), HSTL.

argued that keeping Indian land in trust limited their freedom, asserting that “There is no more justice in tying an Indian to a piece of land than there would be in selecting a group of whites or other racial group for such forced tenantry and handicap in freedom of movement.”<sup>44</sup> The understanding that Indians were “tied” to reservation land unjustly was also expressed by those outside of Congress. In 1946, the American Indian Defense Association (AIDA) submitted a report on “the plight of the Navajo Indians” which was included in the record of Senate Committee on Indian Affairs hearings on S. J. Res. 79, a bill establishing a commission to study tribal claims against the United States and the administration of Indian Affairs. AIDA stressed that “50,000 human beings born and reared on this continent from time immemorial” were “still segregated, still within the so-called reservations.” AIDA claimed, “No classes of other citizens are thus as segregated as are the American Indians,” adding, “This is certainly not America.”<sup>45</sup> Not only did “reservation life destroy independence,” but, as AIDA claimed, “reservation Indians are made dependents and kept so.”<sup>46</sup> Thus, Native people were viewed as a racial group forcibly set apart from the rest of the American citizenry, and as a result, kept dependent upon the government.

However, to some critics of wardship in the West, because of their link to the federal government, reservations purportedly absolved Indians from performing the

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<sup>44</sup> Senate Committee on Indian Affairs, *Survey of Conditions Among the Indians of the United States*, S. Rep. No. 78-310, pt. 1 (1948), at 5.

<sup>45</sup> *A Bill Establishing a Joint Congressional Committee to Make a Study of Claims of Indian Tribes Against the United States, and to Investigate the Administration of Indian Affairs: Hearings on S.J. Res. 79, Before the Committee on Indian Affairs United States Senate, 79<sup>th</sup> Cong. 24-25 (1946)* (Statement of AIDA).

<sup>46</sup> *Ibid.*

duties of full citizenship, and gave them a *privileged* status as compared to non-Indian citizens. For example, in 1953, the Hualapai and San Carlos Apache Tribes of Arizona filed a lawsuit against Arizona over the state's refusal to extend benefits to disabled Indian citizens under the Social Security Act. Kent Blake, counsel for the State of Arizona, argued that Indians on reservations were not eligible for benefits because they were wards. Specifically, he claimed that "reservation Indians" in Arizona had enjoyed a "peculiar and privileged status...over the past many years." He contended, "Reservation Indians...are maintained on lands that are held in trust for them by the Federal Government. Their hospitals, their schools, and their police protection are all provided for them by the Federal Government."<sup>47</sup> Significantly, Blake's choices of "maintained" and "provided" depicted the ward/guardian relationship as special treatment, as opposed to framing federal "protection" as something granted in exchange for Indian land. Blake continued, "as to such Indians as are living *off the reservation*, as to such Indians as are living in the communities, that are paying taxes, that have become *emancipated* and form part of the regular communities in the State of Arizona, if those Indians are permanently and totally disabled, we are not attempting to exclude those Indians."<sup>48</sup> However, the "treatment that has been given the reservation Indians in the past by the Federal Government" meant that disabled Native people living on reservation land would be excluded from welfare benefits in the state of Arizona.<sup>49</sup> There is a sense in Blake's argument that by virtue of their

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<sup>47</sup> Court Proceedings, *Arizona v. Hobby*, Civil Action No. 2008-52, February 20, 1953, 12, Folder 21 - *Arizona v. Hobby, Oveta Culp* (Hualapai and San Carlos) 1952-1954, Box 328, AAIA Papers, MML.

<sup>48</sup> *Ibid.*, Emphasis added.

<sup>49</sup> *Ibid.*

relationship with the federal government, Indians had benefited in ways that other non-Native citizens of Arizona had not—such as Indians’ trust land being exempt from state property taxes. In this sense, reservations were a representation of how Indians received “special treatment” from the federal government as a racial group.

To local county and state officials, reservation land was often understood to be a privilege. This impression could prevent needy Indians from accessing welfare benefits. For example, in her attempt to determine whether Mae Harris, a resident of the Pima Indian Agency, was eligible for public welfare, Esther Koontz of the Yavapai County Board of Public Welfare in Prescott, Arizona wrote to Pima Superintendent A. E. Robinson, “You advised us that our client has ten acres of irrigable land valued at \$1000 and held in trust by the Federal Government. We are interested in knowing if Mrs. Harris may sell this land if she wishes to do so.”<sup>50</sup> Koontz was most likely attempting to determine Harris’ total wealth, and was unable to determine whether trust land should be included. Robinson responded, “The land of Mae M. Harris is not transferrable.” Furthermore, he continued, “This land was evaluated arbitrarily. As there is no way to sell the land for the \$100 per acre valuation was made by comparison to off-reservation land.”<sup>51</sup> Reservation land represented a conundrum for welfare officials like Koontz. Did Harris “own” those 10 acres if she technically was unable to sell them? Were they worth as much as off-reservation land, and did it even matter, considering that Harris could not transfer the land to a non-Indian person?

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<sup>50</sup> Koontz to Robinson, 1951, Welfare – 1949-1951 Correspondence of James A. Helm, Box 149, Pima Indian Agency Records Relating to Welfare, RG 75, NARA – Pacific Region (R).

<sup>51</sup> Robinson to Koontz, 1951, Welfare – 1949-1951 Correspondence of James A. Helm, Box 149, Pima Indian Agency Records Relating to Welfare, RG 75, NARA – Pacific Region (R).

Furthermore, even though she had ten acres of trust land, Harris was clearly in need of financial assistance from the state. By casting Harris' land as an asset that might be sold, Koontz recast her situation as less dire because of her racial identity. Harris was sitting on a potential \$1000, but, of course, that valuable land was only available to her because she was an Indian. Even though Harris was poor enough to apply for public assistance, to Koontz and others at the Yavapai County Board of Public Welfare, Harris' land must have represented a privilege that disrupted the narrative of racialized poverty and welfare dependency.

However, the idea that reservations were the only thing standing in the way of Indians' abilities to assume full citizenship benefits was overly simplistic. Racially motivated discrimination and prejudice persisted alongside proposals to "terminate" federal wardship, which called for the states to integrate Indian people into the infrastructure of local communities. In *Justice*, the United States Commission on Civil Rights noted that, "Often when the Federal Government has terminated its supervision of an Indian tribe and ceded jurisdiction to a State, the State has been slow to assume its responsibilities."<sup>52</sup> For example, "the city commission of Chamberlain, a small community in South Dakota 60 miles from a reservation, passed a resolution in 1954 stating that its citizens were 'opposed to having the city being made an Indian town and are opposed to having Indians in our schools or living in unsanitary conditions about the city.'"<sup>53</sup> Thus, while the reservation provided a visible marker of delineation

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<sup>52</sup> United States Commission on Civil Rights, *Justice*, 1961, p.128, Publications – Civil Rights (Folder 2), Box 111, Files of Indian Health, WBSB, HSTL.

<sup>53</sup> United States Commission on Civil Rights, *Justice*, 1961, p.136, Publications – Civil Rights (Folder 2), Box 111, Files of Indian Health, WBSB, HSTL.

between Indian peoples' needs and state government resources, even when dissolved, state and local governments and communities retained their desire to separate themselves from Indians. Though it was epitomized and symbolized by reservation residence, wardship persisted as a racial ideology outside of reservation boundaries.

### **Wardship as a “Heritage of Guilt”**

In 1928, the experts of the Meriam Commission published *The Problem of Indian Administration*, better known as the “Meriam Report.” This study of Indian life and welfare publicized widespread poverty on Indian reservations and claimed that governmental policies of allotment and rationing had failed to turn Indians into self-sufficient members of the American polity.<sup>54</sup> John Collier drew upon public knowledge of the Meriam Report’s findings in a 1939 speech, asserting the Commission exposed a level of Native poverty which “brought to the American public a profound sense of shock.” To Collier, American democratic efforts to correct the economic disparity and health problems associated with poverty on Indian reservations were “a matter of national honor and national humanity.”<sup>55</sup> Collier’s speech represented a commonly held perception about Indians in the mid-twentieth century: the US government had failed Native people, and something needed to be done to help them. Helping Indians would assuage non-Native guilt over the control

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<sup>54</sup> Elmer R. Rusco, *A Fateful Time: The Background and Legislative History of the Indian Reorganization Act* (Reno; Las Vegas: University of Nevada Press, 2000), 75.

<sup>55</sup> John Collier, “America's Handling of Its Indigenous Indian Minority,” 1939, Series IV: Addresses and Writings, Part II: 1933-1945, John Collier Papers (University Microfilms International, Reel 32), Arizona State University Law Library.

and violence the federal government used to enforce Indian policies. References to national guilt and conscience are speckled throughout state documents in the mid-twentieth century. For example, in his ruling in the 1953 case, *Arizona v. Hobby*, US District Judge Henry Schweinhaut argued that the state of Arizona should extend payment of benefits to disabled Indians under the Social Security Act, because it was a matter of “conscience.” Schweinhaut stated, “Sure, my conscience hurts; that is why I am doing certain things for them. But yours ought to hurt, too. So we either are in this together for them as well as the other people, or we are not in it at all.”<sup>56</sup> Judge Schweinhaut simultaneously equated Indians with other needy citizens and extended benefits to Indians in order to soften his conscience, one that all Americans “ought” to have. Guilt and conscience played a part in defining Indians’ relationship, not only with state and federal governments, but with the American public.

Was the “national humanity” and hurt “conscience” which Collier and Schweinhaut referenced motivated by a genuine recognition of US colonialism? Scholarship in critical race theory on the United States’ postwar construction of its image as a multicultural, multi-racial democracy points to more nuanced motives for associating Indians with issues of guilt and conscience. For example, Takashi Fujitani has argued that during World War II, leaders in the United States switched from more overt displays of racism to a “polite racism.” The United States “needed to act as if it did not countenance racism,” because, as Fujitani writes in the context of Japanese

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<sup>56</sup> “Indians Are Americans, Too,” *New York Herald-Tribune*, March 14, 1953, Folder 21 - *Arizona v. Hobby, Oveta Culp* (Hualapai and San Carlos) 1952-1954, Box 328, AAIA Papers, MML.



internment, “the whole world was watching.”<sup>57</sup> Mary Dudziak has made similar claims about government officials’ worry that the 1950s Southern civil rights struggle would affect United States’ international prestige. She argues that in the postwar period, “civil rights reform came to be seen as crucial to U.S. foreign relations.”<sup>58</sup> References to guilt and conscience and Indians should be considered alongside these other developments in United States race relations. Calls to extend benefits to Indians and/or recognize poverty on Indian reservations represented a desire to “solve” the “Indian problem,” so that the United States’ image could align more effectively with its celebratory rhetoric.

For example, when he signed the bill creating the 1946 Indian Claims Commission (ICC), President Truman stated that through the ICC, the United States was “ready...to correct any mistakes we have made.”<sup>59</sup> The ICC was depicted as the “legal conscience” of the nation, an opportunity to settle outstanding land claims Indian nations had with the United States.<sup>60</sup> Scholars of Indian law and policy have noted that for all the celebratory rhetoric surrounding the ICC, it was challenged by Indians and others for “creating additional obstacles for full legal vindication of tribal land rights.”<sup>61</sup> President Truman hoped that settling Indian claims through the ICC

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<sup>57</sup> Takashi Fujitani, *Race for Empire: Koreans as Japanese and Japanese as Americans During World War II* (Berkeley: University of California Press, 2011), 116.

<sup>58</sup> Mary L. Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy* (Princeton; Oxford: Princeton University Press, 2000), 6.

<sup>59</sup> Quoted in Petra T. Shattuck and Jill Norgren, *Partial Justice: Federal Indian Law in a Liberal Constitutional System* (New York; Oxford: Berg Publishers, Inc., 1991), 141.

<sup>60</sup> Shattuck and Norgren, *Partial Justice*, 141.

<sup>61</sup> *Ibid.*, 142. See also Daniel M. Cobb, *Native Activism in Cold War America: The Struggle for Sovereignty* (Lawrence, KS: University Press of Kansas, 2008), 12. For more on the ICC, see Harvey Rosenthal, *Their Day in Court: A History of the Indian Claims Commission* (New York: Garland Publishing, 1990).

would “encourage Indians to find community in the nation instead of the tribe.”<sup>62</sup>

Thus, the ICC functioned as a tool of termination. After the United States resolved outstanding disputes and, in many cases, literally “paid back” tribes for the loss of their land,<sup>63</sup> Indians could supposedly incorporate themselves into the American polity and essentially “move on” from their tribe. Politicians and policymakers conceived of the ICC as another path for Indians to move from wardship to individual racialized citizenship.

While the ICC purported to right the wrongs of the past at the federal level, those feelings and expressions of “conscience” did not necessarily trickle downward into local and state governments, especially those who were charged with taking on the responsibility of caring for Indian tribes whose relationships with the BIA had been terminated. For example, during the 1954 hearings in Reno, Nevada conducted by the Subcommittees of the Committees on Interior and Insular Affairs over the proposal to terminate Nevada Indians, Congressman John Rhodes (R-Arizona) asked Mayor DeKinder of Lovelock, Nevada, “You said they aren’t ready [for termination]. When do they become ready? How do we make them ready?” DeKinder responded, “That is naturally up to them, whenever they get ready.” When Congressman Rhodes pressed him further, asking, “You don’t feel the city of Lovelock has any responsibility to get them ready?” DeKinder simply said, “Not at this time.”<sup>64</sup> Thus, to

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<sup>62</sup> Kenneth R. Philp, *Termination Revisited: American Indians on the Trail to Self-Determination, 1933-1953* (Lincoln; London: University of Nebraska Press, 1999), 29.

<sup>63</sup> However, Shattuck and Norgren note that the cost of pursuing a claim could be extremely expensive, which undermined the amount a tribe received if they won. See *Partial Justice*, 147.

<sup>64</sup> *Termination of Federal Supervision Over Certain Tribes of Indians: Joint Hearing on H.R. 7552, Part 10, Before the Subcommittees of the Committees on Interior and Insular Affairs*, 83<sup>rd</sup> Cong. 1240

state and local governments who saw Indian “wards” as added burdens on their resources and infrastructure, the rhetoric of conscience and responsibility for Indians did not necessarily outweigh racialized resistance to integrating Indians into local communities.

Indeed, some argued that guilt impeded Indians’ ability to incorporate themselves into the polity as full, self-sufficient citizens and kept Indian wards in continual “dependency” upon the federal government. In his 1944 article for the Association on American Indian Affairs (AAIA) publication, *The American Indian*, “The American Indian as a Minority Group Problem,” Scudder Mekeel wrote, “Regardless of class or region, our collective guilt as a Nation because of our past treatment of the Indian has seriously prevented an objective attitude toward him. Such guilt reinforces a sentimental viewpoint and helps maintain a sizeable budget for the Office of Indian Affairs in Congress, but it does not lead to a solution of the fundamental problems involved.”<sup>65</sup> According to Mekeel, because of collective guilt, the federal government continued to spend a considerable amount of money on Indians, but failed to solve real problems. To some conservative politicians, Indian wardship exemplified the worst use of the expenditure of federal funds, because it perpetuated a state of dependence and discourage Indian “responsibility.” For example, in 1950, Senator Hugh Butler of Nebraska inserted into the Congressional Record the full text of a speech given by Dean Russell at a Montana “convention on

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(1954) (Testimony of Eleanor Myers, Representative of Lovelock Indian Colony), Nevada Indians, Box 90, General File – Indians, WBSB, HSTL.

<sup>65</sup> Scudder Mekeel, “The American Indian as a Minority Group Problem,” *The American Indian* vol 2, no. 1, Fall 1944, Indians – Pamphlets and Reports (2 of 3), Box 43, PNWH Files, HSTL.

individual liberty.” After comparing the “bondage of a welfare state” with the bondage of slavery, Russell asserted while individual responsibility had been granted to freed slaves, it had never been extended to Indians. He claimed, “Now compare the remarkable progress of those former slaves to the lack of progress of the American Indians who were made wards of the Government; who were given State-guaranteed ‘security’ instead of freedom with responsibility.”<sup>66</sup> In Russell’s view, the government’s extension of benefits had created a total state of dependence for Indian wards. “It has been claimed that many thousands of Indians will actually die of starvation unless the Government feeds them,” he claimed. “If this is true, why is it so?”<sup>67</sup>

Russell’s logic extended past that Montana convention to state governments. In 1961, the United States Commission on Civil Rights reported in *Justice* that certain states refused to extend general assistance programs to Indians because they contended that, since Indians are “Federal ‘wards,’” “the plight of the Indian is largely of the Federal Government’s own making.”<sup>68</sup> Conservative politicians and policymakers saw unchecked dependency on the federal government as dangerous, not only for Indians, but for the whole nation. Some policymakers and state officials saw Indians as victims of an all-powerful federal welfare state, an example of what could happen if the

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<sup>66</sup> Extension of Remarks of Hon. Hugh Butler of Nebraska, “Wards of the Government” Address by Dean Russell, S. Rep. No. 81 (1950), Indian Bureau Liquidation, Box 15, Amos and Marie Hamilton to Indian Land Allotments, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>67</sup> Ibid.

<sup>68</sup> United States Commission on Civil Rights, *Justice*, 1961, p.149, Publications – Civil Rights (Folder 2), Box 111, Files of Indian Health, WBSB, HSTL.

welfare state continued to expand.<sup>69</sup> Russell expressed this viewpoint in his 1950 speech, stating bluntly: “If we free Americans continue to turn to Government for our security, we, too, will surely become dependent wards instead of responsible citizens...Instead of calico and blankets, we may be promised a hundred dollars every month. But since the principle is the same in both cases, the results will also eventually be the same.”<sup>70</sup> Similarly, in a 1956 article, Oklahoma teacher Essie Skillern wrote, “Some say the present unfortunate plight of the Indian American is indicative of what will happen in the United States of tomorrow if present trends toward an all-powerful welfare government continue, and each citizen becomes a ‘ward of the government.’ This reason alone, critics claim, is enough to warrant termination of federal supervision and control of the red man.”<sup>71</sup> Wardship was equated with a large, unwieldy, expensive, and unproductive welfare state, directed by feelings of guilt rather than rooted in goals of economic self-sufficiency for Native men and women.

At the same time, Skillern alluded to the *legitimacy* of national guilt by urging the public to recognize the wrongs committed against Indians. Skillern wrote, “Once when an Indian was asked why his people are so willing to join the armed forces of

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<sup>69</sup> See Cobb, *Native Activism in Cold War America*, 12.

<sup>70</sup> Extension of Remarks of Hon. Hugh Butler of Nebraska, “Wards of the Government” Address by Dean Russell, S. Rep. No. 81 (1950), Indian Bureau Liquidation, Box 15, Amos and Marie Hamilton to Indian Land Allotments, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>71</sup> Essie Skillern, “A New Day for Indian Americans,” in “The Rights and Liberties of the American Indian: Background Information,” p.161, Background Information – The Rights and Liberties of American Indians (Folder 1), Box 78, Files of the Commission on the Rights, Liberties, and Responsibilities of the American Indian, WBSB, HSTL.

our country, he replied, ‘Why this country was ours before it was yours.’”<sup>72</sup> To Skillern, it was surprising that Indians were willing to enlist in the armed forces to defend a nation which had treated them poorly. Anthropologist L.S. Cressman also asserted that the United States government had done Indians harm. In his report of “background information” compiled for the 1956 Commission on the Rights and Liberties of the American Indian, Cressman asserted that the allotment system had “destroyed the economic integrity of the Indian Estate, and deprived the Indian of normal economic and human activity.”<sup>73</sup> However, Skillern’s and Cressman’s recognition of ill-treatment did not mean that either questioned American ownership of Indian land. Rather, guilt coexisted uneasily alongside a narrative of the United States’ “inheritance” of Indian land. Skillern wrote, “Do we ever stop to think that the very land of America was *contributed* to the white man by the Indian? Even the trails and paths which white men have converted into roads and great highways were first made by Indians.”<sup>74</sup> Skillern simultaneously downplayed the violence inherent in the United States’ history with Indian nations—Native people simply “contributed” their land to white settlers—and sanctioned a narrative of America’s predestined occupation of Indian land. However, in doing so, she tapped into a sense of collective national

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<sup>72</sup> Ibid., 167.

<sup>73</sup> L.S. Cressman, “The Rights and Liberties of the American Indian: Background Information,” p.60, Background Information – The Rights and Liberties of American Indians (Folder 1), Box 78, Files of the Commission on the Rights, Liberties, and Responsibilities of the American Indian, WBSB, HSTL.

<sup>74</sup> Essie Skillern, “A New Day for Indian Americans,” in “The Rights and Liberties of the American Indian: Background Information,” p.167, Background Information – The Rights and Liberties of American Indians (Folder 1), Box 78, Files of the Commission on the Rights, Liberties, and Responsibilities of the American Indian, WBSB, HSTL. Emphasis added.

guilt—the idea that because Indians had contributed their land to the United States, the American people owed them something in return.

Be that as it may, in the context of mid-century conversations about welfare dependency and responsibility, guilt was also viewed as a way of restricting individual Indians from breaking free of wardship. For example, Cressman emphasized that the BIA had instituted a “standing offer” to “work constructively with any tribe which wishes to assume either full control or a greater degree of control over its own affairs.”<sup>75</sup> Thus, the state of Indian poverty and dependency could not be blamed solely on the extensive role of the federal government in Native peoples’ lives. Skillern wrote, “many Americans have a kindly attitude toward Indians. They are prepared to help him on occasion by appropriations in Congress to avert starvation, by gifts to missions, and by approving bills to end federal wardship. As a matter of fact, the Indians are helped in almost every way except in a way designed to help them help themselves.”<sup>76</sup> Skillern claimed that because both Indians and the American people had become so accustomed to the federal government “helping” Native people, Native people themselves had failed to capitalize on opportunities presented by the government to encourage “responsibility” and “self-sufficiency.” Indeed, Skillern quoted Commissioner of Indian Affairs Glenn Emmons’ 1956 speech, where he stated

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<sup>75</sup> L.S. Cressman, “The Rights and Liberties of the American Indian: Background Information,” p.63, Background Information – The Rights and Liberties of American Indians (Folder 1), Box 78, Files of the Commission on the Rights, Liberties, and Responsibilities of the American Indian, WBSB, HSTL.

<sup>76</sup> Essie Skillern, “A New Day for Indian Americans,” in “The Rights and Liberties of the American Indian: Background Information,” p.170, Background Information – The Rights and Liberties of American Indians (Folder 1), Box 78, Files of the Commission on the Rights, Liberties, and Responsibilities of the American Indian, WBSB, HSTL.

that he “wanted to get the government out of the business of playing nursemaid to its present Indian wards.”<sup>77</sup> Utilizing the same rhetoric other conservative politicians used to describe racialized welfare recipients, advocates of termination like Emmons, Cressman, and Skillern claimed that guilt impeded the end of Indian wardship. Wardship was antithetical to postwar understandings of welfare as a temporary rehabilitation of poverty generated by individual problems.<sup>78</sup> Because wardship appeared to be a federal welfare program with no end in sight, it was viewed as particularly dangerous for Indians as well as for other Americans.

Indians straddled a difficult line between conceptualizations of “deserving” and “undeserving” poor. Both Cressman and Skillern grappled with an uncomfortable understanding in their articles—Indians *were* different. They had experienced extreme violence, loss of land, disease, and trauma at the hands of the United States. By framing their perpetual dependence as the result of federal incompetency, Cressman and Skillern acknowledged Indians’ unique experiences and at the same time undermined the legal complexities of wardship. In other instances, policymakers alluded to Indians’ weight on the conscience of ordinary Americans, but simultaneously downplayed that guilt. For example, in his 1954 speech at the annual meeting of the AAIA, Glenn Emmons contended that, “Most reservation families are grubbing along” below “acceptable American standards,” and “far too many are merely subsisting in rural slums under conditions which periodically shock the

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<sup>77</sup> Ibid., p.165.

<sup>78</sup> See Jennifer Mittelstadt, *From Welfare to Workfare: The Unintended Consequences of Liberal Reform, 1945-1965* (Chapel Hill; London: The University of North Carolina Press, 2005), 42.



conscience of the Nation.”<sup>79</sup> Emmons pointed to the recurring “shock” of Indian poverty to support his goals for Native assimilation. Similarly, in a 1958 policy paper on termination, S. Lyman Tyler revealingly asserted, “Always the desire of the United States has been that the Indian would become more like us, that is like the predominant culture, or, failing this, that he would at least become enough like us so that he could live among us without giving us a guilty conscience.”<sup>80</sup> Thus, Native assimilation into “acceptable American standards” of living would both solve Indian dependency and assuage pesky, persistent non-Native guilt.

Equating wardship with “welfare” introduced an additional host of racialized assumptions about welfare dependence and fears of an expansive welfare state into conversations about the historical relationship between the United States and Indian tribes. While serving as treasurer and consultant to the executive director of the NCAI, Ruth Muskrat Bronson illustrated the effects of mixing guilt and assumptions about race and dependency quite clearly in an essay entitled “Outreach.” It is worth quoting at length:

“The average American is noted for his sympathy for the underdog. He is also apt to have romantic sentiment for the American Indian. These two admirable qualities, combined with a vague sense of guilt for having ousted the original inhabitant of a naturally rich land because of his own need for a new world, a *heritage of guilt*, too, for the long and shameful history of broken treaties with those he dispossessed, conspire to foster impulsive action, based on a desire to make amends but

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<sup>79</sup> Emmons Address to Annual Meeting of AAIA, May 5, 1954, Folder 13 – Indian Affairs Speeches 1954, Box 2, Glenn Emmons Papers, Center for Southwest Research, University of New Mexico (CSR-UNM).

<sup>80</sup> S. Lyman Tyler, “A Work Paper on Termination: With an Attempt to Show Its Antecedents,” iii, Memo #55 – Agenda for 7<sup>th</sup> Meeting San Francisco Work Paper on Termination Its Antecedents 8-28-58, Box 69, William Brophy Commission on the Rights, Liberties, and Responsibilities of the Indian, HSTL.

founded on superficial or inaccurate knowledge rather than on thoughtful study or familiarity with fact and reality. This is serious, indeed, for the Indian since it jeopardizes his very existence and unquestionably would lead to his eventual—literal—extinction.”<sup>81</sup>

Terminationist policymakers understood the legal treaties and agreements Indians had with the federal government as federal “over-protection” of Indian citizens, motivated by a sense of guilt. That guilt, though real, was mistakenly understood to be a poor rationale for continuing an expansive welfare policy through wardship. Thus, although the American “heritage of guilt” implied at least some “lip service” paid to Indians’ experiences of historical violence, it equated neither to a formal acknowledgment of settler colonialism, nor to fulfillment of individual treaty stipulations. In fact, to terminationists, American guilt and conscience impeded Indian integration and stalled the release of federal trust restrictions on Indian land. As Bronson underscored, this could have a dire effect on Indian tribes.

### **“Governing only by consent”: Native Conceptualizations of Wardship and Sovereignty**

To non-Natives, Indians’ American citizenship was constrained by Indians’ unassimilability and/or need for protection. However, Indians did not understand their place in the US citizenry in binary terms, as *either* citizens *or* wards. As Philip Deloria argues, in the twentieth century, Indians spent much time “fighting off the colonizing

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<sup>81</sup> Ruth Bronson, “Outreach,” National Congress of American Indians Records (NCAI), Series 3 – Correspondence, Box 64, Correspondence Name Files – Bronson, Ruth (Treasurer of NCAI and Consultant to Executive Director); National Museum of the American Indian Archive Center, Smithsonian Institution (NMAI). Emphasis added.

ways the United States sought to include them, and demanding a *very particular kind of inclusion*, one based on unique political status.”<sup>82</sup> To articulate the political status they sought, Indians made use of the constructs of wardship and citizenship to inhabit what Kevin Bruyneel has termed the “third space of sovereignty.” Bruyneel argues that indigenous peoples have resisted the imposition of American colonialism by carving out a political space “existing on the boundaries,” “not inside or outside of the American political system.”<sup>83</sup> Thus, the utilization of the rhetoric of wardship and citizenship by Indians in the mid-twentieth century does not represent Native capitulation to non-Native formulations of Indian racial difference. On the contrary, in mid-century political conversations and debates over Indian policy, Native peoples’ use of “wardship” preceded articulations of tribal sovereignty and self-determination which became more common in the 1960s and 1970s.

At the 1961 American Indian Chicago Conference, Indian activists used the term “sovereignty” for the first time. Bruyneel argues that this conference marked the demand for a “very distinct form of equality,” which was neither explicitly a civil rights framework nor a 1960s-1970s third world decolonization framework.<sup>84</sup> As Bruyneel asserts, “indigenous tribes have expressed, argued for, and fought for their inherent sovereignty as independent cultural and political entities for centuries.”<sup>85</sup> The use of the concepts of wardship and citizenship exemplify those fights for sovereignty,

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<sup>82</sup> Deloria, *Indians in Unexpected Places*, 237. Emphasis added.

<sup>83</sup> Kevin Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of US-Indigenous Relations* (Minneapolis; London: University of Minnesota Press, 2007), xvii.

<sup>84</sup> *Ibid.*, 128.

<sup>85</sup> *Ibid.*, 127.

because they functioned as ways of reminding the federal government of its obligations towards Native nations. Dissolving the BIA and integrating Indians into the US polity solely as “citizens,” would mean the dissolution of tribal sovereignty. In other words, to articulate self-determination and control over their cultural, political, and economic affairs, Indians needed to retain the construction of “wardship” in some form. Thus, far from symbolizing continued “dependency,” for Indians, wardship was a tool to assert ownership over their political place within both the United States and their distinct tribal nations. Recognition of the political relationship between the federal government and Native tribes did not disqualify Indians’ individual citizenship. While termination advocates viewed wardship as an inadequate stepping stone to full American citizenship, to many Indians, wardship signaled something different: a distinct claim to land, acknowledgment of colonialism, and a promise that the government would continue to pay its debt to Indian people.

In their work representing Indian interests in legislation and policy, the NCAI argued that equating wardship with “special treatment” granted based on race was incorrect. In 1949, the NCAI asserted, “Whenever Indian appropriations come before Congress the fires of racial antagonism are ignited by complaints that the Indians want special treatment. The charge is not true. Indian appropriations are not favoritism. They are in payment of an honest debt of our government.”<sup>86</sup> The NCAI blamed the “considerable amount of existing confusion” on the term “ward,” which, they claimed,

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<sup>86</sup> Letter from James Curry to Ruth Bronson, 1949, Indian Legislation 1947-49 Proposed Legislation-Senatorial, Box 28, Senatorial Records, Papers of J. Howard McGrath, HSTL.

had been “loosely used.”<sup>87</sup> The NCAI argued that because Indians had provided land to the US, the government was still indebted to them. Thus, although the NCAI acknowledged that the terminology of wardship caused confusion, they emphasized that because of the history of American colonialism and agreements made between Indians and the US government in the past, Indian appropriations could be considered part of the United States’ payment of their “honest debt.” In her essay, “Outreach,” Ruth Muskrat Bronson of the NCAI defined this exchange of wardship for land further, stating that Indians did indeed have “special *privileges*,” due to the nature of trusteeship: “In the not so distant past the Indians agreed to end wars and cede lands to white settlers in exchange for certain defined, inalienable, lands and specified services which the Indians could not provide for themselves.”<sup>88</sup> Bronson and the NCAI affirmed wardship as an ongoing relationship sustained by the debt of the United States government to Native tribes.

Crucially, the NCAI’s conceptualization of wardship as payment of an honest debt was distinct from non-Native understandings of “guilt” and “conscience.” Unlike non-Native insistence that the ICC would supposedly “resolve” outstanding Indian claims against the US government, Native people viewed wardship as a relationship necessitating the *continual* responsibility of the American government. For example, in his 1951 op-ed in *The Washington Post*, Paiute Avery Winnemucca critiqued Commissioner of Indian Affairs Dillon Myer for arbitrarily intervening in the rights of

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<sup>87</sup> Ibid.

<sup>88</sup> Ruth Bronson, “Outreach,” NCAI, Series 3 – Correspondence, Box 64, Correspondence Name Files – Bronson, Ruth (Treasurer of NCAI and Consultant to Executive Director), NMAI.

tribes to pick their own attorneys. Winnemucca echoed the claims of termination advocates, stating, “certainly the bureau needs a timetable for the integration of the Indians as full American citizens,” but tempered his assertion with a reminder about the ongoing dynamics of wardship: “But so long as the Indians are wards of the Government, then it is a proper governmental responsibility to protect them.”<sup>89</sup> Although Winnemucca expressed interest in Native peoples’ rights as American citizens, he did not his define wardship as a state of dependency which “impeded” citizenship. Rather, to Winnemucca, wardship was a legal agreement that was built upon an exchange between Indian tribes and the federal government, which the government was obligated to uphold.

In her “Outreach” essay, Bronson established why non-Native people had difficulty understanding wardship as something other than a limitation on full citizenship and a way for the federal government to exert control over Native people. She wrote, “The casually informed citizen, dedicated to fair play, feels there is something definitely insulting in labelling an adult a ward of the government, as though he were being branded as too incompetent to function without a guardian.”<sup>90</sup> However, Indian activists and representatives utilized a different definition of wardship. As a result, they believed wardship and citizenship could coexist. Furthermore, Bronson argued that receipt of resources from the federal government

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<sup>89</sup> Avery Winnemucca, “Tribal Trouble,” *Washington Post*, October 24, 1951, Bureaus and Offices Bureau of Indian Affairs Pyramid Lake Paiute Indians, Box 27, Subject Files, Papers of Joel D. Wolfsohn, HSTL.

<sup>90</sup> Ruth Bronson, “Outreach,” NCAI, Series 3 – Correspondence, Box 64, Correspondence Name Files – Bronson, Ruth (Treasurer of NCAI and Consultant to Executive Director), NMAI.

was not something that was exclusive to Indians. She stated, “It is hard to see how federal benefits make a ‘second class’ citizen out of an Indian if preferential treatment does not jeopardize the status of veterans, farmers, subsidized airlines and steamship companies, the manufacturers protected by tariffs or the business men with rapid tax write-offs.”<sup>91</sup> Thus, wardship should not imply that Indians were “second-class citizens.” To Bronson and other activists, wardship was entangled with Indians’ assumption of full citizenship. Indians emphasized that if Native people were entitled to equal resources as “equal citizens,” wardship required the government to provide those resources. At the 1954 NCAI “Emergency Conference of American Indians on Legislation,” the NCAI drafted a declaration which laid out the group’s desire that the relationship between Indians and the federal government be one of “government by consent.” The NCAI corrected stereotypes about the limitations of wardship, asserting that, “Reservations do not imprison us. They are ancestral homelands, retained by us for our perpetual use and enjoyment. We feel that many of our fellow Americans do not know that we are citizens, free to move about the country like everyone else.”<sup>92</sup> The NCAI declared that wardship was structured by legal agreements which had been designed between independent nations “on a basis of full equality.”<sup>93</sup> Furthermore, the NCAI stressed that the relationship between tribal nations and the federal government should be one of “governing only by consent.”<sup>94</sup> Similarly, in a 1956 meeting with

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<sup>91</sup> Ibid.

<sup>92</sup> National Congress of American Indians, “Emergency Conference of American Indians on Legislation,” 1954, Association on American Indians File – Correspondence 1953-1954, Box 75, Philleo Nash White House/Association on American Indians Files, HSTL.

<sup>93</sup> Ibid.

<sup>94</sup> Ibid.

Glenn Emmons, representatives from Nambe Pueblo and Tesuque Pueblo stated clearly that they understood the obligations of wardship to be based on specific historical experiences Native people had with the United States government: “Federal services now provided were given because of all the Indian gave up to the White Man when he overran our country.” As a result, they stated further, “we believe it is not only a moral but a legal right to obtain the Indians’ consent as well as to consult” on changes in policy.<sup>95</sup> Native people considered “government by consent” to be their right as nations which held legal agreements with the US government. Crucially, as the NCAI reasoned, upholding those legal agreements was necessary for Native people to be “enabled to take our rightful place in our communities, to discharge our full responsibilities as citizens.”<sup>96</sup>

Although state agents deployed “ward” as a racial signifier, Native people did not consider “wardship” to be a racial category, but a legal one implying US protection of Indian land and treaty rights. The framework of civil rights posed a danger for Indian tribes because it was based upon an ideology of integration, which could be equated with termination and “emancipation” from wardship. In a 1956 article in the *Arizona Republic* inserted into the Congressional Record by Senator Barry Goldwater, San Carlos Apache Clarence Wesley, the president of the Arizona Inter-Tribal Council, asserted that, “American citizens, including public officials,

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<sup>95</sup> Commissioner’s Conference, Nambe Pueblo and Tesuque Pueblo, 1956, Folder 5 – Indian Affairs Commissioner’s Conferences Gallup Area First Session, Box 3, Glenn Emmons Papers, CSR-UNM.

<sup>96</sup> National Congress of American Indians, “Emergency Conference of American Indians on Legislation,” 1954, Association on American Indians File – Correspondence 1953-1954, Box 75, Philleo Nash White House/Association on American Indians Files, HSTL.



generally don't know what the Indian issues really are." Wesley argued that the issues were not "assimilation or integration," or "civil rights in the usual sense of the words."<sup>97</sup> Rather, Wesley stressed the "continuing ownership of land; protection of rights solemnly promised by treaty and law; honor in Government dealing with conquered peoples," as well as educational and economic opportunities, and an end to unnecessary bureaucracy.<sup>98</sup> Similarly, Helen Peterson, Executive Director of the NCAI, argued that the rhetoric of civil rights obfuscated the issues that Indians were facing. In 1957 she asserted, "We can't hope to get people to understand the problems and all of this truly complicated arrangement unless we can disentangle Indian issues from civil rights issues—Indian problems aren't civil rights problems."<sup>99</sup> Therefore, in the context of emerging rhetoric about self-determination and sovereignty, Indians could simultaneously demand Indian "independence," while "preserving a US presence on the reservations that upheld past treaties and responsibilities."<sup>100</sup> Indian autonomy was not separate from wardship, because Native people understood wardship as a legal arrangement which specified the American state's obligations to the tribes, rather than a synonym for racial discrimination.

However, state agents positioned wardship as the opposite of American citizenship—as a state of irresponsibility and dependence induced by federal policies.

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<sup>97</sup> 84 Cong. Rec. SA5037 (1956) (Extension of Remarks of Barry Goldwater), NC16/6/10 – National Congress of American Indians 1956, Box 4, Series 6 – Inter-Tribal Indian Organizations 1930-1959, Collection No. 16 – Records of Pyramid Lake Paiute Tribe, University of Nevada, Reno, Special Collections.

<sup>98</sup> Ibid.

<sup>99</sup> Quoted in Cobb, *Native Activism in Cold War America*, 22.

<sup>100</sup> Alyosha Goldstein, *Poverty in Common: The Politics of Community Action During the American Century* (Durham; London: Duke University Press, 2012), 87.

In 1954, the Subcommittee of the Committees on Interior and Insular Affairs conducted hearings in Reno, Nevada over the proposal to terminate Nevada Indians. Eleanor Myers, the representative from Lovelock Indian Colony, faced a barrage of pointed questions from members of the committee who utilized the rhetoric of equal citizenship to downplay her request that the government fulfill its responsibilities under the terms of wardship. Myers testified in front of the committee to ask for government investment into her community before her tribe was terminated. She framed her request as one “for better preparedness,” because her community was “merely existing on a 20-acre piece of Government-owned land.”<sup>101</sup> To Myers, for the community of Lovelock Indians to be “better prepared” for termination, they deserved fulfillment of their basic needs under the terms of wardship, including running water, functional toilets, street lighting, and sanitary systems. In addition, she explained that because most jobs for Indian men were seasonal, women were bringing home most of the family income through regular jobs as housekeepers. For Indians in Lovelock Colony to access the basic resources they needed, Myers stressed that they needed more opportunities for regular employment. She claimed, “Our people live on this tax-free land because we cannot earn in 8 months the same as our neighbors earn in 12 months.”<sup>102</sup> In response, the congressmen on the committee returned to the language of “equality,” simultaneously downplaying the legitimacy of the requests and creating

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<sup>101</sup> *Termination of Federal Supervision Over Certain Tribes of Indians: Joint Hearing on H.R. 7552, Part 10, Before the Subcommittees of the Committees on Interior and Insular Affairs, 83<sup>rd</sup> Cong. 1235 (1954) (Testimony of Eleanor Myers, Representative of Lovelock Indian Colony), Nevada Indians, Box 90, General File – Indians, WBSB, HSTL.*

<sup>102</sup> *Ibid.*

a perception that what Myers was asking for was some sort of extra, special treatment. In the following exchange, George Abbott, Special Counsel to the House Interior Committee, disregarded Myers' requests by asking complicated question about taxes and property ownership.

Mr. Abbott: You appreciate, Mrs. Myers, that as it was indicated by the concurrent resolution, it is the sense of Congress that the Indians 'should be entitled to the same privileges and responsibilities as are the non-Indians,' and some of the basic responsibilities of non-Indian property owners—and your people would become property owners—is that they occasionally find themselves included within what we call taxing districts—sewer districts or sanitary districts. There may be paving districts, sidewalk districts, whatever you have, and on the basis of the improvements or increased value of your property—if curb and guttering is placed, for example, and a storm sewer main or sanitary sewer main—there is a direct assessment against the property that benefits from that in relationship to the benefits received. Now, if a district were formed and if the increased value of your property resulting from those improvements could be established, would your Indian people have any objection to entering into the same kind of obligation or finding themselves in the same kind of obligations that non-Indians do?

Mrs. Myers: Well—

Mr. Abbott: In other words, it is certainly a challenge, of course."<sup>103</sup>

By framing Myers' request in the language of property taxes, Abbott tapped into one of the most racialized charges leveled towards Indians—that they did not pay any taxes, and therefore were not deserving of any welfare benefits or public services provided by state and local governments. Under the guise of equality, and “entitling” Indians to the “same privileges and responsibilities as non-Indians,” Abbott asserted that as wards, not property-owners, Native people were unable to understand and/or not ready to receive those privileges and responsibilities. Abbott's long-winded

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<sup>103</sup> Ibid., 1237-1238.

technical questions also reveal a sexist refusal to consider Myers' requests as an elected representative from her community that the government govern Nevada Indians by consent. Myers could barely respond to Abbott's questions before he continued his dismissive "explanation" of how the Lovelock Paiutes could not possibly be entitled to governmental efforts to fix up their colony. Abbott asserted his power as a government agent and a man to rehash racialized tropes about Indian wardship. Despite this, Myers continued to demand that the colony be "fixed up" by the federal government before termination:

Mr. Abbott: Is your group suggesting a sort of Federal city be created; then once it is created, turned over to the city of Lovelock?  
 Mrs. Myers: No, they just want to be—well, *they want the colony fixed up*.  
 Mr. Abbott: Surely.  
 Mrs. Myers: So that they could—  
 Mr. Abbott: You understand in our system by cooperative contributions directly relating to the benefit you receive, you manage over a period of years 10-, 20-, 30-, or 40-year periods, under a bond issue—to borrow money secured by lien against the individual property directly proportionate to the benefits received. Surely if your people understand that, and you know that the load at given periods is not going to be too burdensome, then you certainly wouldn't object to finding yourselves in a sanitary district or paving district or lighting district? You mentioned street lighting there. Would you, with perhaps a little Federal assistance at the outset?  
 Mrs. Myers: Maybe.<sup>104</sup>

Myers and Abbott clearly operated under two completely different ideologies of wardship. To Myers and her community, the request to have the colony fixed up made sense under the terms and conditions of wardship. To Abbott, Myers was asking for special treatment, and the Lovelock colony was not entitled to such treatment unless

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<sup>104</sup> Ibid., 1238. Emphasis added.

they participated in the economic and political infrastructure responsible for public services, “just like everyone else.”

Like Myers, other Indian activists and representatives used the terminology and ideology of wardship in order pressure the government for necessary services and to remind the American public that Indians had historical and legal relationships with the federal government. In 1949, residents of the Reno-Sparks Indian Colony foreshadowed the Lovelock Indian Colony’s requests when they petitioned the federal government for “welfare assistance,” including improved housing, modernization of water mains, sanitation and plumbing, electricity, and recreational facilities for children. The petition stated, “Our Government has been pouring millions of dollars into foreign countries for rehabilitation, while right here in our own country, the *real Americans* are being neglected.”<sup>105</sup> By directing their petition to the federal government, the Reno-Sparks Indian Colony demanded fulfillment of the obligations of wardship, yet, they also called themselves the “real Americans.” Clearly, they did not view wardship and citizenship as mutually exclusive categories. The Reno-Sparks colony reiterated their desires in a 1956 meeting with Commissioner Glenn Emmons. Reno-Sparks tribal representative, Hastings Pancho, declared, “it is the obligation of the US and the Indian Affairs to raise its subjects to the level of economic well-being and enjoyment as others do in the country.”<sup>106</sup> Pancho and the other members of the

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<sup>105</sup> Quoted in Speech of George Malone, “Tear Up the Indian Bureau by the Roots—Set the Indian Free,” S. Rep. No. 81 (1949), Indian Bureau Liquidation, Box 15, Amos and Marie Hamilton to Indian Land Allotments, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB. Emphasis added.

<sup>106</sup> Commissioner’s Meeting, Reno-Sparks, 1956, Folder 3 – Indian Affairs Commissioner’s Conferences Phoenix Area, Box 3, Glenn Emmons Papers, CSR-UNM.

Reno-Sparks colony argued that it was the United States' responsibility to provide Native people with the opportunity and resources that non-Native citizens enjoyed. Similarly, in the 1947 report of President Truman's Committee on Civil Rights, Milton Steward and Rachel Sady remarked, "not long ago an Indian complained that the 'Indians all over the country today have to sue the government to make them realize that the Indians are still wards of the government.'"<sup>107</sup> Although different, wardship and citizenship were both statuses that conveyed certain rights and protections onto Native people. In a 1954 speech, Oliver La Farge, president of the Association on American Indian Affairs, quoted the Northwestern Band of Shoshones, who released a statement which emphasized the tribe's dual claims to wardship and citizenship:

"We desire for the time being to remain as wards of the Government and covet our title as Indians for as such we are recognized by other Indians elsewhere, and have the full rights as to the treaties made on our behalf by our forebears with the proper authorities, statutes made for our behalf we covet; constitutional rights given to Indians we covet, and to remain and retain these rights we want."<sup>108</sup>

By choosing to "remain as wards of the Government," the Northwestern Band of Shoshones retained both their cultural and racial identity as Indians and their legal agreements with the United States. However, they also mentioned the "constitutional rights given to Indians." This reveals that they desired the protections and rights due to them as citizens, in addition to those due to them as wards. Thus, members of the

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<sup>107</sup> Memo: "Civil Rights of American Indians," Prepared by Milton Steward and Rachel Sady, 1947, p.5, Staff Memoranda, Witnesses, Statements to the Committee, and Other Committee Documents, Box 16, RG 220, HSTL.

<sup>108</sup> Oliver La Farge, "The Year of Confusion," AAIA Annual Meeting, May 5, 1954, p.6, Association on American Indians File – Correspondence May 1954, Box 76, Philleo Nash White House/Association on American Indians Files, HSTL.

public and politicians racialized “wardship” this era, to Indians, it was a term that signified their “government-to-government” relationship between the United States government and tribal nations. In the mid-twentieth century, before the proliferation of language of sovereignty and self-determination more commonly associated with the late 1960s and 1970s, wardship was a tool for Indians to voice their desires and concerns about the protections and rights due to them in the context of expanding termination policies.

### **Conclusion**

Wardship was a crucial legal and racial signifier which contributed to shifting determinations of where Native people fit within the confines of the American welfare state. To state agents and politicians, “ward” was associated with negative assumptions about Indian dependence, poverty, and segregation. These connotations were reinforced and buffered by conceptualizations of reservations as bounded prisons and/or unearned privileges, and the limitations placed on American political and social objectivity toward the “Indian problem,” due to lasting legacies of guilt and shame over the nation’s history with Native nations. However, despite its racialized connotations, “ward” was a complex and nuanced term for Native people. Throughout the mid-twentieth century, Indians employed “ward” alongside the construct of “American citizenship” to assert rights or demand the fulfillment of obligations by the American state. The term signaled a legitimate, legal relationship between Native tribes and the state.

For many, wardship was a restriction of Native peoples' citizenship, a status from which they deserved to be "emancipated." Dissolving wardship would mean Indians could be integrated fully into the infrastructure and welfare safety net of their surrounding communities. However, the desire to "emancipate" Native citizens was also predicated upon the desire to free Native land from trust restrictions and make it available for non-Natives to purchase. Consistent framing of the historical surrender of Indian land as an example of their "service" to the American nation was connected to the notion that the American state and public "owed" Indians the benefits of American citizenship. Coupled with the persistent view of reservations as restrictive prisons, this "lip service" paid to the history of violence perpetrated upon Native nations served to undermine Native claims to their own ancestral lands and continued to reify their separation from the American polity as a racial group.

However, wardship also provided a nexus for negotiations around responsibility, dependence, and welfare within American citizenship, and conversations about the line between "oppression" and "protection" of Indians. Retaining the use of "ward" to remind governmental representatives of legal agreements between the state and tribes allowed Native people to articulate demands for sovereignty and fulfillment of government responsibility, as well as recognition of rights both inside and outside the American polity. If Indians understood wardship to be a legal arrangement which specified the obligations the state had to Native tribes, historians cannot separate wardship status from considerations of the historical development of Indian autonomy.



In conclusion, in the mid-twentieth century, wardship disrupted non-Native understandings of Indians as one of many groups of racial minority citizens in two distinct ways. First, wardship was not easily reconciled with common understandings of racial discrimination and civil rights. Indians argued that conflating Native issues with civil rights caused confusion and undermined the unique relationship Native tribes had with the United States government. “Full citizenship” was not Native people’s ultimate goal in the mid-century. Native activists like Ruth Muskrat Bronson argued that receipt of federal benefits did not mean that Indians were second-class citizens. Second, wardship complicated perceptions of the role of welfare state in the lives of American citizens. Although Indians were racialized as the perpetually dependent victims of a misguided and expansive welfare state in popular media and political rhetoric, they and their representatives pointed out that other groups of citizens also received protected status and benefits from the federal government. Native people did not understand wardship to be an unwieldy extension of federal welfare benefits, but a legal status tied to their specific histories with the United States. Wardship was not welfare. However, in the chapters that follow, I will demonstrate how wardship and welfare were interconnected. Native people agitated for welfare benefits from the states and federal government as citizens, while maintaining their right to trust protection of Indian lands and federal resources as wards. Indian citizenship was further complicated by the messy and ambiguous coexistence of wardship and welfare.

## Chapter 3

### Indian Entitlement and the State's Responsibility: The Denial of Social Security

#### Benefits to Indians in Arizona and New Mexico

##### Introduction

In January 1948, Frank Mapatis, a 73-year-old Hualapai Indian, applied for Old Age Assistance at the Mohave County Office of the Social Security Board in Kingman, Arizona. After several weeks, Mapatis was informed that Arizona's State Board of Social Security and Welfare recommended that Mohave County "not take any action on the applications from Reservation Indians, and to just hold them in their files." Nevertheless, Mapatis inquired again, and in late February heard that his application would be processed by the county office, but the payment would come from the Bureau of Indian Affairs (BIA). After several more weeks, Mapatis was informed that due to staff shortage, his application would not be processed after all. In May, a field worker came to the Hualapai Reservation to process his application, but told Mapatis that there were no funds available to pay his claim. Finally, in July of 1948, upon another fruitless visit to the Mohave County office, Mapatis concluded that "the State Board of Social Security and Welfare has no intention of acting on his application for Old Age Assistance, especially with regard to payments due him under said application."<sup>1</sup>

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<sup>1</sup> Affidavit of Frank Mapatis, 1948, Folder 1 – *Mapatis, Frank, et. al. v. Ewing, Oscar R.* (Federal Social Security) 1948-1949, Box 332, Association on American Indian Affairs Papers (AAIA Papers), Seeley G. Mudd Manuscript Library, Princeton University (MML).

Frank Mapatis' case was not unique. In mid-twentieth century Arizona and New Mexico, many Native people ran into similar challenges when they applied for benefits under the 1935 Social Security Act. As American citizens, Mapatis and others were entitled to these benefits, but state officials in Arizona and New Mexico refused to process or pay their claims. Indians did not accept this. Rather, they utilized bureaucratic channels to file complaints, repeatedly applied and inquired after their benefits, and filed a class action lawsuit, of which Mapatis was the named plaintiff. This chapter addresses the rationale behind Arizona and New Mexico's refusal to grant Social Security benefits to Native Americans and Native people's response to that refusal. At the heart of the conflict are questions about the impact of the expansion of the American welfare state on both Indian wardship and citizenship.

The 1935 Social Security Act ushered in a major change in American government and politics. Most notably, the Social Security Act signified formation of a more centralized and expansive administrative state, which was increasingly interlaced with the lives of ordinary American citizens.<sup>2</sup> The Act established provisions for maternal and child welfare, public health, and welfare benefits in five key categories: Unemployment Insurance; Old Age Insurance (OAI), a contributory program for wage-earners in covered occupations financed by a payroll tax; and public assistance programs administered by the states and funded through federal grant-in-aid to states including Old Age Assistance (OAA), a program to assist needy citizens over 65 years of age, Aid to Dependent Children (ADC), a program to assist needy parents

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<sup>2</sup> Suzanne Mettler, *Dividing Citizens: Gender and Federalism in New Deal Public Policy* (Ithaca; London: Cornell University Press, 1998), 3.

of minor children, and Aid to the Blind (AB). Historians of welfare have analyzed how the Social Security Act and other aspects of the New Deal solidified a “two-track” system of welfare within the United States. Within this system, mostly white male wage-earners were viewed as “entitled” to benefits guaranteed by the national government (in the form of OAI), and mostly non-white and/or female needy populations were viewed as “dependent” upon benefits administered by the individual states.<sup>3</sup> Race and gender have fundamentally impacted citizens’ abilities to access benefits from federal and state governments.<sup>4</sup> For citizens applying for need-based programs like OAA, ADC, and AB, local prejudices and discrimination at the hands of state officials impacted who was deemed eligible for aid and the amount of assistance granted.<sup>5</sup> Although many view the Social Security Act as one of the major achievements of Franklin D. Roosevelt’s New Deal, historians have challenged that for those who were not able to access the social safety net the Act enshrined for American citizens, the Act revealed that “not all citizens are equal, nor are they entitled to equal rights and protections.”<sup>6</sup>

This chapter introduces wardship to the discussion of need-based welfare. As was demonstrated in the previous chapter, non-Natives consistently characterized

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<sup>3</sup> See Mettler, *Dividing Citizens*; Linda Gordon, *Pitied but Not Entitled: Single Mothers and the History of Welfare, 1890-1935* (New York: The Free Press, 1994); and Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge: Harvard University Press, 1992).

<sup>4</sup> See Mettler, *Dividing Citizens*; Ira Katznelson, *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America* (New York; London: W.W. Norton & Company, 2005); Mary Poole, *The Segregated Origins of Social Security: African Americans and the Welfare State* (Chapel Hill: The University of North Carolina Press, 2006).

<sup>5</sup> Marisa Chappell, *The War on Welfare: Family, Poverty, and Politics in Modern America* (Philadelphia: University of Pennsylvania Press, 2010), 10.

<sup>6</sup> Poole, *Segregated Origins*, 11.

wardship as “dependency” which restricted Indians’ full citizenship. However, Native people understood wardship as fulfillment of the government’s honest debt to Indian tribes, a legal status that could coexist with citizenship. Where did the need-based public assistance programs of the Social Security Act fit into this narrative? How did non-Native people’s racialized assumptions about Indians as impoverished “wards” of the federal government prevent Indians from accessing need-based welfare programs as poor citizens? At the heart of these conflicts are larger issues about the impact of concepts of dependency and entitlement on the definition of American citizenship itself.

Except for legal historian Karen Tani, scholars have not analyzed the impact of the Social Security Act on Native Americans.<sup>7</sup> Instead, historians have focused on the 1934 Indian Reorganization Act (IRA), which became known as the “Indian New Deal.” The IRA did not function like other New Deal programs for public welfare. The act stipulated appropriations for Indian education (primarily vocational and trade school education) and established a revolving credit fund to lend money to the tribes who had elected to adopt constitutions and participate in the IRA. Funds could be lent to individual Indians through their respective tribes. The IRA also concentrated on increasing the land base of Native people. Although John Collier intended the act to improve Indians' economic situation, it did not function as Social Security, where individuals applied to bureaucratic agencies for needed funds.<sup>8</sup> Moreover, although the

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<sup>7</sup> Karen M. Tani, "States' Rights, Welfare Rights, and the 'Indian Problem': Negotiating Citizenship and Sovereignty, 1935-1954," *Law and History Review* 33, no. 1 (February 2015): 1-40.

<sup>8</sup> See Vine Deloria and Clifford Lytle, *The Nations Within: The Past and Future of American Indian Sovereignty* (New York: Pantheon Books, 1984), 144-149.

Indian New Deal was undoubtedly important, it was not the *only* piece of New Deal legislation that affected Indians.<sup>9</sup> Native people experienced the reach of the mid-twentieth century expansion of the state through the familiar agency of the BIA, and through state and county welfare offices responsible for administering and processing claims for Social Security benefits.

Like many other racialized citizens, Indians experienced discrimination from state welfare workers in charge of doling out benefits. However, Native peoples' experiences of racial discrimination were intertwined with non-Indian assumptions about the nature of wardship. For example, in Arizona and New Mexico, large populations of Native Americans posed concerns for local politicians and welfare administrators, who viewed Indians both as a distinct racial group and as "wards" of the federal government. Indians in Arizona and New Mexico were legally citizens. However, to the Boards of Public Welfare of Arizona and New Mexico, that did not mean they were eligible for welfare benefits administered by the states. State and county welfare workers saw a clear delineation between Indians' citizenship and wardship, and argued that as "wards," Indians needs for OAA, ADC, and AB were the federal government's responsibility, not the responsibility of the states.

The ways in which the American welfare state rebuked Native people were rebuked complicates common understandings of the dynamics between the federal government and state governments. Suzanne Mettler has argued that social citizenship

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<sup>9</sup> Indians also participated in other well-known New Deal public programs. See, for example, Donald Parman, "Indians and the Civilian Conservation Corps," *Pacific Historical Review* 40, no. 1 (February 1971): 39-56.

determined by the states “has generally tended to be inferior to social citizenship with national standards.”<sup>10</sup> While welfare officials working on the state level have more of a vested interest in preserving local social order, control, and community values in their administration of welfare benefits, federal standards for eligibility are usually more egalitarian and far-reaching.<sup>11</sup> While the denial of benefits to Native Americans at the state level affirms this dichotomy, this chapter also demonstrates the extent to which state and federal levels of welfare administration were inextricably intertwined. Indeed, Karen Tani has recently argued that Arizona and New Mexico’s denial of benefits to Indians reveals more than local racial hierarchy and discrimination at work. For these states, Indians’ “citizenship” itself was under fire, as states fought back against what they perceived to be unjust restrictions of state power on Indian reservations.<sup>12</sup> To Arizona and New Mexico, Indian welfare benefits represented a racial battleground, but also a battleground for political jurisdiction.

Despite many challenges, Native people persisted in their efforts to access Social Security benefits. They utilized the “third space of sovereignty” to assert eligibility for welfare while maintaining their special trust relationship with the federal government. As Kevin Bruyneel argues, American political actors have utilized a “binaristic epistemology” to repress indigenous political, cultural, and societal systems.<sup>13</sup> Thus, either Indians were “wards” of the federal government *or* “citizens” of individual

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<sup>10</sup> Mettler, *Dividing Citizens*, 12-13.

<sup>11</sup> Mettler, *Dividing Citizens*, 14.

<sup>12</sup> Tani, “States’ Rights, Welfare Rights,” 8-9.

<sup>13</sup> Kevin Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of US-Indigenous Relations* (Minneapolis; London: University of Minnesota Press, 2007), 7.

states. This “worldview of dualisms” presented problems for Indians, who stood on both sides of that invisible boundary—as wards *and* citizens. Rather than accepting Arizona and New Mexico’s denial of their benefits, Native people worked in and around the constraints wardship and citizenship placed on them, in pursuit of both needed financial assistance *and* recognition of their presence within the mid-twentieth century American polity. To Native people, both welfare and wardship were about needed resources from the federal government. More broadly, Native people used both welfare and wardship as mechanisms to force non-Native people to recognize Indian presence and humanity in the mid-twentieth century.

This chapter examines Social Security as a collision of opposing ideas about wardship, citizenship, and Native peoples’ place in the American citizenry. Indian access to Social Security benefits was, on a wide scale, a negotiation between the states and the federal government; and on a small scale, a negotiation between county and state welfare officials and individual Native people. Although Arizona and New Mexico's public welfare officials and state legislators insisted that it was wardship which precluded Indians from accessing Social Security from the state, their perceptions of wardship were predicated upon racialized understandings of who Indians were and what their relationship was with the American state. In their pursuit of benefits, Native people asserted of the validity of wardship, and simultaneously claimed eligibility for welfare benefits as American citizens. Native people and state agents articulated conflicting viewpoints on Indian eligibility and need for Social Security, drawing upon competing conceptions of Indians as wards and racialized



American citizens. The resulting collisions demonstrate how wardship complicates the history of American welfare policy.

### **Changing Impressions of Indian Poverty and the Denial of Benefits in Arizona and New Mexico**

In the 1930s-1950s, the states of Arizona and New Mexico denied Indians access to the need-based aspects of the Social Security Act: OAA, ADC, and AB. The Social Security Act was passed by Congress in the summer of 1935.<sup>14</sup> By March of 1936, the Social Security Board (SSB) fielded questions about the applicability of the act to Indians. Because the act made no explicit mention of Native people, confusion arose among state officials. In response to a BIA inquiry, the SSB asserted that state and county officials administering state benefits should be “discouraged from barring Indians from participation in the benefits.” However, the SSB also couched this language in a qualifying statement which revealed Native peoples’ ambiguous positions as citizens of individual states: Indians would not be barred “unless Congress should, by passing some act or appropriation for Indians especially, indicate its intention to provide for them otherwise.”<sup>15</sup> Because politicians and state agents assumed Native welfare was the federal government’s responsibility, Indian eligibility for Social Security could be impacted by potential legislation passed by Congress.

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<sup>14</sup> Poole, *Segregated Origins*, 7.

<sup>15</sup> Letter from SSB to Zimmerman 1936, Social Security Legislation Correspondence, Box 168, Colorado River Central Classified Files (CRCC Files), Records of the Bureau of Indian Affairs, Record Group 75 (RG 75), National Archives and Records Administration – Pacific Region (Riverside) (NARA – Pacific Region (R)).

After a few more weeks of deliberation, the SSB declared more definitively that Indians *were* eligible for the benefits provided under the Social Security Act, including OAA, ADC, and AB. John Collier, Commissioner of Indian Affairs, asked superintendents of all Indian agencies to report whether or not Indians were being excluded from accessing these particular benefits, and if they were, on what basis.<sup>16</sup> Collier later assured the superintendents that “Undoubtedly, obstacles will arise, legal or other.”<sup>17</sup> Soon after Collier’s warning, obstacles did arise, especially in Arizona and New Mexico, two states with particularly substantial populations of Native people.<sup>18</sup> In 1936, officials working for the Arizona Board of Public Welfare and the Social Service Department met several times for “discussions of the relationship of Indians to the benefits of the Social Security Act.”<sup>19</sup> Officials were unwilling to agree outright to accept any Indian applications for Social Security benefits, and sent multiple requests to Indian agents and superintendents for estimates of needy blind, children, and aged on each reservation. In this administrative correspondence, Native people were described as “ward Indians.”<sup>20</sup> State officials claimed that Indian wardship was the source of their reluctance to begin to process Native applications.

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<sup>16</sup> Social Security Legislation Circular 1936, Social Security Legislation Correspondence, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>17</sup> Collier Letter to Superintendents 1936, Social Security Legislation Correspondence, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>18</sup> Indians comprised 13.2 percent of Arizona's population and 8.7 percent of New Mexico's population in 1930, giving the states a combined total of 17% of the nation's total Indian population. Tani, “States' Rights, Welfare Rights,” 17.

<sup>19</sup> Arizona Board of Public Welfare Report 1936, Social Security Legislation Correspondence, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>20</sup> Collier Letter to Superintendents 1936, Social Security Legislation Correspondence, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R).

Arizona and New Mexico were not the only states where officials attempted to avoid payment of Social Security benefits to Indians from state funds. In February 1937, a group of 23 senators from western states led by Senator Carl Hayden (D-Arizona) (including Arizona, Idaho, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming) introduced bill S. 1260 which would have amended the Social Security Act to alter how Native people received aid. The amendment specified that no state plan would be required to include “Indians who are wards of the United States,” and prevented the SSB from refusing to approve any state’s plan and or withhold payments “because such Indians are excluded from the benefits of such plan.”<sup>21</sup> The proposed amendment stipulated that instead of the states, the SSB would furnish funds for Indian welfare through yearly Congressional appropriations. Historian Alison Bernstein has shown that John Collier unofficially and confidentially supported the bill, and agreed to “not bring pressure upon the state to pay benefits to Indians.”<sup>22</sup> Bernstein asserts that Collier privately supported Hayden’s efforts because he desired to keep all funds for Indians under BIA responsibility and eliminate state involvement in Indian welfare. Collier’s correspondence also reveals conversations about potentially utilizing S. 1260 to further the political goals of the IRA by returning allotted lands to tribal ownership. A memo to Commissioner Collier from BIA official Walter Woehlke suggested an informal conversation about potentially amending S. 1260 to include a stipulation

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<sup>21</sup> Bill to Amend the Social Security Act to Provide for Aid to Indians, S. 1260, 75<sup>th</sup> Cong. (1937).

<sup>22</sup> Alison R. Bernstein, *American Indians and World War II: Toward a New Era in Indian Affairs* (Norman: University of Oklahoma Press, 1991), 96.

whereby upon receiving OAA, Native people would be obligated to “return title of their allotments or inherited interests to the United States in trust for the tribe, perhaps with a clause giving the direct heirs of the recipient the right to an assignment of tribal land under certain conditions.”<sup>23</sup> Ultimately, the bill did not make it through the Senate, and Collier never publicly endorsed it, knowing that Indians were legally entitled to Social Security as citizens. Doing so would have also meant that he would have publicly disagreed with Native people who asserted their right to those benefits.<sup>24</sup> In the context of conservative political attacks on the IRA, it makes sense that Collier would have supported an amendment which would have ultimately given the BIA—and potentially the IRA—more power. However, despite Collier’s desire to safeguard his policies, he could not assert that Social Security benefits should be administered fully by the BIA, because Indians were entitled to these benefits *as citizens, not as wards*. Ultimately, the framework of equal rights of citizenship powerfully overshadowed any other political rationale for allowing Arizona and other western states to withhold Social Security benefits to Indians.

In the west, it was OAA, ADC, and AB’s characterization as need-based programs which caused state officials to consider Indians ineligible for benefits due to their wardship status. In 1936, the California Department of Social Welfare conferred with the state’s attorney general, U.S. Webb, as to whether “Indians who are wards of the Federal government are eligible for aid” under OAA, ADC, and AB. After

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<sup>23</sup> Woehlke Memo to Collier, S. 1260, 1937, Staff Memos (1937-1939)-1940, Native Americans and the New Deal – The Office Files of John Collier 1933-1945 (University Microfilms International, Reel 15), Labriola National Indian Data Center, Arizona State University.

<sup>24</sup> Bernstein, *American Indians and World War II*, 96-97.

reviewing the legislation, Webb found that “the language of each of these acts is broad enough to include all Indians wherever residing in this state.” However, the issue of wardship was not fully resolved. Webb stated that, “We think the test is not whether the applicant is an Indian, or, if an Indian, where residing, but rather the test is ‘if in need,’ or ‘if needy.’”<sup>25</sup> Indians were associated with poverty, and, due to the 1928 publication of the Meriam Report, the public was well aware of the conditions on Indian reservations.<sup>26</sup> John Collier worked hard to garner publicity for the IRA, claiming that the act had the power to “raise Indians from poverty.”<sup>27</sup> Collier’s efforts to publicize the IRA undoubtedly influenced state politicians as they debated whether or not Native people were eligible for Social Security. For example, Webb asserted, “If Indians residing on the reservation, or on lands held in trust, or elsewhere, *are amply provided for by the Federal government, they may not be classed as ‘needy.’*”<sup>28</sup> Ironically, although the IRA was instituted as a solution for dire financial problems on reservations, some state officials and members of the public interpreted the legislation as evidence of Indians’ financial security, since they were “provided for” by the federal government.

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<sup>25</sup> Webb Opinion on Indian Eligibility 1936, Social Security Legislation Correspondence, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>26</sup> The “Meriam Report,” (officially named *The Problem of Indian Administration*) was a detailed investigation of Indian poverty and the role of federal policy in causing it. See Paul Rosier, *Serving Their Country: American Indian Politics and Patriotism in the Twentieth Century* (Cambridge; London: Harvard University Press, 2009), 64; Elmer Rusco, *A Fateful Time: The Background and Legislative History of the Indian Reorganization Act* (Reno; Las Vegas: University of Nevada Press, 2000), 71-82. For more on the publicity surrounding the Meriam Report, see Alexandra Harmon, *Rich Indians: Native People and the Problem of Wealth in American History* (Chapel Hill: The University of North Carolina Press, 2010), 210-212.

<sup>27</sup> Harmon, *Rich Indians*, 212-213.

<sup>28</sup> Webb Opinion on Indian Eligibility 1936, Social Security Legislation Correspondence, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R). Emphasis added.

Additionally, in the 1930s, many Americans developed new ways of thinking about poverty and responsibility in the United States which affected their interpretation of Native need. As Lizabeth Cohen has noted in her study of industrial workers in Chicago, working-class people started to view the benefits they were receiving from the state under the New Deal as entitlements. Essentially, they understood that benefits were how the state paid them back for participating in the citizenry—by voting, serving in the military, and spending their money in America.<sup>29</sup> In return, they expected the government to enforce a system of “moral capitalism,” where “everyone, owner or worker,” would receive “a fair share.” By applying a moral evaluation to the benefits being disbursed by the state, workers demonstrated their support for the government to “redistribute wealth.”<sup>30</sup> Non-Natives could not fit Indians into this ideology of moral capitalism, because as wards, they were not viewed as poor and in need. There were two reasons for their inability to envision Native wards as eligible for entitlement benefits: 1) With the IRA, Indian wards had their “own” New Deal, and were thus the responsibility of the federal government; 2) Indian *citizenship* itself was ambiguous and misunderstood. Non-Natives argued that isolated on reservations, Indians did not pay property taxes, and therefore should not be “paid back” by the state in the same way as non-Indians. Thus, wardship clouded public perception of Indian poverty and need, both in the notion that Indians were so outside of the “borders of belonging” that they were not entitled to New Deal benefits,

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<sup>29</sup> Lizabeth Cohen, *Making a New Deal: Industrial Workers in Chicago, 1919-1939* 2nd ed. (Cambridge: Cambridge University Press, 2008), 285.

<sup>30</sup> *Ibid.*, 286.

and in the notion that Indians had enough already from the state, and receiving more welfare payments meant they would exceed their “fair share.”<sup>31</sup>

Webb’s sentiments were also present in the minds of the state and county workers responsible for processing Indian applications in Arizona and New Mexico. By 1937, although certain counties in Arizona made overtures to Indian agents to begin the process of administering aid, they did not follow through on their plans. C.H. Gensler, Superintendent of the Colorado River Agency, remarked that he had been advised by the Board of Public Welfare in Arizona that “the probable time when work might be started on our cases was left rather indefinite.”<sup>32</sup> Most counties in Arizona managed to delay the processing of any applications under the guise of necessary bureaucracy. They claimed that a system needed to be put in place to investigate Indian applications, mail checks, and divide responsibility between the federal and state Social Security Boards and the BIA. In October 1937, only eleven Indians living on the Colorado River Reservation in Yuma County had received Social Security checks.<sup>33</sup> Gensler’s correspondence with Commissioner Collier and representatives from state and county welfare offices reveals that even a year later, “this is the only jurisdiction in Arizona that is receiving aid from the Social Security.”<sup>34</sup> However, soon afterwards, Yuma County made it clear that “no more

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<sup>31</sup> This idea relates to Alexandra Harmon’s claim that wealth or resources in Indian hands disrupt understandings of Indian authenticity and relationships with white Americans. See Harmon, *Rich Indians*, 5.

<sup>32</sup> Letter from Gensler to Mohave County Board of Supervisors 1937, Insurance Life Accident Etc. Protection of Indians Yuma County, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>33</sup> Assistant Community Worker Quarterly Report Colorado River 1937, Assistant Community Worker’s Reports, Box 14, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>34</sup> Minutes of Colorado River Tribal Council September 1938, Minutes Tribal Council 1936-1938, Box 19, CRCC Files, RG 75, NARA – Pacific Region (R).

Indian applications could be approved until further notice.”<sup>35</sup> In the late 1930s, other counties simply made no effort to take any applications from Native Americans at all, while some implemented complicated procedures for Native applicants, requiring them to make long journeys to the county welfare office, on specific days and times, without guarantees that a state or county worker would actually be present.

Native people in Arizona and New Mexico experienced these types of delays and refusals of benefits up through the late 1940s. For example, in 1947, Mrs. Charles Dietrich, president of the New Mexico Association of Indian Affairs (a non-Native organization dedicated to improving the lives of Native people in New Mexico), wrote to all members of the Congressional Committees on Indian Affairs to voice her concerns about welfare needs on the Navajo reservation, asserting that, “There is *one* welfare worker for the whole reservation, four times the size of Massachusetts.”<sup>36</sup> Officials from the New Mexico State Department of Social Security and Welfare countered this type of complaint by claiming that each social worker carried “caseloads over the state averaging over 300,” “reservations are large and roads very poor,” and there was “no one on our staff who can talk to the Indians in their language so interpreters would also be necessary.”<sup>37</sup> Citing the prohibitive expense of added social workers, interpreters, and other additional staff, Harry Hill, the commissioner

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<sup>35</sup> Gensler Letter Referencing Circular 1939, Social Security San Bernardino Co. General Welfare Program, Box 169, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>36</sup> Dietrich to Barrett, 1947, Folder 29 – Indian Affairs New Mexico Association of Indian Affairs 1947, Box 82, Dennis Chavez Papers, Center for Southwest Research, University of New Mexico (CSR-UNM).

<sup>37</sup> Hill to Hayden, 1947, Folder 28 – Rehabilitation of Navajo and Hopi Tribes 1947, Box 82, Dennis Chavez Papers, CSR-UNM.



for the department, argued that although their “sympathies [were] with the Indians,” they felt that it was Congress’ obligation to take care of them, since the department had “neither the staff nor the funds to meet this obligation.”<sup>38</sup> Both Arizona and New Mexico’s public welfare departments asserted their practical inability and ideological exemption from the responsibility of providing Indians access to the benefits of the Social Security Act.

### **The Racialization of Indian Social Security Benefits**

The battle for Social Security benefits was characterized by clashes between wardship and citizenship. Both wardship and citizenship were tied to racialized assumptions about Indian work ethic and contribution to the larger American society. In the eyes of the public, as well as state legislators and state and county welfare officials, Native people were not full citizens because they purportedly did not fulfill the obligations of citizenship through taxes and therefore could not be eligible to claim the rights of citizenship—Social Security benefits—in return. For example, in 1941 C.H. Gensler remarked that in the view of the “taxpaying public,” Indians do not pay taxes, and do not have to buy land and “pay for it from individual effort.”<sup>39</sup> Harry Hill, Commissioner of New Mexico’s Department of Social Security and Welfare, asserted to Senator Carl Hayden in 1947 that, “Since the state cannot tax or require the Indian to assume any of the obligations of citizenship, and since he is not required to carry

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<sup>38</sup> Ibid.

<sup>39</sup> Letter from Gensler to Zimmerman 1941, Social Security Legislation Correspondence, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R).

any portion of the burden of taxation, it does not seem reasonable that this state should be called upon to support the reservation Indians.”<sup>40</sup> Alva Simpson, State Director for New Mexico’s Department of Public Welfare echoed Hill’s concerns in a 1951 letter to Senator Dennis Chavez, arguing that adding Indians to New Mexico’s caseload would create too heavy a burden on the state, given that “very few of them pay taxes and the lands are tax free.”<sup>41</sup> State officials and members of the public conflated the tax-exemption on trust property with exemption from all taxes. States’ supposed lack of tax revenue from Indian people was one of the most concrete issues state officials pointed to in order to defend their refusal of Native applicants for public welfare assistance.

Furthermore, as both Gensler’s and Simpson’s remarks demonstrate, assumptions about Native exemption from taxation was intertwined with the notion that Indians did not put any individual effort into their land, but were “granted” or “given” land by the federal government. This viewpoint extended even to Native people who were living outside of reservations. For example, two Havasupai Indians who lived off-reservation collected benefits from 1936 until 1948, when welfare caseworkers discovered they were Indians.<sup>42</sup> Public opinion about Indians was that wardship was inherently connected to racialization: whether Indians lived on

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<sup>40</sup> Hill to Hayden, 1947, Folder 28 – Rehabilitation of Navajo and Hopi Tribes 1947, Box 82, Dennis Chavez Papers, CSR-UNM.

<sup>41</sup> Simpson to Chavez, September 24, 1951, Folder 23 – Bureau of Indian Affairs 1950-1951, Box 134, Dennis Chavez Papers, CSR-UNM.

<sup>42</sup> Amicus Brief of San Carlos Apache Tribe, Salt River Pima Maricopa Indian Community, Gila River, Pima Maricopa Indian Community, Hualapai Tribe, Yavapai Apache Tribe of Camp Verde Reservation, and Papago Tribe, all of Arizona, and the National Congress of American Indians (NCAI), Folder 1 - *Mapatis, Frank et al v. Ewing, Oscar R* (Federal Social Security) 1948-1949, Box 332, AAIA Papers, MML.

reservations or not, they were “wards” and were not entitled to benefits. These racialized assumptions about Indians mashed together stereotypes about wardship to claim that Indians were not citizens deserving of public aid. As Joanne Barker has noted, the taxation clause of the Constitution connotes that Indian tribes are separate sovereigns within the United States, not represented in Congress and therefore exempt from taxation by Congress.<sup>43</sup> The idea that Indians do not pay taxes and are therefore getting *more* than the average citizen was not rooted in an accurate legal understanding of wardship. And, as has been demonstrated in previous chapters, other than tax-exemptions for property, Native people were subject to sales, gasoline, and other state taxes.<sup>44</sup> Rather, this idea was entrenched in racialized definitions of where citizens entitled to benefits were supposed to live and how they were supposed to behave. Essentially, the non-Native public believed that as wards, Indians could not be citizens who deserved welfare benefits.

In response, some state agents described the denial of benefits as an example of a violation of the civil rights of American citizens. In 1947, President Truman’s Committee on Civil Rights wrote in their final report, *To Secure These Rights*, “discrimination against Indians in certain localities” must be further investigated, explicitly mentioning Arizona and New Mexico’s policies of denying Social Security. Furthermore, the Committee noted that, “It would appear that much of this

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<sup>43</sup> Joanne Barker, *Native Acts: Law, Recognition, and Cultural Authenticity* (Durham: Duke University Press, 2011), 30-31.

<sup>44</sup> See Chapter 2. Felix Cohen, Amicus Brief of Association on American Indian Affairs, Hualapai Tribe of Arizona, and San Carlos Apache Tribe of Arizona, *State of Arizona v. Oscar R. Ewing*, Civil Action No. 2008-52, 11 (United States District Court for District of Columbia 1952), Folder 20: *Arizona v. Ewing, Oscar R.* (Federal Social Security) 1952, Box 328, AAIA Papers, MML.

discrimination is based on the mistaken belief that the Office of Indian Affairs provides the Indians with all needed public services. Actually, the Office furnishes very limited services which by no means replace those supplied the general public by government agencies.”<sup>45</sup> The Committee mentioned the denial of Social Security benefits to Indians alongside discussion of the discrimination experienced by African Americans, Mexican Americans, and Japanese Americans. Thus, although Arizona and New Mexico asserted that the denial of Social Security benefits was predicated solely on the legal category of wardship, from the perspective of the President’s commission, it was an example of racial discrimination, like those faced by other citizens of color.

Native people also understood that Arizona and New Mexico’s hostilities towards them were based on racial stereotypes. For example, the Colorado River Reservation stretched over the border between California and Arizona. Those living in California could receive benefits, while those in Arizona could not. Colorado River Reservation residents saw the denial of benefits to Indians in Arizona as arbitrary. In 1941, Gensler remarked in a letter to the Commissioner of Indian Affairs, “They cannot understand why a Mojave Indian in Needles [California] should be treated better, in their way of thinking than an Indian just across the river in Arizona.” To members of the Colorado River Reservation, the only barrier to Social Security was the state line. Gensler wrote, “From the standpoint of Indians, it is a fact that we have

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<sup>45</sup> *To Secure These Rights: Report of the President’s Committee on Civil Rights*, 75, Publications – Civil Rights (Folder 1), Box 111, Papers of William Brophy and Sophie Aberle Brophy, Harry S. Truman Library (HSTL).

dependents the same as other races.”<sup>46</sup> If a Native person from the same tribe and similar financial need could obtain benefits in California, there was only one logical conclusion: the denial of benefits in Arizona was about race, not federal responsibility. The opinions of tribal leadership (as interpreted by Gensler) were that Native people needed public assistance, and were entitled to it, as citizens of the United States.

Non-Native Arizonans and New Mexicans claimed that Native applicants’ racial identity was not the underlying reason for denying Indians benefits. In 1947, the author of an article published in the Phoenix newspaper, *The Arizona Times*, asserted that Arizona could not support the “added burden” of Indian welfare. It was not, the author declared, “a question of discrimination by Arizona against a racial minority.” Rather, “It is a question of which is responsible for the care of the Indians—the federal government or the state of Arizona.”<sup>47</sup> However, despite the author’s attempt to differentiate between issues of legal responsibility and racial discrimination, the article epitomized non-Native racialized stereotypes of Indian citizenship. The article read: “The fact that thousands of Indians reside in Arizona is not of Arizona’s doing. In the westward march of empire, greedy white men uprooted the Indians wherever they happened to be and cuffed them across the nation, to dump them finally on reservations in the West. They might have been left in Indiana or Ohio.” The federal government, the author contended, had “treated the Indians shamefully,” and was behind “the greedy white men’s” forced march of Native people to Arizona. It would

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<sup>46</sup> Letter from Gensler to Zimmerman 1941, Social Security Legislation Correspondence, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>47</sup> “Shameful,” *The Arizona Times*, October 31, 1947, Folder 28 – Rehabilitation of Navajo and Hopi Tribes 1947, Box 82, Dennis Chavez Papers, CSR-UNM.

be “equally shameful,” to “shift responsibility to Arizona for care of their aged, blind and dependent.” The author argued that with Arizona’s limited resources, “our own citizens are the ones to whom the benefits should go.”<sup>48</sup> To the author of this article, Indians in Arizona weren’t citizens of the state, or even citizens of the United States. Rather, they were depicted as a stateless group which depended upon a federal government that had greedily swept them up in the march of empire. Native need was outside of the responsibility of the state, because, to the author, the state of Arizona existed before Native people were “dumped” there, not the other way around.

Significantly, the author of the *Arizona Times* piece focused on another argument which Arizona and New Mexico state officials frequently made to justify their assertion that Indian welfare was the responsibility of the federal government. The author referred to the “added burden” of Indian welfare, arguing that the “legislature’s appropriations for social security are already too limited even for the adequate care of our own citizens.”<sup>49</sup> This was a key point which others emphasized as well—if the state granted aid to Indians, there would not be enough for everyone else. For example, in 1947, Harry Hill, Commissioner of New Mexico’s Department of Social Security and Welfare argued that, “For us to consider accepting reservation Indians on the various programs would mean drastic cuts in practically every category of relief.”<sup>50</sup> Similarly, Alva Simpson of the New Mexico Department of Public Welfare asserted that if the department had not been charged with granting aid to

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<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Hill to Hayden, 1947, Folder 28 – Rehabilitation of Navajo and Hopi Tribes 1947, Box 82, Dennis Chavez Papers, CSR-UNM.

Indians, they “would not have had to reduce standards of assistance for care of the blind and the permanently and totally disabled.”<sup>51</sup> By separating Native citizens of Arizona and New Mexico from all others, the states solidified a racial and legal boundary between Indians and non-Native citizens. In the eyes of state officials and non-Native commenters, when they applied for relief, Native people attempted to cross that boundary and take something *away from* other needy citizens of Arizona and New Mexico.

Although public welfare workers in Arizona and New Mexico understood the conflict over Native peoples’ eligibility for Social Security benefits as a battle between the federal government (specifically the BIA) and the states, on many reservations there was also a third constituent involved: the tribe. To provide resources to needy elderly, blind, and dependent children, some tribal councils applied funds from their own budgets. The Colorado River Tribal Council issued a resolution in 1938 to budget \$3,000 “in order to provide for the old age among the members of the Colorado River Indian tribes who are not on the old age pension list under the Social Security Act.”<sup>52</sup> Within the next ten years, the Pima-Maricopa-Gila, Fort McDowell, and Salt River tribal councils also instituted their own relief programs.<sup>53</sup> In a 1948 letter to the Director of Welfare for the Office of Indian Affairs, A. E. Robinson, Superintendent of the Pima Agency, argued that tribal council funds were inadequate, noting that the

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<sup>51</sup> Simpson to Chavez, September 5, 1951, Folder 23 – Bureau of Indian Affairs 1950-1951, Box 134, Dennis Chavez Papers, CSR-UNM.

<sup>52</sup> Colorado River Resolution for Needy Indians 1938, Minutes Tribal Council 1936-1938, Box 19, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>53</sup> Letter from Robinson to Commissioner 1948, Welfare – Woodruff, Box 149, Pima Indian Agency Records Relating to Welfare, RG 75, NARA – Pacific Region (R).

tribal councils did not have enough available cash to support the relief cases. Robinson asserted, “They feel that no other community or group of people are required to carry a like burden and neither should they be called upon to do so. I find it difficult to disagree with them on this point.”<sup>54</sup> Some tribes had no extra resources to grant to needy members, instead relying on the family members of those in need to help. For example, governor of the Taos Pueblo, Antonio Mirabal, noted in a 1948 letter to Ruth Bronson that need in his community was “severe to the extent that the aged and needy children receive only what can be supplied by near relatives. The food and clothing they receive from the relatives are of the barest necessities.”<sup>55</sup>

Even though some tribal councils could step in and provide a modicum of relief payments to needy members of their tribes, they argued that because Indians were entitled to Social Security payments, it was not the responsibility of the tribe to provide this needs-based aid. Moreover, some tribes argued that the funds they expended to aid needy tribal members would be better spent in other ways. In 1948, Jicarilla Apache Tribal Council Chairman John Mills Baltazar wrote in a letter to Ruth Bronson, that although the “tribe as a whole has not neglected its needy,” and had in fact spent “approximately \$10,000 per year” for relief, any assistance they could obtain in “securing relief aid and benefits from State social security boards will save our tribal funds for use in improvement of our reservation, instead of using it for

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<sup>54</sup> Letter from Robinson to Daiker 1948, Welfare – Woodruff, Box 149, Pima Indian Agency Records Relating to Welfare, RG 75, NARA – Pacific Region (R).

<sup>55</sup> Mirabal to Bronson, 1948, National Congress of American Indians Records (NCAI), Series 4 – Tribal Files, Box 132, Taos Pueblo (New Mexico) 1947-1959, National Museum of the American Indian Archive Center, Smithsonian Institution (NMAI).



relief.”<sup>56</sup> In this way, Indians asserted that their rights as citizens should not be undercut by their rights as tribal members. This articulation of “dual citizenship” exemplifies Kevin Bruyneel’s framework of the “third space of sovereignty.” As members of tribal nations, Indians could apply to tribal councils for loans or relief payments. As citizens, they could apply to state and county welfare boards for OAA, ADC, and AB. Membership in the tribe did not cancel out membership in the American polity, and vice versa.

By asserting their right to equal treatment, tribal councils and Indian agents compared Indian experiences to those of other minority groups in the United States. However, Native members of tribal councils used this technique strategically. Tribal councils did not simply assert that Native people should be assimilated into the American polity as citizens, abdicating their membership in distinct tribal nations. Rather, comparing Indian experiences to those of other minority groups represented efforts by tribal councils to fulfill their responsibilities to their members, and participate in a government-to-government negotiation with representatives of the American state. For example, under the Tohono O’odham (formerly known as the Papago) tribe’s constitution, the tribal council held “the responsibility for negotiating with state and federal officials in matters affecting the welfare of said Papago Indians.”<sup>57</sup> In this way, tribal councils did not assert that Indians should assimilate into the American citizenry, but articulated the needs of Native citizens and argued that

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<sup>56</sup> Baltazar to Bronson, 1948, NCAI, Series 4 – Tribal Files, Box 94, Jicarilla (Apache – New Mexico) 1933-1961; NMAI.

<sup>57</sup> Affidavit of Thomas Segundo, Folder 1 - *Mapatis, Frank et al v. Ewing, Oscar R* (Federal Social Security) 1948-1949, Box 332, AAIA Papers, MML.

those needs could and should be fulfilled by obtaining Social Security benefits. Local welfare officials and many state legislators believed in a strict binary: either Indians were “wards” or “citizens,” in an attempt, as Bruyneel argues, to impose order and boundaries on indigenous peoples within the United States. However, Native people refused to operate within this binary, in the process calling attention to the “colonial ambivalence” of the American state.<sup>58</sup>

Native peoples’ persistent attempts to access Social Security benefits reflected an understanding of their rights as citizens, but also as human beings in need of aid and as national entities who had experienced colonialism, violence, and neglect by the United States government. Some tribal leaders emphasized Native men’s military service to draw attention to the inequality and discrimination they faced as applicants for Social Security and emphasize the inhumanity of denying Native people needed resources. For example, Governor of the Gila River Pima-Maricopa Community, David Johnson, asserted in a 1949 letter to AAIA President Oliver LaFarge, “I have known many others who within the last 12 years have made application, waited and died in poverty. It is a shame to be sentenced to starvation and death, when so many of our boys marched away proudly not so long ago to defend this country.”<sup>59</sup> Johnson contended that the people of the Gila River Pima-Maricopa Community were “entitled under the law” to benefits.<sup>60</sup> As his community’s elected representative, Johnson stated that he went with every applicant to apply for benefits, in order to “take action

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<sup>58</sup> Bruyneel, *Third Space of Sovereignty*, 9-10.

<sup>59</sup> Johnson to LaFarge, 1949, NCAI, Series 4 – Tribal Files, Box 120, Gila River (Pima-Maricopa Arizona) 1948-1955; NMAI.

<sup>60</sup> Ibid.

at once to end this shameful betrayal of my people.”<sup>61</sup> Similarly, Sam Ahkeah, Chairman of the Navajo Tribal Council, wrote to Ruth Bronson in 1948 to describe the dire situation some Navajos faced without Social Security benefits. Ahkeah put Arizona’s and New Mexico’s denial of Social Security to Indians in human terms and signaled the government-to-government relationship between Navajos and the United States. Emphasizing how common it was for him to be asked about Social Security, Ahkeah asserted that, “I do not go out in the out lying parts of the reservation that I am not accosted and begged for help by the aged, the blind, the crippled, the sick mothers with dependent children, and the helpless.” He argued that “to delay Social Security one day longer,” was “to deny life, to these, my people.”<sup>62</sup> To humanize those in need and call attention to the legal relationship the United States had with their tribes, both Johnson and Ahkeah spoke of the damaging impact on their people.

### **Native Americans Demand Social Security in Court**

Even though very few applications were granted in Arizona, and none in New Mexico, Native people persisted in presenting their claims to county and state welfare offices.<sup>63</sup> This persistence demonstrated not only Indians’ need for Social Security funds to survive, but also Indians’ use of citizenship as a method through which to gain recognition of their financial and human needs. In 1948, the conflict over Indian

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<sup>61</sup> Ibid.

<sup>62</sup> Ahkeah to Bronson, August 27, 1948, NCAI, Series 4 – Tribal Files, Box 113, Navajo Tribe (Arizona) 1948; NMAI.

<sup>63</sup> Amicus Brief of All-Pueblo Council, Mescalero Apache Tribe, Jicarilla Apache Tribe and the NCAI, Folder 1 - *Mapatis, Frank et al v. Ewing, Oscar R* (Federal Social Security) 1948-1949, Box 332, AAIA Papers, MML.

eligibility for Social Security benefits came to a head. Eight Indians from Arizona and New Mexico (members of the Pueblo, Tohono O'odham, Hualapai, Jicarilla Apache, and San Carlos Apache tribes, and the Gila River Pima-Maricopa Indian Community) filed a class action lawsuit against Administrator of Federal Security Oscar Ewing, Secretary of the Interior Julius Krug, Secretary of the Treasury John Snyder, and Comptroller General Lindsay Warren, in the United States District Court for the District of Columbia (*Mapatis v. Ewing*). The plaintiffs claimed that denying them Social Security benefits deprived Native people of their civil rights, and that as citizens of the United States and residents of the states of New Mexico and Arizona, Native Americans were entitled to OAA, ADC, and AB. Because the Federal Social Security Act stated clearly that all applications for Social Security were to be “promptly considered without discrimination because of race or color,” the SSB determined that New Mexico and Arizona had violated the conditions of the act and threatened the states with a “withholding of Federal aid grants amounting to more than 10 million dollars per annum.”<sup>64</sup>

Felix Cohen, Royal Marks, and James Curry, lawyers for the plaintiffs, argued that unless Native Americans in Arizona and New Mexico were “accorded equality of consideration with their white fellow citizens” they would be “facing acute hunger in the coming winter.”<sup>65</sup> The plaintiffs asserted that a conspiracy between federal officials had contributed to a failure of the SSB to force Arizona and New Mexico to

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<sup>64</sup> *Mapatis v. Ewing* Complaint filed in US District Court for District of Columbia, 4, Folder 1 - *Mapatis, Frank et al v. Ewing, Oscar R* (Federal Social Security) 1948-1949, Box 332, AAIA Papers, MML.

<sup>65</sup> *Ibid.*

make payments to Native people, and that federal funds had been misappropriated from the SSB to the Department of the Interior, making it seem as though Indians were amply provided for by the federal government. Furthermore, Krug and Ewing had agreed to postpone hearings between the welfare boards of Arizona and New Mexico and the SSB until after the November 2, 1948 elections.<sup>66</sup> The lawyers claimed that denying public assistance to Indians was politically motivated, and that politicians had promised non-Indian voters that the states would pay out federal Social Security grants “exclusively to the non-Indian portion of the population of these two states, thus increasing the allotment to each non-Indian beneficiary proportionately.”<sup>67</sup> The lawsuit presented Arizona and New Mexico’s efforts to deny needy Indians public assistance as racially motivated by contributing to both the personal gain of politicians and non-Native applicants for Social Security in both states.

Senators and representatives from New Mexico and Arizona were forthright about their refusal to grant aid to Native Americans in their states. In a 1948 letter to the Commissioner of the Social Security Administration, eight senators and representatives from both states wrote, “There is very substantial weight to be given to the contention of both States that the primary responsibility for Indian welfare, both legal and moral, rests upon the Federal Government and not upon the States.”<sup>68</sup> While couched in legalistic, race-neutral language, their arguments drew from and evoked deeply entrenched racialized discourses about Native difference. In the eyes of the

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<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> Letter from AZ and NM Congresspeople to Altmeyer 1948, Social Security Legislation Correspondence, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R).

politicians, Indian wardship was not just a legal category, but a moral one. The “problem which now confronts the Indians who reside on reservations as wards of the Government,” they argued, would not be fully solved by the “payment of social security benefits.” Rather, “any kind of temporary assistance through State agencies will not in any way solve the permanent problem and might conceivably complicate it.”<sup>69</sup> The vaguely described “problem” on reservations was Indian poverty, exactly what OAA, AB, and ADC were designed to combat. The politicians asserted that paying Social Security benefits to needy Indians would only “increase the number of paupers on the dole,” rather than helping “reservation Indians so that they may become qualified to take their part in the economy of the nation.”<sup>70</sup> The resistance Indians faced is reminiscent of the experiences of other people of color applying for welfare benefits. As scholars like Gwendolyn Mink, Marisa Chappell, Linda Gordon, and Ira Katznelson have shown, people of color (mainly women) who have applied for need-based aid were faced with increased scrutiny and policing by those responsible for doling out benefits, supposedly based on the fear that they would defraud the government and take more than they “deserved.”<sup>71</sup> It is clear that Native Americans faced similar racialized judgement, as they were viewed as “unqualified” to take “their part” in the nation's economy due to their reliance on “the dole.”

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<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> For more see Gwendolyn Mink, *The Wages of Motherhood: Inequality in the Welfare State, 1917-1942* (Ithaca; London: Cornell University Press, 1995); Ira Katznelson, *When Affirmative Action Was White*; Linda Gordon, *Pitied But Not Entitled*; and Marisa Chappell, *The War on Welfare*.

However, Arizonan and New Mexican politicians did not solely understand the “problem on Indian reservations” as *individual* Indians taking more than they “deserved” from state and county welfare resources. Additionally, state welfare workers denied Native people benefits on the basis that wardship enshrined Native irresponsibility in legal and political practice. For example, in 1947, Harry Hill, Commissioner of New Mexico’s Department of Social Security and Welfare, wrote to Senator Carl Hayden that the state was unable to “require the Indian to assume any of the obligations of citizenship,” and because Indians living on reservations were “not required to carry any portion of the burden of taxation,” the state should not support them.<sup>72</sup> Hill implied that because of the tax-exemption on Indian land, Native people had somehow side-stepped their responsibility to carry their part of the state tax burden. Because, as the author of an *Arizona Republic* article asserted, “The states have no rights, either of taxation or law, on the reservation,” it was the responsibility of the federal government to uphold its “economic obligation” for Indians.<sup>73</sup> Non-Native state agents and members of the public assumed that wardship meant Indians were purposefully avoiding state taxes, and thus rationalized withholding benefits from needy Native citizens.

Above all, Indians’ poverty and need demonstrated the extent of Indian dependence on the federal government. Arizonan and New Mexican politicians argued that the government had failed in its “legal and moral” responsibility for Indian wards,

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<sup>72</sup> Hill to Hayden, 1947, Folder 28 – Rehabilitation of Navajo and Hopi Tribes 1947, Box 82, Dennis Chavez Papers, CSR-UNM.

<sup>73</sup> “To Each His Own,” *Arizona Republic*, Date Unknown, NCAI, Series 4 – Tribal Files, Box 113, Navajo Tribe (Arizona) 1946-1947; NMAI.

and challenged the presumption that the states should make up for the federal government's failings. The All-Pueblo Council, Mescalero Apache Tribe, Jicarilla Apache Tribe and the National Congress of American Indians (NCAI) responded to this argument in their amicus brief in support of the *Mapatis v. Ewing* plaintiffs: "No white man is excluded from social security assistance in New Mexico because of the amount of his uncollectible accounts. He might have a cellar full of Confederate money and still receive social security assistance. All the Indian asks is equal treatment."<sup>74</sup> In this case, Native Americans did not disagree that the federal government had a responsibility to protect them under the confines of wardship. Indeed, describing the relationship between the federal government and Native tribes as "uncollectible accounts" reiterates Indian conceptualization of wardship as the federal government's "honest debt." Furthermore, by comparing a Native person to a white man with a "cellar full of Confederate money," the authors of the amicus brief asserted tribal sovereignty and autonomy and claimed citizenship rights at the same time. The authors did not see wardship as superseding Indians' entitlement to Social Security benefits as citizens of their respective states. Rather, Indians saw *both* wardship and citizenship as methods to communicate with non-Natives their presence in the polity. In a 1950 letter to Ben Avery of the *Arizona Republic*, San Carlos Apache Tribal Council Chairman Clarence Wesley described how Native people occupied a dual space of wardship and citizenship, where neither status cancelled out

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<sup>74</sup> Amicus Brief of All-Pueblo Council, Mescalero Apache Tribe, Jicarilla Apache Tribe and the NCAI, Folder 1 - *Mapatis, Frank et al v. Ewing, Oscar R* (Federal Social Security) 1948-1949, Box 332, AAIA Papers, MML.



the other. Wesley wrote, “Newspaper writers and some politicians tell us that we aren’t entitled to the same rights as other citizens because we do not pay taxes. My answer is that we have paid taxes. We paid taxes for 2,000 years in advance. The land of ours that we were forced to surrender to the white people was worth many millions of dollars. When we are paid a fair price for that land that was taken, we will be happy to consider paying taxes just like our white fellow-citizens.”<sup>75</sup> In the letter, Wesley asserted Native citizenship and right to benefits. However, Wesley also inserted his tribe’s history of colonialism into the battle over welfare and taxation, reminding Avery that Native people were not “just like” their “white fellow-citizens.”

### **The Ambiguous February 10<sup>th</sup> Agreement**

*Mapatis v. Ewing* also addressed an agreement reached on February 10, 1948 between representatives from the BIA, the Social Security Administration, and the state welfare departments of Arizona and New Mexico. The so-called “February 10th Agreement” accepted a “temporary operating basis for providing public assistance payments to eligible reservation Indians.”<sup>76</sup> Under these procedures, Native applications would be processed by the State Boards of Welfare, and then referred to BIA agents for verification. If an agent deemed an application accurate, it would be

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<sup>75</sup> Wesley to Avery, 1950, NCAI, Series 4 – Tribal Files, Box 94, Tribal Files San Carlos Apache (Arizona) 1947-1955; NMAI. In this letter, Wesley critiqued Arizona’s restriction of Native people from provisions in the Social Security Act relating to disability payments.

<sup>76</sup> Letter from Altmeyer to Littell 1948, Navajo – Proceedings of Tribal Council 1948, Box 408, Phoenix Area Office Division of Extension and Industry Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

granted, with “funds available to the Indian agency.”<sup>77</sup> Essentially Native applicants would receive their OAA, ADC, or AB payments from the BIA, although state welfare workers would process their applications and determine the amounts of aid they would receive. In the eyes of the representatives from state welfare departments of Arizona and New Mexico, this agreement did not “waive legal rights” of the states.<sup>78</sup>

The language of the February 10<sup>th</sup> Agreement demonstrates how entrenched wardship was within state welfare agencies. When caseworkers determined the amount of benefits each case could be awarded, they took “into consideration all resources of the Indians available for their support and maintenance, including all funds appropriated or authorized by acts of Congress.”<sup>79</sup> Each Indian applicant would be judged not on their actual need, but rather on their perceived need based on their status as a “ward Indian.” This ideology was quite dangerous for Native applicants, as individual caseworkers might be tempted to reduce benefits or deny eligibility based on impressions of Congressional appropriations for Indians, without any real guarantee of how and when those funds would be distributed. In other words, Indians could be denied for immediate funds, based on future Congressional appropriations for the BIA. State welfare workers’ understanding of Congressional appropriations was based on a game of bureaucratic “telephone.” In a letter they wrote to the Commissioner of Social Security, senators and representatives from Arizona and New Mexico relayed their reliance on bureaucratic correspondence to determine the states’

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<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Letter from Hoey to Provinse 1948, Social Security Legislation Correspondence, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R).

course of action: “In Senator Hayden’s conversation with you, he discussed a letter received by Senator McFarland from Assistant Secretary Warne, in which the Assistant Secretary definitely states that the Indian Bureau does now have sufficient funds.”<sup>80</sup> Arizona and New Mexico’s State Boards of Welfare assumed that the BIA had enough funds to provide for Native people in their states, without official or verified policy in hand.

Moreover, although the February 10th Agreement specifically stated that state boards would “accept applications for assistance from Indians on the reservation just the same as we do all other individuals of our States,” in reality, Native applications were subject to special procedures.<sup>81</sup> Each application was marked with the abbreviation “Ind.” After a county or state welfare worker conducted an intake interview, it was transcribed and forwarded to the superintendent of the applicant’s reservation with the “request that any errors, omissions, or additions in family composition, requirements, or resources be noted.” If the superintendent did not find any errors, the BIA would “make a grant, if funds are available,” and “report the amount of grant and effective date to the county welfare department.” If need still existed after the BIA’s grant, “the application [was] to be held pending.”<sup>82</sup> Thus, individual counties did not take on any responsibility for granting public assistance to

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<sup>80</sup> Arizona and New Mexico Politicians to Altmeyer, 1948, Social Security Legislation Correspondence, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>81</sup> Ibid.

<sup>82</sup> Arizona State Department of Social Security and Welfare Policies and Procedures 1948, Welfare – Woodruff, Box 149, Pima Indian Agency Records Relating to Welfare, RG 75, NARA – Pacific Region (R).

Indians, but conducted interviews and assembled paperwork for applications which would be held pending.

The February 10th Agreement reified a separation between Indian “wards” and “social workers and other representatives of the welfare board,” who were “not well equipped to evaluate resources of reservation Indians.” A circular released by the Commissioner of Arizona’s State Department of Social Security and Welfare explains:

“an Indian applying for OAA might tell the social worker that he has a small plot of corn and a few sheep and horses. Since the social worker might not know the value of these resources to the applicant, he would merely note the facts in the summary and allow the standard items in the assistance plan. The Indian Service might, however, recognize that the corn and stock furnish one-half of the applicant’s food needs. In this hypothetical instance, the Indian Service would make a notation to this effect on the PA-101 and the social worker would reduce the food allowance by the appropriate amount.”<sup>83</sup>

Welfare caseworkers needed the BIA agents’ “expertise” to translate just how many resources were available to Indians. In the scenario described above, the applicant was prevented from getting too much aid because of the cultural differences between him or her and the caseworker. Native livestock *could* negatively impact the amount of relief granted by state welfare offices. For example, in a 1949 letter to Norman Littell, lawyer for the Navajo tribe, a representative from the New Mexico non-profit organization, Navajo Assistance, Inc., asserted that the New Mexico State Welfare Office had established in October 1947 that one Navajo family’s need—with an elderly husband, blind wife, and two small dependent children—should have granted them a benefit of \$144.09 per month. However, in May 1948, because BIA social

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<sup>83</sup> Ibid.

workers on the reservation had informed the State Welfare Office that the family “owned 21 sheep and 10 goats,” their monthly benefit was drastically reduced: “the old man would be given \$7.50 and the blind wife \$20.00 per month.”<sup>84</sup> This procedure distinguished Indian cases from other cases for relief. In fact, although the agreement was supposedly set up to accept Native applications “just the same” as others, Native Americans were clearly viewed differently—not as citizens, but as wards whose distinct resources required translation by representatives of the federal government.

The procedures laid out in the February 10th Agreement legitimized the denial of Social Security benefits to Native populations, and revealed the extent to which county and state caseworkers looked suspiciously at Native Americans, assuming they would not be eligible for benefits due to the land and resources the federal government provided for them. Plaintiffs in *Mapatis v. Ewing* argued that the administrative back-and-forth between the state welfare officials and agents of the BIA to verify and confirm Native applications was specifically designed to delay payments. In fact, one year after the February 10th Agreement, “not a single Indian who made application to the State of New Mexico for assistance under this procedure has ever received such assistance.”<sup>85</sup> In Arizona, a small number of Indians fared better. In May of 1948, eighteen applications for OAA were processed by the Pinal County Board of Public Welfare, and BIA agents paid those claims after receiving a monetary allotment from

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<sup>84</sup> Navajo Assistance Inc. to Littell, 1949, NCAI, Series 4 – Tribal Files, Box 114, Navajo Tribe (Arizona) 1949; NMAI.

<sup>85</sup> Amicus Brief of All-Pueblo Council, Mescalero Apache Tribe, Jicarilla Apache Tribe and NCAI, Folder 1 - *Mapatis, Frank et al v. Ewing, Oscar R* (Federal Social Security) 1948-1949, Box 332, AAIA Papers, MML.

the BIA office in July of the same year. However, just after those eighteen Pinal County residents received their payments, the BIA agent for their reservation informed the Arizona Commissioner of the State Department of Social Security that “further allotments are not anticipated.”<sup>86</sup> The BIA then informed the state welfare agencies of Arizona and New Mexico that “funds at its disposal were exhausted.”<sup>87</sup> As a result, both Arizona’s and New Mexico’s state welfare boards “informed the Social Security Administration that they would no longer operate under the agreement and, further, they would not make any public assistance payments requiring the expenditure of state funds to reservation Indian applicants.”<sup>88</sup>

Some counties in Arizona also employed delaying tactics and increased the administrative steps needed to process Native applications. One such tactic was to hold Indian applications “pending,” rather than directly inform Indians their benefits had been denied. For example, two women from the Colorado River Reservation had been able to receive payments for OAA and ADC from the Indian Service for at least one month before the BIA exhausted its funds. The Yuma County Board of Social Security and Welfare advised the Colorado River Agency superintendent that “the applications should be retained in the suspense file rather than having them canceled.” The board instructed the women to resubmit their applications the following month for

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<sup>86</sup> Letter from Robinson to Hill 1948, Welfare – Woodruff, Box 149, Pima Indian Agency Records Relating to Welfare, RG 75, NARA – Pacific Region (R).

<sup>87</sup> Letter from Altmeyer to Littell 1948, Navajo – Proceedings of Tribal Council 1948, Box 408, Phoenix Area Office Division of Extension and Industry Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

<sup>88</sup> Ibid.

reconsideration.<sup>89</sup> Similarly, Sam Ahkeah, Chairman of the Navajo Tribal Council, wrote to Ruth Bronson in 1948 describing how the state of New Mexico was “making no payments, merely accepting applications.”<sup>90</sup> Holding applications in suspense advertised to Native applicants and their neighbors and communities that nothing would come of their applications for Social Security benefits.

Additionally, state welfare workers instituted administrative policies and procedures which made it difficult or impossible for needy Native people to even submit their applications for benefits. In their letter to Littell, a representative for Navajo Assistance Inc. described how “New Mexico welfare workers insist that...birth records must be registered in the County before they will accept such proof of age.” This posed a problem for many Navajos, because, “There are many isolated needy cases whose births have not been properly recorded.”<sup>91</sup> Additionally, Ahkeah reported that after traveling a long distance from the reservation to apply for benefits in person, a group of Navajo applicants had been turned away by welfare workers who were “too busy to take the applications that day.”<sup>92</sup> When they returned the following day, “they were informed that it would be necessary to furnish birth certificates for each member of the family, but, at the same time, were advised by the welfare worker that it wouldn’t be worth while to go to all that trouble,” because the payments

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<sup>89</sup> Letter from Gensler to Hart 1948, Insurance Life Accident Etc. Protection of Indians, Box 168, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>90</sup> Ahkeah to Bronson, October 28, 1948, NCAI, Series 4 – Tribal Files, Box 113, Navajo Tribe (Arizona) 1948; NMAI.

<sup>91</sup> Navajo Assistance Inc. to Littell, 1949, NCAI, Series 4 – Tribal Files, Box 114, Navajo Tribe (Arizona) 1949; NMAI.

<sup>92</sup> Ahkeah to Littell, 1948, NCAI, Series 4 – Tribal Files, Box 113, Navajo Tribe (Arizona) 1948; NMAI.

“wouldn’t amount to anything.”<sup>93</sup> Ahkeah contended this conversation had “discouraged them to such an extent that they went home the second time and dropped the matter.”<sup>94</sup> Forcing Native people to travel long distances only to be turned away because they lacked the proper paperwork broadcasted that needy Indians had very little chance of receiving monetary assistance after filing applications. County welfare offices also claimed a lack of staff equipped to handle intake and processing of Native applications. Alfred Jackson of the Pima-Maricopa Indian Community in Arizona noted in a letter to Ruth Bronson that social workers in Pinal County had advised the community that “we should not send any more Indians into the county office to apply, because there will probably be no one there to take applications.” Pinal County decided to send one worker to take applications on the reservation, “to review 10 applications only and no more.”<sup>95</sup> The director of the welfare office of San Juan County in New Mexico limited staff to processing “1 application per week.” According to Sam Ahkeah, “at this rate it would take approximately seven years to put the case load which is around 378 on Social Security here in the Shiprock vicinity.”<sup>96</sup> Ultimately, Native people faced many logistical and administrative difficulties in even getting their applications into the hands of state and county welfare workers.

As late as September of 1948, seven months after the February 10th Agreement, Indian Service employees expressed frustration and confusion over the lack of

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<sup>93</sup> Ibid.

<sup>94</sup> Ibid.

<sup>95</sup> Jackson to Bronson, October 5, 1948, NCAI, Series 4 – Tribal Files, Box 120, Gila River (Pima-Maricopa Arizona) 1948-1955; NMAI.

<sup>96</sup> Ahkeah to Bronson, October 28, 1948, NCAI, Series 4 – Tribal Files, Box 113, Navajo Tribe (Arizona) 1948; NMAI.



progress and cooperation with county welfare boards. Mary Woodruff, social worker for the Pima Indian Agency, complained that “We have had to wait for months for the Welfare county offices to complete the processing of the Indian Applications.”

Furthermore, she conveyed the hostility that county welfare workers expressed toward Indian applicants, stating, “We have also been told by the Pinal county office, that these applications, before they could be considered for Social Security, if the program ever goes through, would have to be visited once more and reviewed. This would take considerable time.”<sup>97</sup> Later that month, the Arizona State Board of Social Security instituted additional directions for Indian applications. Not only would Native applications be marked with the racial signifier, “Ind.,” but would also be marked with the sentence, “Determination of eligibility and extent of need here recorded is based on information now available and is tentative.”<sup>98</sup> This reflected Arizona and New Mexico’s assumption that the federal government would step in to provide funds for Native American applicants, or, that the issue would be resolved “by Congress or through the courts.”<sup>99</sup> Stalling tactics by the state welfare boards had potentially devastating effects for needy Indians whose applications languished in “suspense files,” or who were turned away by caseworkers, who stated that it was “humanly impossible” to process Indian cases as well as white cases.<sup>100</sup> Norman Littell argued

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<sup>97</sup> Woodruff Memo on Indian Relief 1948, Welfare – Woodruff, Box 149, Pima Indian Agency Records Relating to Welfare, RG 75, NARA – Pacific Region (R).

<sup>98</sup> Arizona State Department of Social Security and Welfare Policies and Procedures 1948, Welfare – Woodruff, Box 149, Pima Indian Agency Records Relating to Welfare, RG 75, NARA – Pacific Region (R).

<sup>99</sup> Ibid.

<sup>100</sup> Letter from Robinson to Commissioner Regarding Relief 1948, Welfare – Woodruff, Box 149, Pima Indian Agency Records Relating to Welfare, RG 75, NARA – Pacific Region (R).

that the February 10th Agreement was “sabotage to a point where these Navajos will be marooned for the winter.”<sup>101</sup>

In addition to employing stalling tactics, welfare administrators directly articulated their resistance to including Native people on the Social Security rolls in Arizona and New Mexico. For example, after the February 10<sup>th</sup> Agreement was reached, board members of the State Board of Social Security and Welfare of Arizona issued a resolution to senators and representatives from Arizona and New Mexico which they had adopted at a June 1948 meeting. The board resolved that “Reservation Indians will not be accepted for categorical aid under the three programs of Old Age Assistance, Aid to Dependent Children and Aid to the Blind until final determination of the status of Reservation Indians has been made by a court of competent jurisdiction or through congressional action.”<sup>102</sup> The board stated that they doubted that Indians on reservations were eligible for aid under the Social Security Act. They based their doubts on racialized assumptions about Indian tax exemption: “Had the Indians assumed the obligations of residents, paid their portion of taxes and placed their lands, herds and other property on the tax rolls of the state, no question would have been raised by the state in providing the benefits of the Social Security programs for Reservation Indians.”<sup>103</sup> Thus it is no surprise that Indians faced delays and bureaucratic hurdles from the county boards of welfare well into 1949. This led to

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<sup>101</sup> Letter from Littell to Altmeyer 1948, Navajo – Proceedings of Tribal Council 1948, Box 408, Phoenix Area Office Division of Extension and Industry Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

<sup>102</sup> State Board of Social Security and Welfare Resolution Denying Aid to Reservation Indians, June 29, 1948, Folder 33 – Indian Situation 1948, Box 82, Dennis Chavez Papers, CSR-UNM.

<sup>103</sup> Ibid.

confusion on the part of tribal councils and individual Indians who attempted to apply but were continually rebuked. Sam Ahkeah, Navajo Tribal Council Chairman, expressed his frustration to Norman Littell, asserting that, “It is very discouraging when we see, for instance in a daily newspaper on November 11<sup>th</sup>, ‘WELFARE PAYMENTS TO BE INCREASED FOR NEW MEXICANS’, and then the same paper the next day shows: WELFARE PAYMENT TO BE REDUCED FOR NAVAJO TRIBE.”<sup>104</sup>

### **The Ambivalent Status of Social Security in the Termination Era**

In January 1949, Senators Ernest McFarland (D-Arizona), Carl Hayden (D-Arizona), Dennis Chavez (D-New Mexico), and Clinton Anderson (D-New Mexico) introduced a bill in the Senate which would have amended the Social Security Act to “provide for Federal aid for Indian wards for old age assistance, dependent children and aid to the blind.”<sup>105</sup> The bill, S. 691, stipulated that the federal government would pay Social Security benefits to any “needy individuals residing on lands which are exempt from real property taxes by virtue of Federal laws and treaties in the States of New Mexico and Arizona.” Under S. 691, the Secretary of the Treasury would have disbursed funds to both Arizona and New Mexico to cover 80% of Native people’s OAA, ADC, and AB.<sup>106</sup> While the states would administer applications, under this

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<sup>104</sup> Ahkeah to Littell, 1948, NCAI, Series 4 – Tribal Files, Box 113, Navajo Tribe (Arizona) 1948; NMAI. Emphasis in original.

<sup>105</sup> Dennis Chavez Press Release, Social Security Bill, January 27, 1949, Folder 34 – Bill to Include Indian Wards of Government in Social Security Program 1949, Box 82, Dennis Chavez Papers, CSR-UNM.

<sup>106</sup> Social Security Act Indian Amendments of 1949, S. 691, 81<sup>st</sup> Cong. (1949).

amendment to the Social Security Act, funds would be allocated to come directly from the federal government. When they introduced the bill, the senators from Arizona and New Mexico framed their bill as a solution for the suffering “that seems to have existed among the old, the orphan and the blind year after year.” By “embracing our Indian wards of the Government into the Social Security plan,” Chavez proclaimed, “This bill would provide the means for an immediate response from the Government in taking care of the elderly, dependent children and the blind.”<sup>107</sup> With this proposed bill, McFarland, Hayden, Chavez, and Anderson sidestepped any role their states played in continued Native suffering, and abdicated their states’ role in providing aid to needy Native people living on reservations.

Native people responded to S. 691 with frustration. A common theme woven through Native critiques of the bill was that it constituted “special treatment” or a “special handout” for Indians, and thus exemplified racial discrimination. For example, David Jackson, representative for the Pima-Maricopa Indian Community on the Gila River Reservation, wrote to Ruth Bronson in 1949 expressing his dissatisfaction with the bill. “We do not want to be handled separately or even set apart in separate class the social security as it should be dealt with on equality and not on the basis of special treatment,” Jackson wrote. “If the amendment passes, it will be another bill passed by Congress without the consent of the governed. JUSTICE?”<sup>108</sup>

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<sup>107</sup> Dennis Chavez Press Release, Social Security Bill, January 27, 1949, Folder 34 – Bill to Include Indian Wards of Government in Social Security Program 1949, Box 82, Dennis Chavez Papers, CSR-UNM.

<sup>108</sup> Jackson to Bronson, February 5, 1949, NCAI, Series 4 – Tribal Files, Box 120, Gila River (Pima-Maricopa Arizona) 1948-1955; NMAI. Emphasis in original.

Significantly, Jackson emphasized that as citizens, Native people were entitled to Social Security benefits on an equal basis with other citizens. To support his argument, he cited both the 1936 opinion by the Solicitor of the Interior of the applicability of the Social Security Act to Indians and the 1924 Indian Citizenship Act. However, Jackson also considered S. 691 as another example of policy being instituted without Native consent—and therefore, a violation of wardship as a legal agreement between the tribes and the government. In a letter to the Federal Security Agency soon after the bill was introduced, Ruth Bronson claimed that the bill meant Indians in New Mexico and Arizona would have to “beg special favors from Uncle Sam,” and that Native people did not “want to be a party to this raid on the federal treasury. We are against racial discrimination of all kinds, either that contained in Senate Bill 691 or that which is inherent in the present anti-Indian policies of New Mexico and Arizona.”<sup>109</sup> Crucially, both Jackson and Bronson did not assert that the federal government was obligated to fulfill Social Security benefits under wardship. Rather, Indians were entitled to Social Security as citizens. Indeed, when lawyer James Curry analyzed the bill for the NCAI, he urged Native people to protest it, as he saw the bill as possibly engendering further racial antagonism towards Indians due to the “special handout” they would receive, which could potentially exacerbate stereotypes about ward Indians benefiting from their relationship with the government in ways other citizens did not.<sup>110</sup> Thus, the bill

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<sup>109</sup> Bronson to Altmeyer, 1949, NC16/6/3 – National Congress of American Indians 1943-1949, Box 4, Series 6 – Inter-Tribal Indian Organizations 1930-1959, Collection No. 16 – Records of the Pyramid Lake Paiute Tribe, University of Nevada, Reno, Special Collections (UNR).

<sup>110</sup> Curry to Bronson, 1949, NC16/6/3 – National Congress of American Indians 1943-1949, Box 4, Series 6 – Inter-Tribal Indian Organizations 1930-1959, Collection No. 16 – Records of the Pyramid Lake Paiute Tribe, UNR.

had the potential to undermine both Native peoples' citizenship status, but also the legal arrangement of wardship.

In April 1949, representatives from the Federal Security Agency and the BIA met with the attorney generals of the states of Arizona and New Mexico, and the State Departments of Welfare of Arizona and New Mexico in Santa Fe and came to a compromise. Because of these meetings, plaintiffs in *Mapatis v. Ewing* dropped their complaint, and S. 691 did not progress further than the Senate Committee on Finance.

The 1949 Santa Fe conference was not a perfect solution to Native peoples' battle for Social Security benefits. The agreement specified that needy Indians would receive most of the funds for their Social Security payments from the BIA. Funds allocated to the BIA for this purpose would satisfy "two-thirds the total need" of each eligible "reservation Indian."<sup>111</sup> Cases would be referred back to county welfare offices to satisfy the remaining funds, which "would not exceed 10 percent of the total cost incurred by the Federal and State government in aid to needy Indians."<sup>112</sup>

Although the Santa Fe agreement contained more concrete language which specified Indians' entitlement to Social Security, the procedures were still racialized. Welfare caseworkers were to obtain information directly from Native applicants concerning their circumstances and eligibility, however, "the Indian Service [was] considered as

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<sup>111</sup> Letter from Arizona State Department of Public Welfare to Indian Superintendents, Welfare Correspondence Woodruff 1949-1950, Box 149, Pima Indian Agency Records Relating to Welfare, RG 75, NARA – Pacific Region (R).

<sup>112</sup> Cohen Report on Public Assistance Provisions for Navajo and Hopi 1950, Navajo-Hopi Indian File 11 - WH Indians - Veto Message of S.1407 October 1949 and Related Documents 2 of 2, Box 32, Harry S. Truman Staff Member Office Files, Philleo Nash Files, HSTL.

the primary source of information.”<sup>113</sup> County departments were instructed to rely on Indian agents to facilitate home visits, verify financial data, and “report changes of all kinds in family resources and status.”<sup>114</sup> In addition, payments would not be made to Indians from county welfare departments until they had received the funds from the BIA. The Santa Fe procedures did not resolve questions of wardship. Rather, this system of application, verification, and disbursement placed Native peoples’ wardship status before their citizenship status. Wardship did not protect Indians’ rights as citizens, as Native people were not assured they would even receive the entirety of their entitled benefits. They were only guaranteed the funds to satisfy two-thirds of their needs—and those funds were contingent upon a tenuous administrative relationship and Congressional appropriations decisions.

Despite the settlement reached in Santa Fe in 1949, legislators from Arizona and New Mexico persisted in their efforts to have the federal government assume all responsibility for Indian Social Security. In April of 1950, President Harry Truman approved Public Law 474, which provided millions of dollars for the “rehabilitation” of Navajo and Hopi Indians. The law, also known as the Navajo and Hopi Rehabilitation Act, was propelled by widespread media coverage of the poverty on Navajo and Hopi reservations in Arizona and New Mexico. Attached to this bill was a provision “increasing the Federal share of public assistance payments for needy Indians of these tribes who reside on reservations or on allotted trust lands and who

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<sup>113</sup> Arizona State Department of Public Welfare Circular 1949, Welfare Correspondence Woodruff 1949-1950, Box 149, Pima Indian Agency Records Relating to Welfare, RG 75, NARA – Pacific Region (R).

<sup>114</sup> Ibid.

are recipients of old-age assistance, aid to dependent children, or aid to the blind.” Under the new law, the federal government would pay “80 percent of the state’s regular share.”<sup>115</sup> Although Truman remarked that he was not “enthusiastic about these social security provisions,” he felt that they were “justified under the special conditions that prevail in Arizona and New Mexico.” Furthermore, a staffer mused that Truman “recognizes that they constitute the sugar which spurred this bill along.”<sup>116</sup> Thus, as James Curry noted in a report to the NCAI, “Arizona and New Mexico have been successful to some extent, in that the Navajo Rehabilitation Bill provides for eighty percent contributions by the federal government to social security for Navajos.”<sup>117</sup> The Social Security provision attached to Public Law 474 demonstrated an unwillingness on the part of the federal government to take a firm stance against state politicians’ entrenched resistance to providing Social Security benefits to Indians.<sup>118</sup> By absolving Arizona and New Mexico from paying for Navajo and Hopi Social Security and at the same time authorizing a bill providing millions of

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<sup>115</sup> Cohen Report on Public Assistance Provisions for Navajo and Hopi 1950, Navajo-Hopi Indian File 11 - WH Indians - Veto Message of S.1407 October 1949 and Related Documents 2 of 2, Box 32, Harry S. Truman Staff Member Office Files, Philleo Nash Files, HSTL.

<sup>116</sup> Memo to Murphy Re Navajo-Hopi Rehabilitation 1950, Navajo-Hopi Indian File 11 - WH Indians - Veto Message of S.1407 October 1949 and Related Documents 2 of 2, Box 32, Harry S. Truman Staff Member Office Files, Philleo Nash Files, HSTL.

<sup>117</sup> Report to the Seventh Annual Convention to the NCAI, James Curry, 1950, National Congress of American Indians (1 of 4), Box 26, McCabe, George N. to Natl Cong. Of Amer. Indians, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, Records of the US Senate, Record Group 46 (RG 46), National Archives Building, Washington, DC (NAB).

<sup>118</sup> In her discussion of the Navajo and Hopi Rehabilitation Act, Karen Tani argues that legislators in Arizona and New Mexico were particularly reluctant to include Indians on their Social Security rolls because of the states’ lack of jurisdiction over Indian reservations. See Tani, “States’ Rights, Welfare Rights,” 31-32.



dollars for these tribes, the federal government did little to clarify where exactly Native people fit within the American polity.

Into the 1950s, Native people's Social Security benefits continued to be marked with confusion, ambiguity, and a tenuous relationship with politics. Indians' rights to Social Security were inscribed in the law, both in the language of the Social Security Act, which prohibited discrimination based on race in the administration of benefits to citizens, and through exterior agreements like the one reached in Santa Fe. However, in 1951, the Hualapai Tribal Council sent a letter to Governor of Arizona, J. Howard Pyle, protesting the fact that Arizona had refused once again to issue Social Security benefits to Indians. The council noted that "the State's excuse for not making these payments is that the Federal Government has not come forward with their promised funds under the Santa Fe agreement." However, they firmly stated, "this is no excuse for the State again to refuse to carry out its responsibility toward its citizens."<sup>119</sup> Furthermore, that same year Arizona announced a blanket refusal to issue payments to Indians living on reservations for disability insurance, newly added to the Social Security Act.<sup>120</sup> Clarence Wesley, Chairman of the San Carlos Apache Tribal Council, critiqued the decision, arguing that, rather than accepting a program which "the State finances with Federal help," Arizona refused "hundreds of thousands of dollars of

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<sup>119</sup> *Southwest Indian Newsletter* June-August 1951, Indians - Southwest Indian Newsletter February 1951-February 1952, Box 44, Philleo Nash White House Files, HSTL.

<sup>120</sup> Felix Cohen, Amicus Brief of Association on American Indian Affairs, Hualapai Tribe of Arizona, and San Carlos Apache Tribe of Arizona, *State of Arizona v. Oscar R. Ewing*, Civil Action No. 2008-52, 7 (United States District Court for District of Columbia 1952), Folder 20 – *Arizona v. Ewing, Oscar R.* (Federal Social Security) 1952, Box 328, AAIA Papers, MML. In 1950, Congress adopted a new category for public assistance under the Social Security Act: Aid to the Permanently and Totally Disabled. Larry W. DeWitt, Daniel Béland, and Edward D. Berkowitz, *Social Security: A Documentary History* (Washington, DC: CQ Press, 2008), 14.

Federal aid.” Wesley asserted, “There are some politicians in the State who would rather throw away hundreds of thousands of dollars than give help to one crippled Indian kid.”<sup>121</sup> It was clear to Native people in Arizona that the state’s continued resistance to issuing public assistance payments to Indians from state funds was rooted in racial discrimination.

The conflict over Native eligibility for Social Security benefits did not have a clear resolution. Native people in Arizona and New Mexico entered the 1950s unsure of whether they would be able to obtain benefits due to fund shortages or discrimination at the state or local level. This tension was only heightened as politicians from multiple states increased their calls for terminating the BIA.<sup>122</sup> If the BIA was terminated, states would be responsible for caring for Indians just like other citizens and Arizona and New Mexico’s argument that Native people were wards of the federal government and thus not under the purview of the states would be moot. Although the states would be required to issue benefits to Native people, Indians had good reason to be concerned that the racial discrimination they had experienced would continue.

In 1952, Commissioner of Indian Affairs Dillon Myer, a major supporter of termination, argued in his address before the Western Governor’s Conference that services provided to Indians by the Bureau could be transferred to “other

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<sup>121</sup> *Southwest Indian Newsletter* February 1951, Indians - Southwest Indian Newsletter February 1951-February 1952, Box 44, Philleo Nash White House Files, HSTL.

<sup>122</sup> Political advocates of termination succeeded in passing Public Law 280 in 1953, which led to conflict among states, the federal government, and the tribes over issues of taxation and law and order. See Deloria and Lytle, *The Nations Within*, 199.

governmental agencies if it is the type of service normally rendered by government to citizens generally.” Myer touted Social Security as an example of an area where the Bureau’s responsibilities were already limited.<sup>123</sup> It is unclear how well this proposal went over at this particular conference, given that it was located in Phoenix, Arizona, where the BIA’s involvement in Social Security was anything but limited. However, Myer’s statement illustrates the extent to which inclusion in the welfare state was a contested arena of Native American citizenship in the mid-twentieth century. Like other citizens, Native people experienced citizenship through the federal government and the states. Like other citizens of color, Native Americans faced resistance and racial hostility from local welfare administrators in their attempts to access benefits they were entitled to as citizens. However, unlike other citizens, Native people were confronted with discrimination that was predicated upon wardship, which muddied perceptions of Native entitlement and need for public assistance.

## **Conclusion**

The mid-century battle over Native eligibility for welfare under the Social Security Act demonstrated how Arizonan and New Mexican state officials and the public resisted Indians’ incorporation into the American polity purely as citizens. Welfare officials, politicians, and the public saw wardship through a racialized lens, as a status that precluded citizenship. As Chapter 2 demonstrated, Native people demanded that the United States practice “government by consent” in their dealings

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<sup>123</sup> Western Governors Conference Speech 1952, 1950-1953 Commissioner of Indian Affairs Memoranda and Reports 1 of 4, Box 2, Dillon Myer Papers, HSTL.

with Native tribes. By protesting state politicians' and welfare workers' application of wardship to deny them the benefits of citizenship, Native people in Arizona and New Mexico extended the demand for "government by consent" to apply to state governments. If Indians were wards of the federal government, they were also citizens of the individual states. Thus, Indians could demand that the federal government fulfill its "honest debt" under wardship *and* claim eligibility for welfare as citizens.

Resources provided under both wardship and welfare may have gone to the same place—medical care, care of dependent children, and other forms of relief. However, Native people did not assert claims to both wardship and welfare for the same reasons.

Indians worked within and outside of the boundaries of wardship and citizenship, claiming their entitlement to benefits, and negotiating with state agents over the definitions and dimensions of their citizenship status. They submitted countless applications to local welfare offices, inquired after their benefits which never materialized, enlisted the assistance of lawyers and BIA agents on their reservations, petitioned governors, issued resolutions from tribal councils, provided limited benefits to tribal members, and took Arizona and New Mexico to court. These efforts were not motivated by a desire to simply integrate into the American polity and achieve illusive "first class citizenship." Rather, Native people saw Social Security benefits as part of a broader drive for rights and recognition of their humanity. After hearing news of the February 10th Agreement in 1948, Abel Paisano, Chairman of the All-Pueblo Council, exalted that "after thirteen years of argument," New Mexico had recognized that Indians were "entitled to social security benefits like other human

beings.”<sup>124</sup> For Native people in Arizona and New Mexico, the pursuit of benefits under the Social Security Act was about obtaining equal treatment under the law, but it was also about their fellow citizens recognizing that their needs existed. Paisano continued, “We expect that hereafter our white neighbors will respect our land and water rights, and cooperate in other ways for our mutual welfare.”<sup>125</sup> Paisano used the language of citizenship rights, but also called attention to tribal rights, to clarify misconceptions of wardship non-Natives used to justify the denial of Indian benefits. In other words, both wardship and welfare were ways to draw attention to Native need.

In the 1953 *Arizona v. Hobby* case, Arizona attempted to refuse disability payments under the Social Security Act to “any person of Indian blood while living on a federal Indian reservation.”<sup>126</sup> When the Court rejected Arizona’s claims, the AAIA issued a press release which proclaimed that because of the case, the state of Arizona had announced that beginning that month, “Indians will be treated exactly like their black and white neighbors in social security programs for the aged, the blind, and dependent children.” Triumphantly, the AAIA asserted, “So far as the courts are concerned, these decisions mark the final burial of the doctrine of Indian wardship.”<sup>127</sup>

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<sup>124</sup> All Pueblo Council of New Mexico Press Release, Navajo-Hopi Indian File 11 - WH Indians - Veto Message of S.1407 October 1949 and Related Documents 2 of 2, Box 32, Harry S. Truman Staff Member Office Files, Philleo Nash Files, HSTL.

<sup>125</sup> Ibid.

<sup>126</sup> Karen M. Tani, *States of Dependency: Welfare, Rights, and American Governance, 1935-1972* (New York: Cambridge University Press, 2016), 174.

<sup>127</sup> “Indians are Citizens, Not Wards,” AAIA Press Release, 1953, Assoc on American Indian Affairs (2 of 2), Box 8, Supplement Approps. 1952 to Survey Conditions, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB. This press release also cites an influential decision reached by a judge in the Superior Court of California, *Acosta v. County of San Diego*, which asserted that despite being labeled “wards,” Indians were entitled to

Historian Karen Tani has noted that this case formally required Arizona, “on paper, at least,” to “give Indians the material benefits of citizenship.”<sup>128</sup> But was wardship completely buried? Did Indians truly secure the right to welfare benefits?

In 1957, issues over Native eligibility for state welfare resources resurfaced in other states. For example, county and state welfare boards in Montana utilized familiar refrains to block Indian access to social security. Caseworkers argued that Native people were the sole responsibility of the federal government, and that granting them relief would only intensify Indian poverty. For example, a letter written by the Lewis and Clark County Welfare Board in 1957 stated, “We are strongly opposed to aid for ward Indians, feeling they are the exclusive responsibility of the federal government. One of our principal objections is that if the ward Indians know they can leave the reservation and obtain relief, too many of them will flock to Montanan cities and simply intensify the problem of Indian slums.”<sup>129</sup> That same year, the Montana Department of Public Welfare also argued that reservations were bounded spaces where state laws and resources could not intrude. In a statement on their policy, they claimed that since “the Indian reservation and its inhabitants comprise a sovereign unit of government; as such they have the right to handle their own affairs. This Department does not feel it can impose its services on a sovereign unit of

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welfare benefits as citizens. For more see Felix Cohen, *Handbook of Federal Indian Law*, (1982 ed.) (Charlottesville, VA: The Michie Company, 1982), 652; and Joe D. Dillsaver, “Indian Rights: Eligibility of Indians for State Assistance,” *American Indian Law Review* 4, no. 2 (1976): 289-294.

<sup>128</sup> Tani, *States of Dependency*, 176.

<sup>129</sup> Lewis and Clark County Welfare Board to Metcalf, 1957, NCAI, Series 6 – Committees, and Special Issues Files, Box 307, Health and Welfare – Montana Department of Public Welfare; NMAI.

government.”<sup>130</sup> In 1958, wardship and welfare again surfaced in a policy declaration by the “North Central States,” including North Dakota, South Dakota, and Minnesota. Representatives from those states claimed that, “Indian welfare is a Federal responsibility. Indians are located where they are as a result of Federal government action and for this reason some states do not have an Indian problem.” Quite reminiscent of the arguments made by officials in Arizona and New Mexico, the North Central states argued that it was “unfair that certain states should be forced to assume large financial outlays for proper and necessary Indian Services,” and that the “Federal Government is not meeting its total responsibility for Indian people.”<sup>131</sup>

Therefore, states continued to use wardship as a rationale for denying Native people the right to state welfare benefits. Paisano’s hope for cooperation and recognition from his white neighbors was unfulfilled in many ways. However, as subsequent chapters will demonstrate, Native people continued to engage and negotiate with bureaucrats, politicians, and the public and asserting their rights under both wardship and citizenship throughout the mid-twentieth century.

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<sup>130</sup> Current Policy of the Montana Department of Public Welfare Relating to State Child Welfare Services on Indian Reservations, 1957, NCAI, Series 6 – Committees, and Special Issues Files, Box 307, Health and Welfare – Montana Department of Public Welfare; NMAI.

<sup>131</sup> North Central States Indian Policy Declaration, Folder 5 – Multiple Correspondences Addressing Individual Tribal Concerns, Box 4, William Zimmerman Papers, CSR-UNM.

## Chapter 4

### **Gendered Dependency and the Quotidian Structures of Wardship: Monthly Dependency Allowances and Wives and Parents of Native Servicemen During World War II**

#### **Introduction**

In October 1943, Don Foster, Superintendent of Nevada's Carson Indian Agency, issued a memo to all Bureau of Indian Affairs (BIA) field employees and tribal councils which described a *San Francisco Examiner* newspaper article published the previous month. The article explained that to obtain a monthly dependency allowances for families of servicemen, Private Kee S. Kaibetony, 22, and his wife, Nora Griggs, 21 had been married in a Presbyterian church. Though the couple had first appealed to the Red Cross, ultimately the "Government had refused to recognize their union by traditional tribal rites on a reservation in Arizona." Foster urged Indian men eligible for the draft to "take this information seriously and take the necessary steps to protect the welfare of their families."<sup>1</sup> At first glance, this incident reflected a clash between tribal customs and state bureaucracy, because civil marriage was deemed lawful and tribal marriage was not recognized. However, Kaibetony and Griggs' personal situation also exemplified larger issues of gender, welfare, and wardship in the context of World War II.

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<sup>1</sup> Don Foster, Memorandum to All Field Employees and Tribal Councils 1943, NC 16/2/2 Bulletins Memos Etc., Box 2, Series 2 – Carson Indian Agency 1941-1963, Collection No. 16 – Records of the Pyramid Lake Paiute Tribe (PLPT), University of Nevada, Reno, Special Collections (UNR).



First, in this memo, we can see how the BIA acted as a bridge between Indian communities and other offices of the federal government and the military. Foster issued the memo to ensure that Indian servicemen received the same benefits as other citizens in the military. In the WWII era, government agents commonly used BIA agents as go-betweens to communicate with Native people. Second, although Foster urged Native *men* to take the necessary steps to protect their families it was mainly Native women who engaged with bureaucrats in the BIA and other federal offices to claim dependency benefits. Native women conceptualized these benefits as rights due to them as citizens and as soldiers' dependents. Third, the *San Francisco Examiner* article reveals how Native people proactively agitated for their rights despite the challenges they faced as racialized Indian wards. Notably, the article states that before agreeing to be married in the Presbyterian Church, Kaibetony and Griggs first appealed to the Red Cross, demonstrating how the couple refused to accept the denial of benefits, and their commitment to accessing the benefits to which they were entitled as citizens.

What do the conflicts over WWII dependency allowances reveal about wardship? In conjunction with Chapter 5, on Native male veterans and the GI Bill, this chapter interrogates the relationship between wardship and military service. Native men's service to the country introduced a new layer of uncertainty in the conversation surrounding wardship.<sup>2</sup> Citizens understood that veterans were entitled to federal

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<sup>2</sup> Although Native women also served in the armed forces during World War II, like all other women who served, they were not eligible for dependency allowances. Out of the 25,000 Native Americans who served in the armed forces, only about 800 of those were Native women. See Grace Mary Gouveia, "'We Also Serve': American Indian Women's Role in World War II," *Michigan Historical Review* 20,

protection and support—however, that protection and support was *different* from what the US government owed its Indian wards, and conflicts arose when these two categories clashed. As wards, Indian women were already viewed as “dependent” upon the government. Additionally, their relationship to entitlement benefits was defined by their relationships with their servicemen family members. Thus, Native women’s specific engagements with state agents over dependency allowances serve as a unique lens through which to examine the role of gender in ideas about Indian dependency and citizenship. Wardship factored into Native women’s battles for dependency allowances quite differently from the battles of Indians who were denied Social Security benefits. These differences were based on state agents’ explicitly gendered categorization of welfare and wardship.

Under the Servicemen’s Dependents Allowance Act of 1942, wives, children, and other dependent relatives of men in the lower grades of the military were eligible for a monthly allowance consisting of a contribution from the soldier’s paycheck and a contribution from the federal government.<sup>3</sup> These allowances were also referred to as “dependency allotments.” A similar program to provide support for soldiers’ dependents had been adopted in World War I. However, during World War I, wives

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no. 2 (Fall 1994), 159; Jere’ Bishop Franco, *Crossing the Pond: The Native American Effort in World War II* (Denton, TX: University of North Texas Press, 1999), 62. Thus, in this chapter, when referring to the service of Native Americans, I am referring to Native men’s service, specifically men in the seventh, sixth, fifth, and fourth military grades (in the Army: private, private first class, technician fifth grade, corporal, technician fourth grade, and sergeant). Monthly Allowances for the Dependents of Soldiers Pamphlet, Veteran’s Rehabilitation, Box 165, Colorado River Agency Central Classified Files (CRCC Files), Records of the Bureau of Indian Affairs, Record Group 75 (RG 75), National Archives and Records Administration - Pacific Region (Riverside) (NARA – Pacific Region (R)).

<sup>3</sup> Monthly Allowances for the Dependents of Soldiers Pamphlet, Veteran’s Rehabilitation, Box 165, CRCC Files, RG 75, NARA – Pacific Region (R).

directly applied for benefits, whereas during WWII the soldiers applied for dependency allowances or allotments through their commanding officers. This severed the “unmediated relationship between women and the national state” which historian K. Walter Hickel has shown provided women with considerable leverage during World War I.<sup>4</sup> Because the soldier himself was tasked with applying for benefits, conflict naturally arose between families, servicemen, and bureaucratic state agents. The resulting red tape was not necessarily something unique to Native families. However, Native wives and parents did face challenges in claiming benefits due to their ambiguous status as both citizens and wards, which often meant that their claims were funneled through an additional layer of bureaucracy.

Historians of Native Americans’ participation in WWII have argued that the war opened the reservation and “introduced thousands of Indians, voluntarily and involuntarily, to the world beyond.”<sup>5</sup> This scholarly reification of the separation between the “reservation” and the “world beyond” builds off mid-century linear interpretations of Indians’ trajectory from “wardship” to “citizenship.” Pro-termination non-Natives argued that because of Indian men’s military service, Native people had “won the right to be treated like all other Americans” and were thus ready to be “emancipated” from the yoke of governmental guidance.<sup>6</sup> In other words, because

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<sup>4</sup> K. Walter Hickel, “War, Region, and Social Welfare: Federal Aid to Servicemen’s Dependents in the South, 1917-1921,” *The Journal of American History* 87, no. 4 (March 2001), 1364.

<sup>5</sup> Alison R. Bernstein, *American Indians and World War II: Toward a New Era in Indian Affairs* (Norman; London: University of Oklahoma Press, 1991), 87. For a more thorough critique of this argument, see Chapter 5.

<sup>6</sup> *Ibid.*, 159. Bernstein has gone so far as to argue that war played an important role in turning American Indians into “Indian Americans.” For more on these terminationist views, see Donald Fixico, *Termination and Relocation: Federal Indian Policy, 1945-1960* (Albuquerque: University of New Mexico, 1986), xiv; 14.

Native men had performed the ultimate duty of citizenship—military service—they deserved the privileges of citizenship, and should no longer be considered wards. However, monthly dependency allowances claimed by the families of soldiers provide a lens through which to examine whether WWII was as transformative for Native servicemen and their families as has terminationists and some historians have proclaimed. A close examination of the specifically racialized experiences of Native servicemen’s dependents reveals that formal eligibility did not mean they could easily access federal benefits based on military service in the same manner as other Americans. Rather, as wards, Native wives and parents who sought dependency allowances had to operate within the confines of wardship, a structure of bureaucracy which they knew well.

Historians have noted that the New Deal led many Americans to view citizenship as “a reciprocal relationship” between the federal government and constituents.<sup>7</sup> World War II was clearly a “critical turning point for the growth of the federal government” that built upon and expanded New Deal interventions.<sup>8</sup> However, under the terms and conditions of wardship, Native men and women were already used to the federal government interfering in their lives, right down to the most intimate moments of birth, marriage, and death. In fact, one could argue that, while the war may have “unlocked” the reservation for some Native people, allowing them to experience the wider world, it also exposed other American citizens to the

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<sup>7</sup> Paul C. Rosier, *Serving Their Country: American Indian Politics and Patriotism in the Twentieth Century* (Cambridge: Harvard University Press, 2009), 70.

<sup>8</sup> James T. Sparrow, *Warfare State: World War II Americans and the Age of Big Government* (Oxford: Oxford University Press, 2011), 6.

bureaucratic processes that Indians had been dealing with for years. This statement is not to lend credence to the fears of conservative politicians and members of the media about the expansion of the welfare state turning all Americans into “wards” described in Chapter 2. Rather, I argue that in the sense of day-to-day interactions with state agents over the disbursement of resources and benefits, Native people were quite familiar with a large government presence in their lives.

But this also would be too simple an analysis. For even though Indian men and women were used to dealing with bureaucracy, they still faced a level of racial hostility that drastically affected the so-called “reciprocal relationship” between their families and the federal government. Historian Al Carroll has noted that military service has occupied a significant place in Native communities for years, providing a means for “cultural preservation, revival, and defense” of warrior traditions. He stresses that the impact of the military on Native communities is second to that of only one other governmental entity: the BIA. “Certainly,” Carroll writes, “the military shows itself to be far more responsive to Native wishes and needs than the BIA.”<sup>9</sup> While this claim may be borne out in the case of Native veterans of World War II, the effect of military service on the families of veterans on the home front is not as positive. Furthermore, the military and the BIA cannot be so easily separated. Throughout the war, the BIA was intimately entwined with servicemen’s families on the home front, and Native Americans’ ambiguous racial status as “wards” significantly affected how they were treated as recipients of government benefits.

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<sup>9</sup> Al Carroll, *Medicine Bags and Dog Tags: American Indian Veterans from Colonial Times to the Second Iraq War* (Lincoln; London: University of Nebraska Press, 2008), 223.

Native men's service did not negate assumptions associated with Indians' designation as "wards." State agents working with the Veteran's Administration, the Red Cross, and most importantly, the BIA, struggled to fit Native American contributions to the war effort—and their corresponding entitlements due to that service—into familiar categories. It was unclear whether Native servicemen and their dependents were to be considered citizens like any other, or as wards who still required the guardianship of the BIA.

In 1944, Commissioner of Indian Affairs John Collier composed a statement on "Indians in the Armed Forces," to be issued throughout the BIA, most likely for his bi-monthly newsletter, *Indians at Work*. In the statement he expounded on the bravery and commitment of Native men serving in the armed forces, as well as the "40,000 Indians in war industry, and these old folks and women and children who have replaced the Indian manpower gone to war and have gone on increasing the food production of the Indians."<sup>10</sup> Collier connected Native service in WWII to the "record of noble fighting for the Indian homelands."<sup>11</sup> In this statement, he connected the "dictatorship" of the US government before the passage of the Indian Reorganization Act to the fascism the United States was fighting overseas. With their supposedly inherent knowledge of "the spirit of true and profound democracy," Native Americans

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<sup>10</sup> John Collier, "Indians in the Armed Forces," 1944, Series III - Commissioner's Subject File, Part II 1933-1945, John Collier Papers (University Microfilms International, Reel 31), Arizona State University Law Library.

<sup>11</sup> *Ibid.*

turned their efforts to support “their present country.”<sup>12</sup> Collier stressed Native selflessness and contribution to the war effort to combat attacks on the Indian Reorganization Act by legislators who wished to terminate the BIA. Furthermore, Collier’s narrative expressed a natural trajectory for Native people from defending their ancestral homelands against the march of westward expansion to fighting for the United States against international enemies of democracy, thereby solidifying a place for Indians in the American polity. However, Collier’s praise of Native “old folks and women and children’s” contribution could have filtered down through BIA bureaucracy and been interpreted by wives and elderly parents of Native servicemen in a different way: as assurance that people like them were entitled to benefits in return for their efforts. These benefits were understood to be in exchange for exercising the duty of citizenship, in addition to the government’s obligation to fulfill its “honest debt” to Native nations.

This chapter extends the analysis of the relationship between wardship and welfare by examining the impact of wardship on the WWII-era home front. First, I unpack the ways in which Native wives of servicemen engaged with BIA agents, social workers, members of the Red Cross, the military, and other state actors to access the benefits they were due. I call these negotiations and clashes the “quotidian structures of wardship.” Crucially, Indian women engaged with wardship on this day-to-day level to claim their benefits as *citizens*. In these cases, Indians’ peoples’ efforts

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<sup>12</sup> John Collier, “Indians in the Armed Forces,” 1944, Series III - Commissioner’s Subject File, Part II 1933-1945, John Collier Papers (University Microfilms International, Reel 31), Arizona State University Law Library.

to claim rights and recognition of their needs within the mid-twentieth-century welfare state were structured by the interactions between wardship and citizenship. Second, I examine the role of racial animosity in battles over receipt of dependency allowances. Returning to the state of Arizona, which, as demonstrated in the previous chapter, was clearly hostile towards racialized Indians, I examine the difficulties faced by Native men and women whose tribal marriages were not recognized as legal within the state. The differentiation between tribal custom marriage and civil marriage revealed how racial discrimination reified a separation between citizenship and wardship which had no real basis. Arizona's "racial logic" classified tribal marriages as immoral and loosely regulated. The Indian men and women who were married by tribal law and, as a result, were denied dependency benefits, exemplify a long trajectory of racial hostility towards Native practices of marriage which fundamentally influenced how they would be integrated into the American polity. Third, I unpack multiple layers of racialized and gendered dependency at play in conflicts over dependency allowances. These issues of dependency are particularly clear in cases where elderly parents attempted to access benefits from their sons serving in the military. In these interactions, we can see more examples of the quotidian structures of wardship. However, in these cases, recipients' ages and relationships with their sons exacerbated and intensified racial and gender stereotypes associated with dependency and wardship. In turn, the layers of dependency at play in these interactions significantly impacted elderly Indians' rights as American citizens. Overall, this chapter demonstrates how Native women and elderly parents engaged with wardship in their



efforts to obtain the rights due to them as citizens. Conflicts over dependency allowances reveal complex interactions between wardship and citizenship in the context of welfare benefits.

### **The Quotidian Structures of Wardship: Native Wives at the Junctures of Wardship and Citizenship**

In Native peoples' daily lives, wardship as a legal and ideological category manifested in through their negotiations with state agents. Although Native people and state agents often operated under very different definitions of what wardship was, they shared an understanding of the history of the strong role the federal government played in Indian lives. In other words, while Native people may not have consented to or even agreed with actions taken by agents of the BIA, nevertheless, they were familiar with those types of actions. Native women utilized their familiarity with their day-to-day interactions with state agents—the “quotidian structures of wardship”—to access the benefits due to them as servicemen's wives. This section unpacks several case studies from Nevada and Arizona to explore how wardship was intertwined with these efforts to claim the rights of citizenship.

Official correspondence from the BIA reveals Native men and women's challenges in obtaining monthly dependency allotments from relatives serving in the military. The case of Sarah Moore, a Paiute woman living on the Pyramid Lake Reservation in the mid-1940s, demonstrates several unique and significant aspects of what it meant to be simultaneously a Native woman, an American citizen, and a ward

in the WWII-era of government bureaucracy. Moore's case illustrates the clash between Paiute customs and governmental regulations, the extent to which BIA employees were involved in Native families' affairs, and the lengths that Indian women went to ensure that they received the benefits to which they were entitled.

Moore's husband Howard, who was stationed at Fort Bragg in North Carolina, was her second husband. Before her marriage to Howard, Moore had been married to Martin Lopez from 1929 to 1933. However, her marriage to Lopez had been common-law, leaving no record "according to tribal custom."<sup>13</sup> Before Moore and her four children (two of whom were Lopez's children) could obtain the monthly assistance to which they were entitled under the Servicemen's Dependents Allowance Act, representatives from the Office of Dependency Benefits communicated with officials from the Pyramid Lake Tribal Council to prove the "validity" of Sarah's marriage to Howard and to ascertain "whether or not she was divorced from Martin Lopez before her marriage to Private Howard Moore."<sup>14</sup> Sarah Moore's benefits were thus the official business not only of herself and her immediate family, but also members of the tribal council, military officials, and the superintendent and social worker associated with the Carson Indian Agency in Nevada. Letters back and forth from the chairman of the tribal council and the Office of Dependency Benefits verifying her marriage to Howard Moore were dated in late August of 1945. By mid-October of the same year,

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<sup>13</sup> Letter from Albert Aleck, Chairman of Tribal Council, NC 16/12/8 – Welfare Case Records Ca-CI late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>14</sup> Letter from Major H.A. Lake, Officer in Charge, Special Inquiries Branch, Records of the Pyramid Lake Paiute Tribe, NC16/12/8 – Welfare Case Records Ca-CI late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

Moore had still not received any payments. A letter from Ralph Gelvin, the superintendent of the Carson Agency, to Steve Ryan, a BIA representative in Nixon, Nevada, relayed a message from Moore's mother in reference to her daughter's dependency allowance: Howard had "informed her of his attempts to secure an allotment; that deductions have been made from his wages therefore but she has to date received none."<sup>15</sup> Gelvin wrote to ask the representative to "visit Mrs. Moore and ascertain the full story."<sup>16</sup> Since this letter is the last piece of surviving correspondence related to this matter, it is unclear as to how long it took for Moore to finally receive her benefits.

This story, with its varying cast of official and informal characters, is not unique to Sarah and Howard Moore. Rather, it demonstrates several issues Native families faced during WWII which reflected the coexistence of wardship and citizenship. The extent of the bureaucracy involved in dispensing benefits to Native families was tinged with misunderstandings and assumptions associated with wardship. Sarah Moore—speaking through her mother's message to Superintendent Gelvin—communicated that her husband Howard had taken the proper steps to secure her dependency allotment. Soldiers were expected to apply for family allowances through their commanding officers, filling out an application form "following the simple directions thereon."<sup>17</sup> From there, the application was sent to the Allowance

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<sup>15</sup> Letter from Gelvin, Superintendent of Carson Agency, NC16/12/8 – Welfare Case Records Ca-CI late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>16</sup> Ibid.

<sup>17</sup> Monthly Allowances for the Dependents of Soldiers Pamphlet, Veteran's Rehabilitation, Box 165, CRCC Files, RG 75, NARA – Pacific Region (R).

and Allotment Branch in Washington DC, where each case would be investigated. If approved, dependents could expect to receive benefits in the next month, which would continue “up until 6 months after the present war ends.”<sup>18</sup> Assuming that all application forms had been properly filled out and submitted—and because deductions were already being taken from his monthly paycheck, we can assume that they were—Private Howard Moore would have expected to have \$92 sent to Sarah and the four children in his household each month, made up from both a contribution from his own paycheck and the rest from the government.<sup>19</sup> Sarah Moore’s previous common law marriage introduced a hiccup in the bureaucratic process, stalling the payments that the Moores needed. However, even after the tribal council verified Sarah’s marriage to Howard, Sarah was still waiting for payments and had to reach out to both a family member and BIA employees to assist her in receiving her benefits. Furthermore, none of the surviving documentation contains Sarah’s voice, revealing that she was, for some reason, effaced and unable to communicate with the government directly. Both her racial and legal status as a Paiute meant that Sarah’s benefits could be significantly delayed, whether due to the need to fit the tribal custom of common law marriage into the state’s legal requirements, or due to the assumptions of Indian Service personnel who attempted “to help her out of this uneasy situation.”<sup>20</sup>

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<sup>18</sup> Ibid.

<sup>19</sup> Ibid. Howard Moore would have been expected to contribute \$22 per month, deducted from his wages. The governmental contribution for a wife with one child was \$40, with \$10 for each additional child.

<sup>20</sup> Letter from Gelvin, Superintendent of Carson Agency, NC16/12/8 – Welfare Case Records Ca-CI late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

Although Gelvin's letter instructing Steve Ryna, the BIA representative in Nixon, Nevada, to visit Moore and "ascertain the full story," possibly revealed good intentions, those intentions were backed by a sense of distrust of Moore and her claims. Furthermore, while Moore's mother had written to Gelvin on August 29, he had waited until October 17 to respond to their concerns, and had not communicated directly with Moore or her mother, but asked Ryan to visit Mrs. Moore. Sarah Moore's mother noted that Howard had been in the service for four months at the time of her letter. Thus, Sarah and her children were waiting on hundreds of dollars of dependency benefits. Those funds would have significantly impacted their livelihood.

Why did Gelvin ask Ryan to visit Moore and report back? Assumptions about the nature of Indian wardship and the role of BIA agents to both protect and supervise Indian people certainly played a role in his choice. Gelvin had likely received a BIA circular letter distributed to all superintendents in 1943, which stated that the Office of Dependency Benefits had advised that "superintendents may be designated to receive the allotments for children payable under the provisions of the Servicemen's Dependents Allowance Act of 1942 where we are satisfied that the mother or other person receiving such funds is squandering or using such funds to the disadvantage or detriment of the children."<sup>21</sup> While Gelvin did not seem to assume that Moore was "squandering" her benefits, the fact that he had been invested with the power to receive and distribute the benefits on her behalf clearly affected their relationship. BIA superintendents' power to intervene when they discovered that Native women were

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<sup>21</sup> Circular Letter from Fred A. Daiker, Director of Welfare, March 1943, War Pamphlets, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

improperly spending or receiving benefits filtered Native women's receipt of welfare benefits through their status as wards. For example, in 1944, C. H. Gensler, superintendent of the Colorado River Indian Agency in Arizona wrote to the Office of Dependency Benefits to report that the daughter of Henry Dock, a soldier from the Colorado River Reservation, had died in 1943, and her mother, Ione Dock had been "receiving dependency payments for her child for almost a year now to which she is not entitled."<sup>22</sup> We cannot know why Ione Dock did not report her daughter's death to the Office of Dependency Benefits. However, whether it was an administrative task Dock had overlooked because of her grief, or done purposefully, the fact remained that Dock's benefits were subject to Gensler's oversight and supervision. Gensler instructed the office to "advise the amount of refund that [Dock] should make," and to address future correspondence to Dock herself, but to include copies for Gensler's own files.<sup>23</sup> While Suzanne Mettler has argued that it was individual states who added extra requirements and treated beneficiaries as "dependent persons who required supervision and protection," it is clear in the case of Native dependency allowances that orders for supervising and protecting Native beneficiaries also came from the federal level, demonstrating Native peoples' consistent ambiguity between wardship and citizenship.<sup>24</sup>

Sarah Moore's situation reveals that when the history of wardship is factored into the history of welfare benefits, the dichotomy between federal and state eligibility

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<sup>22</sup> Gensler to Office of Dependency Benefits, 1944, Military Activities – Registration – Selective Service, Box 165, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>23</sup> Ibid.

<sup>24</sup> Mettler, *Dividing Citizens*, 24.

requirements is disrupted. Although Moore and her husband seem to have followed all protocols required of other American citizens, in the eyes of the bureaucratic state apparatus they were subject to additional scrutiny and supervision solely based on their racial and legal status as Indians. The Office of Dependency Benefits' granted authority to BIA agents to receive the funds on behalf of Native wives likely because of their racial bias and distrust of Native women to responsibly care for their own children. Additionally, the Office of Dependency Benefits' instructions revealed the office's misconceptions about the nature of wardship. They assumed that Native women would not have been able to utilize the funds in a way that would align with white societal norms.

Sarah and Howard Moore's difficulties in obtaining Sarah's dependency allotment payments also demonstrate how Native women worked within the quotidian structures of wardship, to make the bureaucratic process work for them. When Sarah Moore did not receive her benefits, she used the system that had been set up previously to supposedly "protect and guide" her—the BIA's network of social workers and superintendents. Just as the Office of Dependency Benefits assumed that as an Indian woman, she might be unable to responsibly make use of her benefits and would be better off entrusting them to a BIA agent, Sarah Moore might have assumed that she was more likely to see the money if official communication came directly from a BIA agent. In this way, the experiences of Native women introduce a new aspect into the historical consideration of women and government benefits. It is clear, as Linda Gordon has shown, that governmental and welfare agencies are not only

institutions of “social control,” but are influenced by clients and beneficiaries of aid.<sup>25</sup> Because Native people understood wardship as a legal relationship between tribes and the federal government, asking a government representative to file paperwork, inquire after benefits, or write official correspondence should not be viewed as Native women’s capitulation to a state of *dependence* upon the federal government. Sarah Moore and her mother wrote directly to Superintendent Gelvin, and he took steps to solve the problem. However, as will be discussed further below, the relationship that Native women had with state agents cannot solely be classified as positive. After all, Gelvin’s actions were late, and his letters were tinged with the BIA’s long history of paternalism. But, Moore’s familiarity with governmental bureaucracy imbued her with the ability to interact with the variety of new organizational units WWII introduced into the lives of Native women—the Red Cross, the Veteran’s Administration, and the Office of Dependency Benefits.

Thus, although Native women faced scrutiny and racialized assumptions about their abilities as mothers, they employed superintendents and social workers to intervene on their behalves when they were due more money or needed to communicate with their husbands. For example, in 1943, Josie French, a Paiute woman, discussed the increase she was due on her monthly family allowance from the Navy, where her husband, Cornelius French, was serving, with Carson Agency social worker Tephia Slater. Cornelius had failed to list all his eligible children on his application for a family allowance. Josie discovered this mistake and communicated it

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<sup>25</sup> See Linda Gordon, *Heroes of Their Own Lives: The Politics and History of Family Violence: Boston, 1880-1960* (New York: Viking, 1988), 6.



to Slater, who then wrote to another BIA employee to get the message to Cornelius' Commanding Officer.<sup>26</sup> By communicating with BIA employees, Josie directly requested that her family allowance be increased. Additionally, Josie had requested her husband's release from the Navy due to the financial hardship she was facing at home. Through her correspondence with the BIA, she discovered that her husband would be able to receive a higher monthly salary by staying in the service than by returning to his previous job, since Slater had communicated with his former employers. Slater's language can be read as paternalistic. She did not expend her efforts on Josie's behalf purely because Josie was entitled to her benefits as a citizen and a wife of a servicemen. Rather, Slater's status as a social worker also endowed her with the power to communicate with French's employers and make judgments about how Josie should spend her additional money each month. For example, in regards to Cornelius staying with the Navy, Slater took a patronizing tone: "Thus if he remains in the Service he will be more able to care for the family."<sup>27</sup> And she wrote that if Josie's allowances were increased, Josie could "keep her accounts straight and care for the necessary milk for the baby."<sup>28</sup> Overall though, Josie's attempts to increase her monthly allowances and care for her family by any means possible overshadows Slater's opinions on what was best for the French family. Josie must have been familiar with these types of judgments, because they exemplified the quotidian

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<sup>26</sup> Letter to E.B. Hudson from Tephia Slater, August 1943, NC 16/12/10 – Welfare Case Records D late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

structures of wardship. Josie asked for Slater's assistance to obtain the benefits to which she and her children were entitled—and she received them.

Thus, requesting the help of outside, non-Native agencies and institutions could also be a double-edged sword—along with social workers and superintendents' good intentions came paternalistic attitudes and opinions about the best way to structure families and finances, as illustrated above. When Mrs. George Pete (Paiute) went to the Washoe County Chapter of the Red Cross in July of 1942 “asking for assistance in supporting herself and her children until November when the government contribution will go into effect along with an allowance made by her husband,” Red Cross Executive Secretary Celestia Coulson reached out to the BIA to verify Pete's story and inquire further into her family's situation.<sup>29</sup> Pete went to the Red Cross to obtain help in paying debts of \$60 at her local grocery store. Coulson wrote to E.B. Hudson, the BIA representative in Nixon, Nevada,<sup>30</sup> asking, “Will you please check with Mrs. Pete and see what the whole thing is about since we cannot see how a man with a wife and three children dependent on him could have joined the Army without saying he was single?”<sup>31</sup> From her language in this letter, is clear that Coulson doubted Mrs. Pete's understanding of her own financial and family situation. Coulson asked several follow-up questions of Hudson, including whether he thought assistance was

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<sup>29</sup> Letter to E.B. Hudson from Celestia Coulson, Red Cross, July 1942, NC 16/12/10 – Welfare Case Records D late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>30</sup> Hudson was the teacher at the Nevada Day School in Nixon, Nevada, and may have been the closest representative from the BIA who could check on Mrs. Pete's claim. From the records, it seems that he was often employed in this manner, including with the French family's situation above.

<sup>31</sup> *Ibid.*

necessary, and “what is the least this family can live on a month?”<sup>32</sup> Thus, while Pete had endeavored to help herself and her family get out of debt by making use of an organization explicitly designed to help soldiers and their families, the representative from that organization had no qualms about checking on the validity of her financial situation by communicating with the BIA. Indeed, BIA personnel conducted investigations at the request of the Red Cross on a regular basis. For example, in several monthly reports between 1944 and 1946 to the superintendent of the Sells Agency, the agency “community worker” described conducting weekly investigations for the Red Cross as well as completing “Family Allowance papers,” delivering checks, and “keep[ing] up with the ever-changing addresses of over 270 Servicemen.”<sup>33</sup> As a ward, Pete was subject to racialized assumptions about the power dynamics between government agents and Indian people. Coulson used the BIA not only to verify Pete’s story, but to judge whether Pete was entitled to benefits—revealing that in her mind, Pete’s wardship outweighed her citizenship.

Although families like the Petes were undoubtedly used to the interference of state agents into their homes and lives, the impact of the war also introduced new frustrations about this involvement. In a letter to Paiute Doris Shaw, who was visiting her mother-in-law in California, E.B. Hudson revealed how strongly BIA paternalism still resonated. The Red Cross had asked Hudson to check on Shaw’s allotment checks and found that Shaw’s mother had been holding the checks for her. Finding this less

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<sup>32</sup> Ibid.

<sup>33</sup> Sells Community Worker Monthly Reports, October 1944 and December 1945, Monthly Report to Superintendent of Sells 1944-1945, Box 215, Sells Indian Agency Health and Social Welfare Correspondence of Community Worker Files, RG 75, NARA – Pacific Region (R).

than desirable, Hudson asked Shaw's mother to take the checks to the Post Office to be forwarded to Shaw in California, but Shaw's mother was reluctant to do this because Shaw "had a bill at the store."<sup>34</sup> Hudson then went to the store to investigate the situation and discovered that Shaw had asked the store to hold the checks until she returned from her trip, and they had in turn given them to her mother, "thinking that it would be better to have her keep them."<sup>35</sup> Hudson ended his letter by assuring Doris Shaw that he would send a colleague to make sure that Shaw's mother returned the checks to the Post Office, and admonished Shaw for not paying her bill. "In all fairness to Mr. Crosby, who extended credit to you when you needed it," he wrote, "I think that you should pay him as soon as you cash your checks...In this way you will feel better because then you will owe no one."<sup>36</sup>

It is possible that Doris Shaw and her mother were not on the best terms, and Shaw herself had originally contacted the Red Cross about the whereabouts of her allotment checks. However, even if Shaw had sought to adjudicate a possible family disagreement by appealing to outside authorities, the extent to which Hudson intervened does deserve critical attention. Not only did Hudson involve himself intimately in Shaw's family business by investigating her and her mother's accounts of what had transpired, he also instructed her as to the best way to resolve her debt and spend the money she received from her monthly allotment checks. Hudson apparently had no qualms about involving himself in this way, even though Doris Shaw had left

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<sup>34</sup> Letter to Doris Shaw from E.B. Hudson, October 1944, NC16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

the reservation for personal business and had taken precautions to make sure her checks were held for her in a safe place—the very store she was indebted to—until she returned. Thus, even as they negotiated the emotional and financial difficulties associated with having a husband overseas in the military, Native wives found themselves subjected to BIA assumptions associated with perceptions of their inability to manage their own affairs as wards. The quotidian structures of wardship manifested through BIA agents' continued racialized and gendered assumptions about Native women.

### **The Racial Logic of Dependency Allowances: Conflicts over Tribal Marriage in Arizona**

The difficulties Native women faced in obtaining dependency allowances differed greatly from those elderly and needy Indians faced in obtaining benefits under the Social Security Act. Assumptions about wardship played a role in both scenarios. However, in the Social Security restrictions, it was the states of Arizona and New Mexico which prevented Indians from accessing benefits of citizenship, while in dependency allowance battles, it was federal agents who filtered Native women's rights as citizens through their impressions of wardship. In Arizona, the state/federal line was blurred for Native families who attempted to access monthly dependency allowances. This was due to Arizona's history of racial discrimination against Indians, and the perpetuation of a "racial logic" of Indian inferiority and immorality. In this

section, I will analyze how Arizona's racial logic influenced Native women's welfare benefits, by discussing non-Native assumptions about the dangers of tribal marriage.

The case of Rita Gomez Moreno and Julian Moreno, members of the Tohono O'odham tribe (formerly known as Papago) from the Sells Agency in Arizona, demonstrates the considerable difficulties that Native servicemen and their wives faced in a state particularly rife with discrimination towards Indians. Rita Gomez Moreno and Julian Moreno had a common-law marriage before Julian left for the service. In August 1943, Rita gave birth to a son while living with her sister in Los Angeles. In October, she went to the Los Angeles chapter of the Red Cross, where workers helped her contact her husband to fill out forms for a family allowance for herself and her son. Two months later they received an affidavit from Julian acknowledging the paternity of the child. By this time, Rita had returned to Arizona "to live with her people." The Los Angeles Red Cross then forwarded her paperwork to the Tucson chapter of the organization.<sup>37</sup>

Although Rita Moreno had taken the initiative to have the Red Cross communicate with her husband on her behalf to receive essential paperwork, she heard nothing from the Office of Dependency Benefits. Finally, in March 1944, the Office of Dependency Benefits communicated to the Red Cross that either a birth certificate or baptismal certificate for her child had to be submitted with the application, despite the

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<sup>37</sup> Letter from Los Angeles Red Cross to Superintendent of Sells Agency, September 1944, Dependency Allotment Checks Rita Gomez Moreno, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

fact that Julian had signed a sworn statement attesting to his paternity of the child.<sup>38</sup>

This communication trail involved many steps: the Office of Dependency Benefits contacted the Red Cross, who then contacted the Community Worker associated with the Sells Indian Agency, who was then charged with assisting Rita in obtaining the proper documentation.

Although the Office of Dependency Benefits seems to have initially approved her application, Rita received a letter in July of 1944 claiming her eligibility for benefits had not been established and demanding that she return \$600 of “overpayment,” listing out payments of \$50 per month starting in September of 1942. Undoubtedly this situation was quite confusing and complicated for Rita Moreno, who had not received any such payments. She enlisted the assistance of Wade Head, the superintendent of the Sells Agency, to help her communicate with the Office of Dependency Benefits, who suggested that, “Since Rita Gomez is the common-law wife of Pfc. Moreno, there has been difficulty in securing benefits, as our records indicate.”<sup>39</sup> The process was also quite tedious for Julian Moreno, who wrote to his wife at some point in the affair from Prisoner of War Camp Florence in Coolidge, Arizona to express his frustration about the bureaucratic process. He explained to Rita that he had been called in to the personnel office, first to “show me the amount of money I now owe for your allotment and baby’s,” and later that same day, to “sign

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<sup>38</sup> Letter to Doris Weston from Red Cross, March 1944, Dependency Allotment Checks Rita Gomez Moreno, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

<sup>39</sup> Letter to Office of Dependency Benefits from Wade Head, August 1944, Dependency Allotment Checks Rita Gomez Moreno, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

affidavits at another office.” Since he had no witnesses for the affidavits, he was instructed to “write overseas to a couple of boys I know” to obtain assistance in formulating his statement. He also assured Rita that the office staff were “fixing up some other papers for you to sign and swear, before a notary public.”<sup>40</sup> Although Julian seemed frustrated with the “trouble” he’d had since returning from overseas, he also expressed a strong desire to resolve the issue. Assuring her that he’d be “around after pay day,” he also wrote that “the sooner I get this paid, the sooner we’ll be out of trouble.”<sup>41</sup> It appears that the “trouble” Julian was referring to was the seemingly endless string of interference from various offices, involving statements, affidavits, and a long and convoluted correspondence trail.

Julian and Rita may have faced such difficulties simply because of their status as members of the Tohono O’odham tribe residing in Arizona in the mid-1940s. Although common-law marriages were accepted as valid by the Office of Dependency Benefits, this rule only applied in states where such marriages were recognized. Arizona did not recognize such marriages, which was illustrated more clearly in a letter concerning another couple sent by the Tucson chapter of the Red Cross to the Community Worker at Sells: “Since Arizona does not recognize common-law marriages, it is impossible for the wife to receive an allowance.”<sup>42</sup> The “trouble” Julian and Rita encountered may have been due to Rita’s attempts to initiate benefits

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<sup>40</sup> Letter from Julian Moreno to Rita Gomez Moreno, undated, Dependency Allotment Checks Rita Gomez Moreno, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

<sup>41</sup> Ibid.

<sup>42</sup> Letter from Tucson Red Cross to Doris Weston, December 1945, Red Cross Correspondence, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).



while living in California. However, though this explains why the relationship was deemed ineligible by the second half of 1944, it does not explain why Rita never received any payments before it was designated as such. Whether this was due to the isolated place where Rita and her son were living, or the introduction of multiple parties into the situation to “assist” her, the Morenos’ case demonstrates the difficulty that Native people had fitting into the proper channels to receive the benefits to which they were entitled. Although Rita and Julian did their best to comply with the regulations to which they were subjected, racialized state legislation, not their inability to understand the bureaucratic system, thwarted their efforts. Despite Julian Moreno’s service to his country, because his marriage was common-law, and possibly because his son had no birth certificate, he was unable to provide for his wife and child in the same way as other servicemen when subject to the laws of a state particularly hostile to Native customs and traditions.

Why was Arizona so resistant to recognizing tribal marriages as valid? As Nancy Cott argues, the regulation of Indian marriage in American history is rooted in understandings of Christian superiority and perpetual Indian “foreignness.” Heterosexual marriage was promoted by nineteenth century reformers as a method of “civilizing” Native peoples.<sup>43</sup> Indeed, as was stated in Chapter 1, heterosexual Christian marriage was a path to citizenship for Native women. Marriage customs therefore played a large role in the ideological formation of ideal citizenship, and anything that fell outside of the norm would have prevented Indians from full

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<sup>43</sup> Nancy F. Cott, *Public Vows: A History of Marriage and the Nation* (Cambridge: Harvard University Press, 2000), 25-27.

membership in the polity. In Arizona, BIA personnel commented frequently on how often Indian men and women “changed” wives or husbands. In their minds, the fluidity of marriage in Indian communities was a marker of loose standards of morality, which bred problems for the future of Native civilization. For example, in 1933, Superintendent of the Colorado River Agency, C.H. Gensler, commented in his annual report to the Commissioner of Indian Affairs: “The changing of wives and husbands goes on with little or no more formality than the effort to eat regular meals each day.” The informal nature of marriage within the Colorado River Agency signaled to Gensler how far away Indians were from “civilized” habits. He wrote, “These Indians, through their disregard for any sense of morals whatever, are bringing about their extinction at a rapid pace.”<sup>44</sup> In 1934, Kate Smith, the school social worker for the Colorado River Agency, reported that “the tribal custom of marriage has an unwholesome effect on family life,” and that “petty jealousies” occurred during organized recreational activities when Indians were “left to themselves.” Smith asserted, “The looseness of the marriage bond probably accounts for this jealousy.”<sup>45</sup> At the very least, BIA personnel judged tribal custom marriages with suspicion. More broadly, to BIA agents, tribal marriage demonstrated just how far away Indians were from white norms.

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<sup>44</sup> Colorado River Indian Agency Narrative Section Annual Report 1933, 10, Narrative Reports – 1933, Box 11, CRCC Files, RG 75, NARA – Pacific Region (R).

<sup>45</sup> Colorado River Indian Agency, Annual Report of Extension Workers and Annual Narrative Report 1934, 3, Annual and Statistical Reports – 1934, Box 11, CRCC Files, RG 75, NARA – Pacific Region (R).

Arizona BIA personnel scrambled to find some way to regulate tribal marriage. In addition, members of tribal councils also instituted resolutions and encouraged their members to either marry according to state law or obtain licenses from tribal courts. However, the regulation of immorality was not the only reason why BIA personnel and tribal councils encouraged Indians to marry according to state law. Both state agents and tribal council representatives argued that complying with state laws of marriage and divorce was one way Indians could protect themselves and their family members in times of crisis. For example, at a 1947 meeting of the Navajo Tribal Council, Superintendent Stewart argued that, “there is value in making out their license and getting it here to our records,” “if they want to protect themselves and their spouses, if one should die, and protect their children.”<sup>46</sup> This urging was prompted when the council chairman recounted one family’s extreme circumstances from the previous summer: “It happened last summer that a man got killed over in Utah on a job and his wife tried to get in on the compensation but they found there was no marriage license so naturally she was not eligible for compensation.”<sup>47</sup> The Tribal Council resolved to explain the “conditions regarding marriage” to the Navajos, because, they reasoned, “many Navajos are being deprived of the benefits due them and their families as a result of military service, social security, railroad retirement, etc., because of their inability to provide a marital status.”<sup>48</sup> Similarly, in 1942, the

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<sup>46</sup> Proceedings of the Meeting of the Navajo Tribal Council, November 3-5, 1947, 59, Navajo Tribal Council – Proceedings of Meetings Nov 3-5 1947, Box 408, Phoenix Area Office Division of Extension and Industry Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

<sup>47</sup> *Ibid.*, 58.

<sup>48</sup> *Ibid.*, 58-59.

Papago Tribal Council resolved that beginning in 1943, “no marriage may be contracted by agreement without marriage ceremony, and no marriage contracted within this jurisdiction shall be valid unless a license be issued.”<sup>49</sup> In the middle of WWII, it made sense that the tribal council would issue such a declaration, reflecting their desire for their tribal members to take the necessary steps in order to collect benefits of citizenship.

For state agents and tribal representatives, tribal marriage was a complicated issue. Marrying according to state laws could be understood as capitulating to white standards of “morality,” but also was a way to secure benefits and protections from the state should something drastic happen. To the state of Arizona, there was something else that impacted their stance on tribal marriage. The fact that Indians “need not even comply with the state marriage and divorce laws,” exemplified Indians’ “peculiar status,” and “the special consideration that they have received from the Federal Government.”<sup>50</sup> In other words, the fact that Indians were not obligated to marry according to state law further solidified their status as wards, and excluded them from receiving state benefits. Thus, although the federal government recognized common law marriage for the purposes of disbursing dependency benefits, to the state of Arizona, tribal marriage fell outside of its jurisdictional powers. Without the power to

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<sup>49</sup> Code of Laws of the Papago Tribe of the Sells, Gila Bend, and San Xavier Reservations of Arizona, 1942, 14-15, Papago Constitution Bylaws and Code of Law 1937-1942, Box 239, Papago Agency Sells AZ, RG 75, NARA – Pacific Region (R).

<sup>50</sup> Court Proceedings, *State of Arizona v. Oveta Culp Hobby* Civil Action No. 2008-52, 13 (United States District Court for District of Columbia 1953), Folder 21 – *Arizona v. Hobby, Oveta Culp* (Hualapai and San Carlos) 1952-1954, Box 328, Association on American Indian Affairs Papers, Seeley G. Mudd Manuscript Library, Princeton University.

regulate Indian marriage, Arizona reasoned that Indians could not receive any state benefits from their marriages. Thus, in the case of dependency allowances, the racial logic of the illegitimacy and immorality of Indian custom marriages reinforced the binary between Indian wardship and citizenship, preventing Indians from accessing benefits they were due as citizens.

### **Multiple Layers of Dependency: Parents of Servicemen and Dependency**

#### **Allowances**

This chapter concludes with a discussion of how both the quotidian structures of wardship and racial logic were exacerbated and extended when the Indian applicants for dependency benefits were elderly. In this section, I will unpack the layers of racial and gendered assumptions about Native “dependency,” which crystallized in the cases of elderly and illiterate Indians whose younger family members were far away from home. Wives and children were not the only family members eligible for monthly allowances from soldiers’ paychecks and governmental contributions. Parents and siblings of soldiers were also eligible for allowances if they could prove they were dependent on the soldier for assistance. Below, I analyze several case studies of the efforts of these family members to receive dependency benefits, and illustrate how these family dynamics revealed broader issues of racialized and gendered citizenship in the WWII-era.

Like most soldiers during WWII, Native American men and women in the armed services corresponded with their parents through letters. However, dependency

allotment checks could also provide assurance that their children, although far away, were still alive. One case is that of Paiutes Joe and Bessie Greene, whose two sons, Scott and Pike, served in the armed forces. In March of 1944, Joe and Bessie enlisted the assistance of the BIA and the Red Cross in obtaining information about the whereabouts of their son Pike. They had recently received notice of Scott's death and after Joe had received a notification from the War Department alerting him that his family allowance checks from Pike had been discontinued, were "greatly worried" about Pike.<sup>51</sup> Two months later, the Red Cross received a telegram from Pike Greene, expressing that he had cancelled the allowance, "as he felt his family would get along without the allowance."<sup>52</sup> Although Pike claimed in the telegram that he had written his father to explain the discontinuance of the allowance, it appears as though Joe Greene never received such a letter. Therefore, though the bureaucratic chain of correspondence delivered unfortunate news, it at least proved useful for Joe and Bessie to ascertain Pike's well-being.

Perhaps Pike wished to stop the monthly deduction from his paycheck and figured that an allowance from his brother Scott would be sufficient for his parents to get by in their absence. Unfortunately, Scott had been killed in January of 1944 "of a gunshot wound" while stationed "somewhere in the Pacific area."<sup>53</sup> It is unclear if Pike had knowledge of his brother's death. In any case, the Greene parents were left

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<sup>51</sup> Letter from E.B. Hudson to Mrs. Coulson of Red Cross, March 1944, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>52</sup> Letter from Celestia Coulson of Red Cross to E.B. Hudson, May 1944, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>53</sup> Letter from E.B. Hudson to the Quartermaster General, March 1944, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

without a steady stream of financial support, and embarked on an effort to obtain the benefits entitled to them due to Scott's death overseas. Correspondence between the BIA and the Veteran's Administration, Quartermaster General, and General Accounting Office reveals that Joe Greene sought to cash out his son's savings bonds and life insurance to support himself and his wife. Unfortunately, the Veteran's Administration disallowed the Greens' application for death pension payments as dependent parents since "the veteran's death was not incurred in line of duty but was due to injuries received under circumstances that are not pensionable."<sup>54</sup> It is unclear as to whether the Greens ever received more information surrounding the circumstances of their son's death. Rather it appears they pursued alternate avenues for accessing some sort of financial support from Scott's service. By September of 1944, nine months after Scott's death, E.B. Hudson, the BIA staff member assisting the Greens with correspondence, received word that Joe Greene would start to receive a monthly check from the National Life Insurance Policy for the balance of his life.<sup>55</sup> The assurance of this payment was not obtained easily, as it took several letters back and forth between the Veteran's Administration's Insurance Division and the BIA to explain why Joe lacked a birth certificate and why he was not sure of his exact birth date. Unfortunately, Joe passed away before receiving any payments, and Hudson embarked on naming Bessie the beneficiary of Scott's life insurance policy.<sup>56</sup>

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<sup>54</sup> Letter to Joe and Bessie Greene from Veteran's Administration, May 1944, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>55</sup> Letter to Tephia Slater from E.B. Hudson, September 1944, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>56</sup> Ibid.

It is easy to get lost in the administrative and perfunctory language of all of the governmental correspondence surrounding the Greenes' family situation. If one steps back and examines their circumstances, what lies under the surface are two significant family tragedies within nine months of each other with the deaths of Scott and Joe, and the reality of financial hardship facing aging parents whose children were thousands of miles away, separated by both oceans and governmental agencies. Bessie and Joe were left to deal with the pieces of their lives left from one son's death, while the other had discontinued their monthly allowances. Was Pike able to learn of his brother's death and reinstate his family allowances so that his parents could get by in their time of grief? Was Joe's health failing throughout the process of applying for the life insurance benefits? How did Bessie handle the death of her husband so close to that of her son?

Ironically, the Joe and Bessie's specific colonial history with the United States may have prepared them to perform the administrative tasks necessary to seek benefits after their son's death. Historians have shown that certain servicemen and women who had spent time in Indian boarding schools found that the experience increased the ease of adapting to military life.<sup>57</sup> Perhaps Native people on the home front who had been dealing with colonial paternalism and bureaucracy for years were equally as equipped with useful knowledge and expectations when they attempted to access their benefits, and resolve some aspects of their difficult situations. They were familiar with

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<sup>57</sup> See Gouveia, "We Also Serve", 165; Brenda J. Child and Karissa E. White, "I've Done My Share': Ojibwe People and World War II," *Minnesota History* 61, no. 5 (Spring 2009), 199; and Rosier, *Serving Their Country*, 47.



paternalistic superintendents and social workers intruding into their lives and homes and the red tape associated with correspondence between their local agency and higher authorities of the BIA. Thus, although the types of resources they were attempting to access were new, they engaged with familiar quotidian structures of wardship to obtain them.

While Pike's story potentially lends itself to the common narrative of Native Americans during WWII, that of young Native men who were "introduced to the world beyond"<sup>58</sup> the reservation via military service, Joe and Bessie's story is more complicated. They lacked concrete information surrounding their sons' whereabouts, and later, information surrounding the circumstances of Scott's death. Though they took steps to access the life insurance policy set up through the Veteran's Administration, just like "all other Americans"<sup>59</sup> would have done, they faced difficulties due to their lack of easily accessible birth certificates, as they were Indians born in the 1870s. Though difficulties like this must have also arisen for other families, especially impoverished people of color living in isolated areas, the Greens and other Native American families maintained a unique, sustained relationship with the BIA through this process. Although Joe and Bessie could access the benefits they were entitled to, they were only able to do so after they employed state agents to advocate for them. As many cases in this chapter demonstrate, this tactic could have drawbacks as well as benefits, but it was often the only choice.

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<sup>58</sup> Bernstein, *American Indians and World War II*, 87.

<sup>59</sup> *Ibid*, 115.

Some elderly and illiterate Native people were particularly reliant on BIA employees to assist them in obtaining the benefits they were owed. Nina Winnemucca, a Paiute living on the Pyramid Lake Reservation, ran into challenges after her son, Stanley Winnemucca, was killed in action while serving with the Marine Corps in 1943. Nina faced considerable difficulty in obtaining the benefits owed her from Stanley's life insurance policy, especially because Stanley's father, Pete Winnemucca, was originally listed as the beneficiary. Nina was left with "no means of support" when Pete passed away in 1942, so she enlisted several BIA employees to help her write to the Social Security Board and the Veteran's Administration in order to obtain any benefits that Stanley had accrued through his military service.<sup>60</sup> After Pete's and prior to Stanley's death, Nina had attempted to obtain a monthly family allowance from Stanley, but was told that the soldier must be the one to file an application for an allowance through his commanding officer.<sup>61</sup> Before she was able to obtain any monthly payments, Stanley was killed in action.<sup>62</sup> A large collection of correspondence reveals that Nina was required to submit notarized affidavits attesting to the fact that she was dependent on Stanley in order to receive "death gratuity pay."<sup>63</sup> Obtaining the money from Stanley's life insurance policy proved to be more challenging because Stanley's father had been listed as the original beneficiary. Nina

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<sup>60</sup> Letter to Social Security Board from E.B. Hudson, January 1944, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>61</sup> Letter to Nina Winnemucca from the Navy Department, undated, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>62</sup> Letter to Veteran's Administration from E.B. Hudson, January 1944, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>63</sup> Letter to Slater from E.B. Hudson, January 1944, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

was required to submit affidavits swearing to her own birth, because she did not have a birth certificate. In addition, since she was unable to read nor write, she was required to place her mark on official papers and identification materials in the presence of others.<sup>64</sup> The legal complications of Nina's case caused her local BIA representative to turn it over to the Veteran's Commission in Reno, who then enlisted the help of the American Legion.<sup>65</sup> In the end, although it took an additional five months, Nina Winnemucca eventually heard word that she would receive \$45 per month from Stanley's death pension and a \$55.10 monthly payment from Stanley's life insurance policy, which were to continue over the course of her lifetime.<sup>66</sup>

Nina Winnemucca's attempts to access her benefits illustrate the extensive logistical challenges elderly Native people faced during the war. Not only was her son killed, but she was also compelled to jump through a series of bureaucratic hoops to sustain herself without him and her husband. For Winnemucca, an elderly and illiterate Native woman living in relative isolation, it must have taken extreme strength and resilience to persist in her struggle to gain access to her monthly checks. This shows Winnemucca's individual persistence, but also represents wider conflicts over Native mothers whose access to the benefits of American citizenship were linked to their relationship to their soldier sons.

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<sup>64</sup> Letter to E.B. Hudson from Veterans' Service Commission, February 1944, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>65</sup> Letter to Don Foster from E.B. Hudson, February 1944, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>66</sup> Letters from Veteran's Service Commission to E.B. Hudson, June 1944 and July 1944, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

Winnemucca's role as Stanley's mother was important to the state and to the military. As Takashi Fujitani has shown in his analysis of the state's attempt to appease Japanese American mothers whose sons had been killed in action, mothers could be a powerful influence on their sons' actions.<sup>67</sup> Stanley had been killed in service to his country, and his mother's role in that ultimate sacrifice was not to be ignored. However, Winnemucca faced considerable difficulty in accessing the benefits she was entitled to due to her racial identity as an Indian and legal status as a ward. Fujitani demonstrates the state's efforts to honor and placate mothers of color who existed outside the national community in the case of Japanese mothers. However, Indian mothers were not necessarily treated with the same caution. Rather, Nina Winnemucca seemed to face more challenges due to her racial and legal status as a Native person. While she may have felt more empowered to utilize the BIA to access certain benefits due to her son's sacrifice to the country, state agents did not highlight Winnemucca's role as Stanley's mother as anything particularly out of the ordinary. Moreover, Winnemucca's extreme poverty would have reinforced her racial classification as a ward. Thus, Native Americans were not viewed as citizens like any other, facing discrimination and inconvenience due to their wardship status.

In many cases, it appears that elderly parents and wives with dependent children could utilize BIA employees in order to obtain or alter their monthly allowances. However, interference of BIA personnel as well as Red Cross representatives could also be intrusive, demonstrating how Indians were still

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<sup>67</sup> Takashi Fujitani, *Race for Empire: Koreans as Japanese and Japanese as Americans During World War II* (Berkeley: University of California Press, 2011), 200-201.

consistently viewed as wards by administrative staff members. This shows state agents subjected Native soldiers to a heightened level of state interference despite increasing calls for termination in this period. Soldiers during WWII were charged with the responsibility of applying for dependency allowances, implying a significant level of individual freedom that differed from the previous world war. This freedom of choice can be connected to the development of a growing separation between individuals and their families, encapsulated by a more ambiguous and critical stance against mothers of soldiers, which lead to a “more decisive repudiation of the iconic middle-aged mother” after the war.<sup>68</sup> Rebecca Plant has shown that although mothers of servicemen killed in action were lauded for their sacrifices, such sentimentality was increasingly linked to the United States’ “political and psychological immaturity.”<sup>69</sup> However, Indian servicemen were subject to a level of bureaucratic oversight that did not necessarily mesh with increased freedom and choice.

For example, in June of 1944, E.B. Hudson wrote two letters to two different soldiers, Levi and Arthur Dunn, regarding dependency allotments for their mother and another family member named Wanda (most likely a sister). The letters reveal Hudson’s desire for Levi and Arthur to include both their mother and Wanda as dependents. However, this request seems not to have originated from Mrs. Dunn or Wanda themselves, but rather from Mrs. Coulson, the Red Cross secretary from Reno

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<sup>68</sup> Rebecca Plant, *Mom: The Transformation of Motherhood in Modern America* (Chicago; London: The University of Chicago Press, 2010), 78.

<sup>69</sup> *Ibid*, 80.

who had visited the family and “felt they were entitled to it.”<sup>70</sup> Although Hudson told Levi that Coulson had interviewed the Dunn family “relative to a letter from Arthur,” in his letter he revealed that the “personal study” was conducted at the “request from your Commanding Officer.”<sup>71</sup> Perhaps Arthur had asked his Commanding Officer to communicate with the Red Cross in order to get in touch with his family. However, the language in both letters reveals the extent to which outside state agents were involved in the Dunn family’s affairs. Hudson asked both Dunn sons to list their mother and Wanda as dependents, even though he was unsure as to whether military regulations would permit it. In addition, he mentioned that he had also instructed Richard Dunn, another member of the family who just recently passed his physical examinations for induction into the service, to also claim them as dependents. Although Hudson stressed to Arthur that “you may use your own judgment about this matter,” and that it was “merely a suggestion on the part of the Red Cross Secretary,” the extent of involvement of these outside agents is obvious.<sup>72</sup>

Wanda and Mrs. Dunn may very well have benefitted from an increase in their monthly benefit payments. With three members of the family of eligible age serving in the military away from the reservation, one can only assume that they were without their usual means of financial support. They may have even welcomed the Red Cross secretary’s visit to their home. However, the fact that Hudson referred to that visit as a

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<sup>70</sup> Letter to Arthur Dunn from E.B. Hudson, June 1944, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>71</sup> Letters to Levi and Arthur Dunn from E.B. Hudson, June 1944, NC 16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

<sup>72</sup> Letter to Arthur Dunn from E.B. Hudson, June 1944, NC16/12/9 – Welfare Case Records Co-Cu late 1930s, Box 9, Series 12 – Tribal Society and Daily Life 1930s-1964, PLPT, UNR.

“personal study,” indicates that Wanda and Mrs. Dunn were the objects of bureaucratic scrutiny, and that they were judged to be “entitled” to the dependency payments only after such an intrusion into their home. This intrusion filtered up to the young men serving in the armed forces, and while the addition of dependents was only “suggested,” it was suggested through official correspondence from those overseeing the financial well-being of the Dunn family, which allows one to assume that it carried significant weight. Thus, though the soldier himself was the one responsible for applying for dependency allowances, just how much power he had to reject this option is unclear. Furthermore, how involved was the Commanding Officer in this case and why did the Red Cross interfere? And, perhaps most importantly for this project, would the same effort have been made had the Dunns not been ward Indians living on a reservation? Thus, for servicemen and their families, wardship’s conflicts spilled over into their experiences of citizenship.

### **Conclusion**

The wardship status of Indians living on reservations certainly affected how they could access the benefits of citizenship. In many of the cases described in this chapter, we can see how BIA personnel, Red Cross employees, and other governmental representatives understood wardship as a state of dependency, necessitating the protection and regulation of Indians. However, Native women and elderly parents living on reservations in the mid-twentieth century were far from helpless or completely dependent upon government agents. Rather, they engaged and

negotiated with the BIA to gain access to the benefits they were entitled to due to the military service of their family members. They navigated through the familiar waters of the quotidian structures of wardship to unlock new types of benefits. In this way, though BIA staff and Red Cross representatives may have viewed them as wards, and though they faced extraordinary difficulties in complying with regulations and red tape associated with claiming benefits due to tribal customs, they capitalized on the benefits of American citizenship to provide for themselves and their children. The federal benefits they received through dependency allowances exemplify how wardship and citizenship coexisted.

Gender factored into the case of dependency allowances more so than the Social Security case addressed in the previous chapter. This was not only because it was simply more of a female population who attempted to access dependency benefits. Additionally, the racial logic of Native women's dependency and the threat that tribal marriage posed to American gender structures intensified the clash between wardship and citizenship. Although Native women also participated in the war effort, through military service, war industries, and other activities on the home front, it was perhaps even harder for state agents to see how they could navigate the bureaucratic process of claiming citizenship benefits, as women with husbands stationed so far away.

WWII did open many doors for Native people, especially for the young men who traveled overseas. However, as this chapter has shown, the narrative surrounding WWII's impact on Native Americans is far more complex, especially for those on the home front. While the war certainly provided a new source of income for



servicemen's families, it also brought more of the same paternalistic attitudes and intrusions into their lives and livelihoods. The new engagement with the state that many American citizens experienced during WWII was something with which Native wives and parents were quite familiar. Therefore, WWII does not represent so much of a turning point for Native American citizens, but more of a confluence of cracks in the glossy rhetoric surrounding Native service to the country. In the next chapter, I will explore these cracks further, assessing the impact of wardship on Native veterans who returned from the war to assess the impact of wardship on their publicly lauded service to the country. The gendered structures of citizenship played a large role in the abilities of Native male veterans to access welfare benefits such as GI Bill loans.

## Chapter 5

### **Military Service, Opportunity, and Assimilation: Native Veterans' Experiences of Wardship and the GI Bill**

#### **Introduction**

The 1944 Servicemen's Readjustment Act, or GI Bill, was a massive veterans' benefit package which provided unemployment benefits, low-interest guaranteed loans for the purchase of homes, businesses, or farms, and tuition and stipends for up to four years of education or vocational training to those World War II veterans who had served at least ninety days, with a discharge other than dishonorable.<sup>1</sup> As a result of these programs, 4.3 million veterans purchased homes, 200,000 purchased farms or businesses, and 7.8 million (51 percent of all WWII veterans) utilized educational and training benefits.<sup>2</sup> Historians credit the GI Bill for a boom in the construction industry, as nearly "one-third of new housing starts nationwide" were backed by the Veterans' Administration (VA) by 1955,<sup>3</sup> and substantial changes to American colleges, as veterans made up half of the undergraduate population by 1948.<sup>4</sup> Historians Glenn Altschuler and Stuart Blumin have described the bill as, "without question, one of the

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<sup>1</sup> Suzanne Mettler, *Soldiers to Citizens: The GI Bill and the Making of the Greatest Generation* (Oxford: Oxford University Press, 2005), 6; Glenn C. Altschuler and Stuart M. Blumin, *The GI Bill: A New Deal for Veterans* (Oxford: Oxford University Press, 2009), 71.

<sup>2</sup> Mettler, *Soldiers to Citizens*, 6-7.

<sup>3</sup> Mettler, *Soldiers to Citizens*, 6. Lizabeth Cohen notes that combined with the Korean GI Bill, the legislation is responsible for financing of one-fifth of all single-family residences by 1966. See Lizabeth Cohen, *A Consumers' Republic: The Politics of Mass Consumption in Postwar America* (New York: Vintage Books, 2003), 141.

<sup>4</sup> Cohen, *Consumers' Republic*, 140.

largest and most comprehensive government initiatives ever enacted in the United States.”<sup>5</sup>

The bill provided the sixteen million people who had served the United States in WWII with opportunity for “upward mobility.”<sup>6</sup> However, as many historians have noted, this was an exclusive opportunity—unavailable to non-veterans, and easier to access and more advantageous for some veterans than others. For example, women veterans, who made up 2 percent of the total military personnel in WWII, received less information about their entitlements, were less likely to take advantage of educational training, and were unable to access the same kinds of benefits as men. Unlike male veterans, women did not receive living allowances for dependent spouses while in school.<sup>7</sup> Additionally, although the bill’s language appeared to apply equally to veterans across racial and ethnic groups the GI Bill did little to combat institutionalized and structural racism within the United States. Many more white veterans than black veterans attended institutions of higher learning, in part because the bill granted authority in admissions criteria to universities, which adhered to existing quotas and segregation policies.<sup>8</sup> Suzanne Mettler has further contextualized this discrepancy, noting that many African American veterans had less education than whites prior to entering military service, and were thus more likely to take advantage of vocational training or subcollege programs.<sup>9</sup> Mettler asserts that the bill “opened the

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<sup>5</sup> Altschuler and Blumin, *GI Bill*, 83.

<sup>6</sup> Cohen, *Consumers’ Republic*, 137.

<sup>7</sup> Altschuler and Blumin, *GI Bill*, 121-123; Cohen, *Consumers’ Republic*, 138-139; Mettler, *Soldiers to Citizens*, 144-150.

<sup>8</sup> Altschuler and Blumin, *GI Bill*, 134.

<sup>9</sup> Mettler, *Soldiers to Citizens*, 56.

doors to higher education for many from the lower and lower middle classes,” and “higher proportions of nonwhites than whites used the education and training benefits.”<sup>10</sup> However, as Ira Katznelson has noted, because the law “left responsibility for implementation mainly to the states and localities, including, of course, those that practiced official racism without compromise,” black veterans often faced discrimination in their dealings with local VA officers in charge of unemployment benefits, job placement, and home loans.<sup>11</sup> Thus, though the GI Bill is unmistakably one of the largest and most influential government programs in US history, it did not challenge American institutions of racism and sexism.

Historians of both the GI Bill and Native peoples’ participation in World War II have neglected to examine both Native men’s access to GI Bill educational programs and loans, and the impact of wardship on Native veterans’ lives.<sup>12</sup> Rather, scholars have focused on Native men’s motivations for joining the war effort and, more broadly, the relationship between Native military service and assimilation. Mid-twentieth-century terminationist policymakers argued that military service signaled Native peoples’ “readiness” to integrate into the “white world.” Historian Al Carroll has criticized some non-Native scholars for recapitulating this kind of “assimilationist propaganda” in their own work, at the expense of examining “Natives’ own words.”<sup>13</sup>

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<sup>10</sup> Ibid., 53; 55.

<sup>11</sup> Ira Katznelson, *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America* (New York; London: W.W. Norton & Company, 2005), 123.

<sup>12</sup> The sources I have consulted almost exclusively discuss male Native veterans. Thus, although 800 Native women did serve in the armed forces during WWII, due to limitations in my source base, this chapter will engage primarily with Native men’s experiences in the postwar period.

<sup>13</sup> Al Carroll, *Medicine Bags and Dog Tags: American Indian Veterans from Colonial Times to the Second Iraq War* (Lincoln; London: University of Nebraska Press, 2008), 6.

For example, in the first book-length work on Indian participation in WWII, Alison Bernstein contended that Native veterans' "sudden and unprecedented exposure to the white world contributed to a new consciousness of what it meant to be an American Indian, and a sharpened awareness of the gap between the standard of living on most reservations and in the rest of American society."<sup>14</sup> Similarly, Kenneth Townsend claimed that many Indian people "perceived their involvement in the nation's war effort as the final step toward full assimilation with white society."<sup>15</sup> These authors argued that military service led Native veterans to see the limitations the Bureau of Indian Affairs (BIA) placed on their lives, and encouraged them to understand themselves as a minority group seeking opportunity and rights *within* the United States polity.<sup>16</sup> Bernstein, Townsend, and others have ignored the legal and political interactions between Indian servicemen's wardship status and their agitation for rights as citizens. In so doing, these authors have under-emphasized Native peoples' identities as members of tribal nations, focusing solely on their military service to the United States as an expression of American patriotism and point of entry into mainstream American society.

Other historians *have* explored more of the multi-faceted motivations and implications of Native military service. For example, Carroll asserts that WWII

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<sup>14</sup> Alison Bernstein, *American Indians and World War II: Toward a New Era in Indian Affairs* (Norman; London: University of Oklahoma Press, 1991), 171.

<sup>15</sup> Kenneth William Townsend, *World War II and the American Indian* (Albuquerque: University of New Mexico Press, 2000), 3.

<sup>16</sup> See Townsend, *World War II*, 215-221, 228; Bernstein, *American Indians*, 171-173. See also Jere' Bishop Franco, *Crossing the Pond: The Native American Effort in World War II* (Denton, TX: University of North Texas Press, 1999), 198-200. Franco argues that service to the country in WWII laid the groundwork for "an increase in civil rights among Native Americans," including the occupation of Alcatraz and BIA buildings in the late 1960s and early 1970s.

provided an arena for veterans and their communities to create “permanent and far more widespread tradition[s]” which “allowed veterans to make military service meaningful to them according to traditional dictates.”<sup>17</sup> Thus, rather than a pure expression of service to the United States, WWII military service expanded existing military traditions among tribal nations. Paul Rosier argues that Indian servicemen did express American patriotism, but at the same time, fought for recognition of the rights of their own Native nations. Rosier defined this dual expression of national loyalty as an “ideology of hybrid patriotism—both Indian and American.”<sup>18</sup> Noah Riseman has also complicated Native peoples’ relationship with the US military by assessing how military service perpetuated American colonialism. He argues that the use of “indigenous soldiers as weapons in the Second World War was a process rife with colonial exploitation, where the colonizers’ interests reigned supreme at the expense of indigenous agency and civil rights.”<sup>19</sup> All three of these studies have created a valuable and nuanced picture of Native service, especially within the confines of war itself. However, scholars have not devoted the same attention to veterans’ experiences after the war’s end, especially in terms of how Native veterans worked within and outside of state programs to readjust to civilian life.

Suzanne Mettler has asserted that those male veterans who used the educational and training provisions within the GI Bill “became more active citizens in public life

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<sup>17</sup> Carroll, *Medicine Bags*, 134.

<sup>18</sup> Paul Rosier, *Serving Their Country: American Indian Politics and Patriotism in the Twentieth Century* (Cambridge; London: Harvard University Press, 2009), 9.

<sup>19</sup> Noah Riseman, *Defending Whose Country? Indigenous Soldiers in the Pacific War* (Lincoln; London: University of Nebraska Press, 2012), 27.

in the postwar years than those who did not.”<sup>20</sup> Though historians have explored how military service affected Native veterans’ understanding of their rights and opportunities within the American polity, none have examined whether GI Bill provisions encouraged Native veterans to become more active citizens. This chapter demonstrates that though politicians and policymakers often touted it as such, military service did not provide a linear path from “wardship” to “citizenship.” Instead, wardship significantly impacted both the conversations and experiences Native veterans had with the so-called “white world,” especially in their attempts to access GI Bill benefits to which they were entitled to as citizens who had served their country in war. This chapter’s main aim is to situate Native peoples’ multivalent identities as citizens of the United States, members of tribal nations, and wards who demanded the US fulfill its legal obligations within one large discussion of Native veterans’ experiences of the GI Bill, one of the most far-reaching pieces of welfare legislation of the mid-twentieth century. Additionally, this chapter challenges the historiographical tendency to position the reservations from which Indian veterans originated against the “white world” where they first experienced through their participation in the war. This chapter shows that binary distinctions between Native and non-Native space, society, and politics were not so rigid. Further, this chapter demonstrates that Native veterans, tribal councils, BIA agents, and members of organizations devoted to Indian affairs maneuvered through the quotidian structures of wardship not only to gain Native veterans access to the benefits of the GI Bill, but also to remind the United States

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<sup>20</sup> Mettler, *Soldiers to Citizens*, 9.

government of its obligations to Native people—obligations made more striking once Native people drew attention to their military service.

This chapter is divided into four sections. First, I explore the context in which Native veterans lived in the postwar period. How did they interact with each other, with their tribal councils, and with the BIA to advocate for themselves as both citizens and wards? Though some Native veterans did agitate for increased citizenship rights and argued that the BIA held too much power over them, others called attention to their military service to preserve specific appropriations for Indians and to claim recognition of tribal rights. Second, I unpack how and why Native veterans had difficulty accessing GI Bill benefits. Lending agencies were wary of issuing loans to Native veterans because they argued that trust property could not be used as security for loans. In addition, lenders and VA officials assumed that as wards, Native servicemen would be taken care of by the BIA. Third, I will delve specifically into how Native veterans experienced the dynamics of the educational and training provisions of the GI Bill. Here, the quotidian structures of wardship affected how and where Native people could use educational benefits. The GI Bill's funding for Native training programs revitalized and improved existing BIA training, especially in the case of agricultural programs. Fourth, I will analyze Native veterans' attempts to secure GI Bill loans for homes and businesses. Here, Native people were often unable to access these types of loans because of the trust restrictions on their property. In response, veterans looked to both tribal councils and the government to secure financing. Thus, the trust relationship between tribes and the federal government



drastically impacted Native veterans' ability to access the "opportunity" the GI Bill promised.

By exploring how wardship intersected with the GI Bill, this chapter interrogates the argument made by termination policy advocates and some historians—that military service "opened up" the reservation for Native veterans and provided a path to opportunity and full citizenship rights. In their attempts to access the benefits of the welfare state through GI Bill educational provisions and home and business loans, Native veterans occupied multiple legal and political identities—citizen, ward, tribal member, and family member. This chapter explores how those varying statuses worked with and against each other when Native veterans returned home from service.

### **Native Veterans' Lives in the Postwar Period**

#### *Economic, Personal, and Tribal Transitions*

Just like non-Indians, Native Americans benefited economically from serving in the military and working in defense industries. In a 1947 article for the Association on American Indian Affairs (AAIA) newsletter, *The American Indian*, John Adair asserted that the money Native families in the Southwest earned from allotment checks and war industry wages was "considerably more cash than those families had ever seen." Adair went on to describe how these new sources of income allowed many female Navajo weavers and Pueblo pottery makers to "[lay] aside" their tools until "after the war work and allotment checks 'dried up.'"<sup>21</sup> Adair argued that because the

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<sup>21</sup> John Adair, "The Navajo and Pueblo Veteran: A Force for Culture Change," *The American Indian*, Vol. IV No. 1, 1947, 5-6. Association on American Indian Affairs publication. Reference File – Assoc.

Native serviceman was able to support his family in ways he had not been able to before, he “was accepted as an individual, and was judged as an individual, and not as one of a minority group.”<sup>22</sup> To Adair and other members of the media, the confidence and strength individual Native men found through military service significantly differed from their lives after the war’s end. In the picture the media painted, the end of WWII dried a steady stream of reliable income, and all Native people were once again “dependent” upon government support and public aid.

Concentrated media coverage around the plight of Navajo families in Arizona and New Mexico after the war’s end drove many concerned non-Indian citizens to write to President Harry Truman and demand that the government send aid to the “first Americans.” “We have sent millions to Europe to feed the destitute and now we should send aid to our fellow Americans who are just as hungry and cold as they are in Europe,” wrote Mrs. W.C. Bolan of Plains, Kansas in 1947. “Besides, they are our responsibility.”<sup>23</sup> That same year, King Brooks of Los Angeles, California wrote to Truman, “The Navajo Indians are American also. Are they treated as Americans?”<sup>24</sup> In response to these letters, President Truman vowed in a letter to Secretary of the Interior, Oscar Chapman, to “take all necessary and appropriate measures to meet this critical situation,” brought on by the “cessation of productive employment and of

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On American Indian Affairs, Inc., Box 23, Record Group 220 – Records of the President’s Commission on Civil Rights (RG 220), Harry S. Truman Library (HSTL).

<sup>22</sup> Ibid., 7.

<sup>23</sup> Bolan to Truman, 1947, Indians Navajo-Hopi Rehabilitation Bill S.1407 (Dec 1947), Box 1078, Harry S. Truman Official File 296 (HST Official), HSTL.

<sup>24</sup> Brooks to Truman, 1947, Indians Navajo-Hopi Rehabilitation Bill S.1407 (Dec 1947), Box 1078, HST Official, HSTL.

soldiers' allowances."<sup>25</sup> Chapman replied that "postwar conditions on the Navajo Indian Reservation in Arizona, New Mexico, and Utah have brought about a serious threat of impending large scale deprivation and suffering for this large group of American citizens." He also recognized that many citizens were pointing to the Navajos' poverty and hunger and asking, "Why help foreigners when our own citizens are starving?"<sup>26</sup> Navajo poverty seemed especially abhorrent to members of the public considering Navajo men's record of military service and their previous ability of to provide for their families during the war.

In 1948, the Navajo Tribal Council issued a resolution where they thanked members of the public for donating money and goods and doing what they could to alleviate Navajo poverty. The tribal council stated that, "the end of the war brought a sudden return to dependence upon reservation resources" which were "inadequate for the support of the total Navajo population."<sup>27</sup> Although they utilized the term "dependence," the tribal council did not claim that as wards, they were dependent upon the federal government. Rather, they contrasted individual Native servicemen's independence during the war and with the federal government's failure to fulfill its obligations under the terms and conditions of wardship. Reservation resources were inadequate to support "large numbers of returned Navajo servicemen and former

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<sup>25</sup> Truman to Chapman, 1947, Indians Navajo-Hopi Rehabilitation Bill S.1407 (1945-Nov 1947), Box 1078, HST Official, HSTL.

<sup>26</sup> Chapman Memo to Truman, 1947, Indians Navajo-Hopi Rehabilitation Bill S.1407 (1945-Nov 1947), Box 1078, HST Official, HSTL.

<sup>27</sup> Resolution to Express Thanks, Proceedings of the Meeting of the Navajo Tribal Council, March 18-23, 1948, Navajo Tribal Council – Proceedings of Meetings March 18-23, 1948, Box 408, Phoenix Area Office Division of Extension and Industry Files, Minutes of Navajo Tribal Council, Record Group 75 – Records of the Bureau of Indian Affairs (RG 75), National Archives and Records Administration – Pacific Region (Riverside) (NARA – Pacific Region (R)).

workers in war industries.” Those resources were stipulations of treaties and agreements made between the Navajo tribe and the United States. Other Native groups also used Indians’ military service to draw attention to the lack of resources on reservations and to demand that the United States fulfill its obligations. For example, in a 1947 letter to Senator Pat McCarran, N.B. Johnson, president of the National Congress of American Indians (NCAI), criticized a severe cut in the appropriations for the BIA, by arguing “on behalf of more than 300,000 defenseless wards of the United States Government, to provide adequate funds to at least insure minimum health and educational facilities for them.”<sup>28</sup> By using the term “defenseless wards,” Johnson condemned McCarran and other members of the Senate who had cut Indian appropriations—a key component in the legal relationship between Native nations and the federal government—without obtaining the consent of Indian tribes. To further emphasize his point, Johnson asserted, “The Indian people sent more than 30,000 of their boys and girls to the Colors in World War II to fight for our institutions and American way of life. Let us not deny them the health and educational facilities which have been freely accorded our other citizens.”<sup>29</sup> Johnson drew upon Native military service as the ultimate expression of citizenship *and* used it to remind McCarran of the United States’ obligations to its wards.

Upon their return from service, Native veterans looked to a variety of organizations and institutions for help in readjusting to life outside the military. For

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<sup>28</sup> Johnson to McCarran, 1947, Appropriations – Interior 1947, Box 47, McCarranalia II, Nevada Historical Society.

<sup>29</sup> Ibid.

example, when a group of Navajo ex-servicemen found that the nearest VA offices were in Phoenix and Albuquerque, far away from Navajo veterans living in more isolated parts of the reservation, they formed American Legion Post 52 at Fort Defiance and Window Rock on the Navajo reservation. “We did not want to become a burden on the government, on the Veterans’ Administration, the Red Cross, or on the Navajo Tribe,” asserted Mr. Bennett, representative for the “all-Indian Legion post” at a 1946 meeting of the Navajo Tribal Council.<sup>30</sup> “We decided the best method was to form an organization to get the help of groups interested in the Navajo veterans.”<sup>31</sup> These Navajo veterans actively advocated for themselves and their families by forming an all-Indian branch of the American Legion, an established veterans institution, which represented Navajo veterans in Washington, DC and around the country at American Legion conventions.

In addition to advocating for their rights under both the systems of wardship and citizenship, Navajo veterans pitched their efforts as “doing our share to get the burdens off our government officials and other social workers.”<sup>32</sup> They wanted to spread awareness of their efforts among other Navajo veterans by speaking to members of the tribal council, filling in a gap they saw between Indian veterans’ ability to access resources and assistance and white veterans’ ability. Peter Yazza, an ex-marine and Chaplain of the American Legion Post 52, argued that “Indian people

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<sup>30</sup> Bennet Statement, Proceedings of the Meeting of the Navajo Tribal Council, July 23-26, 1946, p. 47, Navajo Tribal Council – Organization – Minutes of Meetings 12-18-45 6-23-46 1-7-47, Box 408, Phoenix Area Office Division of Extension and Industry Files, Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

<sup>31</sup> Ibid.

<sup>32</sup> Ibid., Peter Yazza Statement, 48.

have a very different problem than the white people because the white people have everything solved and it is down in black and white for them, and the Indian people have no knowledge of this work among them.”<sup>33</sup> Yazza conceptualized the role of Post 52 as a resource for Navajo veterans to help each other navigate around the ambiguous status Native veterans occupied as both citizens who had performed their duty through military service, and wards, who faced uncertainty accessing the benefits to which they were entitled in return for that duty.

Federal governmental officials also saw the utility of having veterans’ organizations work on behalf of Native veterans in obtaining their rights. In 1947, Acting Assistant Secretary of the Interior Martin White argued that “the support of the Veterans of Foreign Wars local posts would be very helpful to the Indians,” because the Veterans of Foreign Wars (VFW) could provide support for Native veterans restricted from voting and social security benefits in Arizona and New Mexico. Additionally, White asserted that “If Navajo veterans are accepted in local VFW posts in towns and cities near the reservation and wherever else possible, it will give them a sense of belonging.”<sup>34</sup> This “sense of belonging” that Native veterans could find when they joined veterans’ organizations would have been both emotional and practical. Veterans could make social connections with fellow veterans who had similar experiences, and these types of organizations could provide legal and official support

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<sup>33</sup> Ibid., 50.

<sup>34</sup> White to Hunsicker, 1947, Relief Welfare Navajo 7-13-48 11-30-47, Box 1, Phoenix Area Office District Director’s Classified Files, RG 75, NARA – Pacific Region (R).

for Native veterans who faced discrimination and difficulties accessing benefits due to wardship.

Tribal councils faced challenges in their efforts to help veterans adjust to reservation life and find new methods and resources to establish their economic livelihoods. In December 1945, BIA Superintendent Stewart spoke to members of the Navajo Tribal Council about the challenges of reincorporating returned Navajo servicemen into reservation life: “Truly you Navajo people and your way of life have changed tremendously during the past four years. As I see it, this change has been brought about to a large extent because about one-third of the total Navajo people, service men and others, have been outside during the war years and as mentioned before have acquired new ideas.”<sup>35</sup> The differences in ideology borne out of participation in the war effort were exacerbated, Stewart explained, “due to worry or a feeling of fear as to how your people are going to be furnished the means of obtaining a livelihood.”<sup>36</sup> It was not only BIA personnel who saw conflict between veterans and other tribal members. Tribal leaders asserted that conflicts over veterans’ alcohol use exacerbated stresses of securing employment for veterans. For example, at the same meeting, Navajo tribal councilman Manuelito Begay expressed pride and support for “these boys who have gone to war in our defense,” but raised concerns about the increased presence of alcohol on the reservation since their return. Begay stated, “In

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<sup>35</sup> Stewart Statement, Minutes of Navajo Tribal Council, December 18-20, 1945, p. 4, Navajo Tribal Council – Organization – Minutes of Meetings 12-18-45 6-23-46 1-7-47, Box 408, Phoenix Area Office Division of Extension and Industry Files, Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

<sup>36</sup> Ibid.

all our prayers at home we did not ask our Supreme Being that these boys might win the war so they can come back and abuse us, which they are doing now. We asked that they win the war so we can live in peace, and they should take this in consideration now that they are home.”<sup>37</sup> Likewise, tribal councilman Carl Mute spoke of disagreements he had with returned veterans over the use of liquor. Mute argued, “We told them they were going in defense of our country, our people and property. Lo and behold, they came back to us and tell us leaders, whatever my instructions were it is my business if I want to bring liquor.”<sup>38</sup> Mute saw veterans’ pushback over the use of alcohol as an extreme assertion of power and authority over previously established governance and order, claiming, “What they say is, ‘I have a right to murder you and get away with it.’”<sup>39</sup> In tense and uncertain economic times, returning veterans did not always readjust seamlessly into life among their tribal communities.

Some scholars have written about these types of conflicts within a binary narrative that pits “traditional” tribal leaders against veterans who have returned from the “world beyond” with new ideas about their rights. For example, Alison Bernstein has claimed that the war forced Native people to “reconsider whether they wished to maintain their isolation from the rest of American life,” and “unleashed Indians from previous tribal patterns.”<sup>40</sup> Similarly, Kenneth Townsend asserts that, “The war placed Native Americans at the proverbial crossroads and permitted tribes and individuals the

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<sup>37</sup> Ibid., Manuelito Begay Statement, 5-6.

<sup>38</sup> Ibid., Carl Mute Statement, 63.

<sup>39</sup> Ibid.

<sup>40</sup> Bernstein, *American Indians and World War II*, 87-88.



right to choose their own path and their own relationships with white America.”<sup>41</sup>

Rather than examining the nuanced and layered relationships between veterans and other members of their tribes and communities, this historiography focuses solely on an oversimplified relationship between veterans and the outside “white world.”

However, tribal councils played an integral role in helping Native veterans negotiate and navigate their places within the American polity *and* within reservation

communities. For example, in 1948, dissatisfied with the current system of tribal courts on the Navajo reservation, Navajo veterans petitioned the tribal council to

“make a thorough review of the Navajo Indian Courts, the system of Administration of justice in said Courts, the personnel appointed as Judges of said Courts, and of the rules and procedure in said courts.”<sup>42</sup> In this case, veterans formally appealed to the

tribal council to improve Navajo systems of governance. In other cases, veterans

appealed to governmental authorities to increase the power of tribal councils to grant benefits and loans to returned servicemen. For example, a 1946 article published in the

*Great Falls Tribune* reported that Native veterans gathered at a conference in

Montana, “went on record as urging legislation which would authorize tribal councils to make loans to Indian veterans,” because, they asserted, “provisions in the GI bill of

rights for making loans are too cumbersome to be practicable.”<sup>43</sup> In still other cases,

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<sup>41</sup> Townsend, *World War II and the American Indian*, 205.

<sup>42</sup> Veterans’ Resolution on Law and Order, Proceedings of the Meeting of the Navajo Tribal Council, March 18-23, 1948, p. 94, Navajo Tribal Council – Proceedings of Meetings March 18-23, 1948, Box 408, Phoenix Area Office Division of Extension and Industry Files, Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

<sup>43</sup> “Indians Seek Changes on Vets’ Loans,” *Great Falls Tribune*, March 30, 1946, National Congress of American Indians (2 of 4), Box 26, McCabe, George, N. to National Cong. Of Amer Indians, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee,

Native veterans themselves joined tribal leadership bodies to strengthen reservation communities. In a 1951 article on the Ute tribe's receipt of a land claim settlement published in the Washington DC *Evening Star*, Herbert Gordon described some of the plans the tribe had for the new income. The "Tribal Business Council," had developed a plan which "delved into every phase of reservation life." This, Gordon argued, reflected "the rising importance of the younger World War II reservation veterans, and the eminent leadership value of Indians willing to put their college educations and knowledge to work on their home reservations."<sup>44</sup> Thus, the perceived binary between the "tradition" of the tribe and the modern independence of returned servicemen is not supported by the variety of ways Native veterans interacted with tribal leadership, and agitated for assistance within an understanding of both citizenship and wardship.

#### *Native Veterans Claim Rights as Both Citizens and Wards*

The historiographical distinction between the reservation and the "world beyond" is partially due to historians' focus on how Native veterans themselves drew attention to their military service to campaign for rights as American citizens. Like the African American "Double Victory" campaign, Native veterans utilized their military service records to advocate for civil rights upon their return home. For example, Arizona and New Mexico's state constitutions refused Native people the right to vote (in Arizona, Indians were considered "persons under guardianship," and in New

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Records of the US Senate, Record Group 46 (RG 46), National Archives Building, Washington, DC (NAB).

<sup>44</sup> Herbert Gordon, Untitled Article, *Evening Star*, May 7, 1951, Indians – News Releases of Indian Bureau 1949-54 (2 of 3), Box 43, Philleo Nash White House Files, HSTL.

Mexico, “Indians not taxed” were denied suffrage). In his 1946 report to the Secretary of the Interior, Commissioner of Indian Affairs William Brophy wrote that Arizona and New Mexico’s refusal of suffrage to Native people “has caused many protest from Indians and non-Indians alike during this fiscal year. Veterans of World War II particularly have objected.”<sup>45</sup> That same year, the all-Indian American Legion Post 52 located on the Navajo reservation issued a resolution to Arizona’s governor and members of the state legislature demanding “assistance be given the Indian people in obtaining from the various states equal civil rights with all other citizens of those states including the right to vote, in all city, county, state and federal elections.” The veterans emphasized that not only were Indians “legally citizens of the United States,” but also that “Indian people defended our cities, counties, states and federal government in their time of need, which cost the lives of many of those people, who made a record in the war of which the nation is justly proud.”<sup>46</sup> Native veterans pointed to their fulfillment of the ultimate obligation to the United States—military service, and demanded the right to vote in return.<sup>47</sup>

In addition to voting rights, Native veterans demanded other forms of equal treatment after returning from military service. Some veterans agitated for the repeal

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<sup>45</sup> Annual Report of the Commissioner, Office of Indian Affairs, to the Secretary of the Interior, Fiscal Year Ended June 30, 1946, p.381, Correspondence with Institutions, Organizations, Etc. – National Congress of American Indians, Box 12, RG 220, HSTL.

<sup>46</sup> Veterans’ Voting Rights Resolution, Proceedings of the Meeting of the Navajo Tribal Council, July 23-26, 1946, p. 49-50, Navajo Tribal Council – Organization – Minutes of Meetings 12-18-45 6-23-46 1-7-47, Box 408, Phoenix Area Office Division of Extension and Industry Files, Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

<sup>47</sup> See also Daniel McCool, Susan M. Olson, and Jennifer Robinson, *Native Vote: American Indians, the Voting Rights Act, and the Right to Vote* (Cambridge: Cambridge University Press, 2007), 9-10; and Willard Hughes Rollings, “Citizenship and Suffrage: The Native American Struggle for Civil Rights in the American West, 1830-1965,” *Nevada Law Journal* (Fall 2004): 126-140.

of the Indian liquor laws, legislation which restricted the sale of alcohol to Native people. In his article for the AAIA's newsletter, John Adair wrote that the ability to drink liquor "with no questions asked" was "one thing that was the most important, actually and symbolically, in this new way of life" generated by participation in the war effort.<sup>48</sup> At the 1946 meeting of the Navajo Tribal Council, council member Carl Mute noted that, veterans "tell us that they have a right to bring it on the reservation. That is one of the benefits of the war as far as they are concerned."<sup>49</sup> To some veterans, the restriction on Indian alcohol consumption was especially discriminatory in light of their service to the country. Native veterans also spoke out against other examples of racial discrimination towards Indians, including restrictive covenants and the refusal of cemeteries to bury Native people because they were not white. In 1947, after Isabel Crocker was discovered to be a "three-quarter Indian," she and her three daughters were ordered to vacate their home in a West Hollywood neighborhood "restricted to Caucasians." In response, Native people in Los Angeles gathered to protest. Tom Humphreys, a Hopi organizer, told the *Los Angeles Times*, "We want to find out where we stand...A lot of us are veterans and we're beginning to wonder what we fought for."<sup>50</sup> In 1951, the Memorial Park Cemetery Association in Sioux City, Iowa's refusal to bury the body of John Rice, a Winnebago Indian killed in

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<sup>48</sup> John Adair, "The Navajo and Pueblo Veteran: A Force for Culture Change," *The American Indian*, Vol. IV No. 1, 1947, 8. Association on American Indian Affairs publication. Reference File – Assoc. On American Indian Affairs, Inc., Box 23, RG 220, HSTL.

<sup>49</sup> Carl Mute Statement, Minutes of Navajo Tribal Council, December 18-20, 1945, p. 63, Navajo Tribal Council – Organization – Minutes of Meetings 12-18-45 6-23-46 1-7-47, Box 408, Phoenix Area Office Division of Extension and Industry Files, Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

<sup>50</sup> "Indians Plan Meeting Over Family Ouster," *Los Angeles Times*, February 14, 1947, Indians – Newspaper Clippings 1947-1952, Box 42, Philleo Nash White House Files, HSTL.

action during the Korean War, because he was “not a member of the Caucasian race” made national news.<sup>51</sup> President Harry Truman responded to protests by arranging for Rice to be buried in the non-segregated section of Arlington National Cemetery, asserting that “national appreciation of patriotic sacrifice should not be limited by race, color or creed.”<sup>52</sup> Mrs. Rice demanded recognition of both her husband’s military service to the country and his Indian identity, refusing to sign an affidavit to “legalize the burial” proposed by the Sioux City cemetery which stated her husband was Caucasian, and stating that, “John loved the Army and always said if anything happened he wanted to be buried in the military section of a cemetery.”<sup>53</sup> Native veterans and their families argued against discriminatory treatment of Native people by calling attention to their military service to the country as an example of their citizenship.

Historian Jere’ Bishop Franco has emphasized how participation in the war effort opened up Native veterans’ to new experiences and interactions with non-Natives, which led them to demand equal treatment on par with their fellow servicemen.<sup>54</sup> Moreover, Alison Bernstein has argued that after fighting alongside white soldiers in the war, Native veterans began to agitate for the end of wardship itself, because they had “begun to see the ways in which white society controlled their lives either through discriminatory legislation or the paternalism of the Indian

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<sup>51</sup> “Indian to Be Buried in Arlington Sept. 5,” *Washington Post*, August 31, 1951, Indians – Newspaper Clippings 1947-1952, Box 42, Philleo Nash White House Files, HSTL.

<sup>52</sup> *Ibid.*

<sup>53</sup> “Indian’s Widow Declines Lot Offer for ‘Greater Honor,’” Newspaper Unknown, August 29, 1951, Indians – Newspaper Clippings 1947-1952, Box 42, Philleo Nash White House Files, HSTL.

<sup>54</sup> Franco, *Crossing the Pond*, 197.

Bureau.”<sup>55</sup> Media coverage from the postwar period reinforced this narrative of veterans’ efforts to obtain equality with other citizens and freedom from government oversight. In 1946, an article published in the *Great Falls Tribune* highlighted Crow veterans’ objection to the creation a “separate office for Indian veterans” by the BIA, “on the grounds that this will merely continue the arbitrary power of the bureau ‘over our property and our lives and continue to deny us the right to be citizens of the country we gladly fought for.’”<sup>56</sup> Similarly, in 1946, Salish veteran Stephen De Mers was quoted in a radio feature on Washington DC’s WTOP expressing frustration with the reach of the BIA in Indian lives. “We have freed the Philipinos [sic], and we have been generous to subjects outside the U.S. But a didactic Indian Bureau, with an arbitrary attitude and jammed with red tape, has sought to lead us like children. We want rights as citizens, not charges.”<sup>57</sup> Clearly, some Native veterans saw wardship and the power of the BIA, as impediments to their rights as citizens. Pitting their military service against the bureaucratic administration of the BIA, these veterans spoke through mainstream media outlets to highlight the hypocrisy they saw in the differentiation of Native veterans’ rights compared to other veterans’ rights.

However, this was only part of the story. Other Native people utilized their own and their family members’ military service to claim specific appropriations for

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<sup>55</sup> Bernstein, *American Indians and World War II*, 171.

<sup>56</sup> “Crow Indians Ask for Equality,” *Great Falls Tribune*, January 8, 1946, Indian Policy (2 of 4), Box 16, Isolated Indian Allotments to Indian Policy, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>57</sup> Godfrey Feature Radio Address, WTOP, November 22, 1946, Indian Policy (4 of 4), Box 17, Indian Policy to 1933 Notes, Schedule, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

Indians and preserve federal recognition of tribal rights. For example, some of the appeals sent to President Truman about aid to Navajos in Arizona and New Mexico came from Native veterans who mentioned their own military service in their demands. For example, in 1951, a Sioux veteran of World War I named Lone Eagle wrote to Truman arguing, “Fifty-five thousand Navajos now living in semi-arid desert are practically in a state of starvation at this time. They and their aged people and their children are hungry—yet they make no complaints to the outside world.”<sup>58</sup> Lone Eagle asserted that Indians had shown themselves to be loyal Americans—indeed, he used the phrase, “original Americans”—and thus deserving of the same kind of aid “we are again sending...to far away countries.” “I am a veteran of World War I,” Lone Eagle wrote. “My son served 3 1/2 years in World War II. My son-in-law has recently returned from Korea maimed for life—All enlisted volunteers—all good loyal Americans.”<sup>59</sup> In his efforts to increase support for Indian appropriations in Congress, AAIA president Oliver LaFarge utilized similar rhetoric. A newspaper article from the early 1950s described La Farge as “astonished” that Navajo “patriotic ardor has survived the handicaps that neglect has imposed upon them; yet their young men have consistently shown themselves glad and proud to fight for this country.” To reverse that neglect, La Farge urged that the Senate restore appropriations cut by the House, because allowing them to stand was “a false economy and a grave injustice.”<sup>60</sup> In these

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<sup>58</sup> Lone Eagle to Truman, 1951, Indians Navajo-Hopi Rehabilitation Bill S.1407, Box 1079, HST Official, HSTL.

<sup>59</sup> Ibid.

<sup>60</sup> “A Wrong to Be Righted,” Newspaper Unknown, Estimated Date 1951, Indians – Newspaper Clippings 1947-1952, Box 42, Philleo Nash White House Files, HSTL.

cases, Native veterans and members of organizations devoted to Indian affairs did not demand citizenship rights for Indians, but rather, used military service to emphasize the specific benefits and resources Indians were entitled to due to their relationship with the federal government.

Additionally, Native veterans drew attention to their military service to oppose changes in legislation which would alter the legal agreements between the federal government and Native nations. For example, in 1952, Joseph Red Cloud, Chief of the Oglala Sioux tribe on the Pine Ridge Reservation in South Dakota, sent a telegram to Harry Truman appealing to the federal government for aid, stating that his grandchildren had fought for the country, and three of them had “been killed and one a prisoner—yet the fathers at home are in want of food and Congressmen too busy to help out.” Red Cloud connected his request for aid to opposition to “Section 3055 of Title 18 U.S. Code entitled crimes and criminal procedure and asks for the sake of the Indians that it be vetoed if passed.”<sup>61</sup> Red Cloud simultaneously highlighted Oglala Sioux service to the United States and reminded Truman that the federal government had not lived up to its obligations to the tribe. Additionally, at the 1954 Emergency Conference of American Indians on Legislation, hosted by the NCAI, Zuni veterans of WWII and the Korean War issued a statement opposing several bills which would alter or abolish wardship, including a bill which would bring Zunis under the jurisdiction of the state of New Mexico. The Zuni veterans pointed to their military service to support their demand that the federal government honor their obligations to

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<sup>61</sup> Red Cloud to Truman, 1952, Indians Navajo-Hopi Rehabilitation Bill S.1407, Box 1079, HST Official, HSTL.



the Zuni tribe. “We fully understand that the passage of these bills will effect [sic] us individually, our property, our tribal ownership, our protection against our religion, our communities, and the things we fought for so dearly.”<sup>62</sup> Reminding the federal government of their military service, the veterans asserted that, “We have fought for democracy and we would like to have you show us this democratic way of life and not neglect us.”<sup>63</sup> Instead of utilizing military service to demand equal rights as citizens, the Zuni veterans emphasized that military service necessitated that the government honor Zuni tribal property rights and protections. Thus, when Native veterans called upon their military service to demand recognition and support from the government, they did not do so solely to insist that their rights be granted in return for fulfilling the responsibilities of citizenship. Native veterans also used military service to call for the federal government to fulfill the obligations of wardship.

### **Wardship, Citizenship, and Native Access to the GI Bill**

#### *Wardship and Denial of GI Bill Benefits*

To Native veterans, military service garnered them access to the rights of citizenship and put additional pressure on the federal government to fulfill the obligations of wardship. However, Native veterans’ efforts to access certain GI Bill benefits were stymied because state agents from the VA, individual bankers, and other

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<sup>62</sup> Statement of Zuni Indian Veterans of World War II and the Korean Conflict, Adopted February 17, 1954, Emergency Conference of American Indians on Legislation Program, Prepared Resolutions p.9-10, Indians – National Congress of American Indians Report – Washington Conference February 1954, Box 42, Philleo Nash White House Files, HSTL.

<sup>63</sup> Ibid.

officials believed that they were ineligible for benefits under the GI Bill. They assumed that under the terms of wardship, the BIA provided Indian veterans with all needed resources. This misunderstanding revealed that governmental agents believed that Indian wardship superseded individual Native men's citizenship. Although Willard Beatty, Director of Education for the Bureau of Indian Affairs, asserted in 1944 that, "Indian veterans have exactly the same rights and are entitled to exactly the same service as any one else," he noted that, "There are indications in various parts of the country that veteran's advisory bodies are inclined to assume that the Indian Service alone has responsibility for retraining, reemployment, or readjustment of Indian veterans."<sup>64</sup> Similarly, in 1947, a Laguna Pueblo veteran met with Senator Dennis Chavez of New Mexico and representatives of the NCAI to voice his concerns that, "Indians are not informed as to what they are entitled to," because "the Veterans' Bureau refuses to treat Indians as it does other GI's, thinking the Indian Service takes care of them."<sup>65</sup> In response to these types of assumptions, the Department of the Interior insisted that BIA agents should actively "encourage veterans to take advantage of the GI credit opportunities open to them wherever possible," and reached out to members of the VFW to help eligible Native people obtain loans.<sup>66</sup> Martin White, Assistant Secretary of the Interior, argued that the VFW "could also help eligible

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<sup>64</sup> Beatty to BIA School Superintendents and Principals, 1944, Education Servicemen's Readjustment Act, Box 201, Sells Indian Agency, Files of Community Worker, RG 75, NARA – Pacific Region (R).

<sup>65</sup> "Help for Indian GIs," National Congress of American Indians, *Washington Bulletin*, Vol. 1, No. 4, June-July 1947, Indian Affairs [Trudeau] 1947-1948, Box 16, Papers of William Brophy and Sophie Aberle Brophy (WBSB), HSTL.

<sup>66</sup> White to Hunsicker, 1947, Relief Welfare Navajo 7-13-48 11-30-47, Box 1, Phoenix Area Office District Director's Classified Files, RG 75, NARA – Pacific Region (R).

Navajos obtain GI loans,” because “some veterans find it difficult to obtain a GI loan because they are Indians and there is a widespread but erroneous belief that the Indian Service can take care of all Indian credit needs.”<sup>67</sup> Thus, in the context of veterans’ benefits, non-Native state officials and lenders conceptualized Indians as dependent “wards,” and the BIA as the only agency responsible for Indian welfare. Moreover, non-Natives presumed that Native veterans just did not *need* assistance like other non-Native veterans, because they had their “own” resources for obtaining loans.

In their 1947 report on the civil rights of American Indians, Milton Steward and Rachel Sady asserted that Indians could not obtain loans from federal organizations based on “the grounds that they have their own credit funds.” Steward and Sady noted that this widespread assumption filtered from government agencies like the Farm Security Administration to “commercial credit houses” where Indians applied for GI loans. Lending agencies “th[ought] that the Indians are taken care of,” and thus denied Native applications.<sup>68</sup> This problem persisted throughout the mid-twentieth century. In 1961, a representative from the Fort Berthold Reservation in North Dakota wrote to organizers of the American Indian Chicago Conference to assert that, “There should be a loan fund especially set up for the Indian Veteran, as there are no credit facilities available for them through any source.”<sup>69</sup> Due to the

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<sup>67</sup> Ibid.

<sup>68</sup> Milton Steward and Rachel Sady, “Civil Rights of American Indians,” prepared for President’s Committee on Civil Rights, 1947, p.6, Staff Memoranda, Witnesses, Statements to the Committee, and Other Committee Documents – American Indians, Civil Rights of – Memo to the Pres. Comm. On Civil Rights, Prep by M Steward and R Sady, Box 16, RG 220, HSTL.

<sup>69</sup> Statement from Fort Berthold Indian Reservation, American Indian Chicago Conference Progress Report No. 6, June 7, 1961, Folder 1 – American Indian Chicago Conference 1960-62, Box 8, William Zimmerman Papers, Center for Southwest Research, University of New Mexico (CSR-UNM).

assumption that the BIA provided all the credit funds Native veterans needed, many Indians found themselves shut off from the possibility of obtaining loans at all, and thus restricted from the economic and civic benefits of obtaining a GI Bill loan.

Non-Natives assumed that individual Native people were unable to enter contracts without BIA approval. In 1945, Walter Woehlke, Assistant to the Commissioner of Indian Affairs, distributed a circular on behalf of Commissioner William Brophy to all Indian agents and superintendents which attempted to dispel this myth. Woehlke wrote, “An Indian is a citizen. The fact that he is an Indian entails no personal disqualification of his right to enter into a contract.” Woehlke acknowledged that individual Indians were subject to restrictions “with respect to the alienation of property held in trust for him by the United States,” but that apart from members of the Osage Tribe,<sup>70</sup> Native people faced no legal restrictions in entering into contracts.<sup>71</sup> The BIA recognized that due to their doubts about the security of loans granted to Indians, lenders began to “demand a higher rate of interest than [was] permitted,” or, in some cases, were “reluctant to lend money to Indians.”<sup>72</sup> As a result, the Bureau issued instructions that “liberalize[d] and modernize[d] the regulations on the giving of security by Indians,” in an effort to navigate around the doubts of lenders

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<sup>70</sup> Under a law passed in 1906, Osage Indians without “certificates of competency” were unable to make contracts without the approval of the Secretary of the Interior. In 1947, Congress passed a bill which enabled Osage Indians veterans to obtain GI Bill loans, and for Osage Indians 21 years or older to enter contracts without the approval of the Secretary of the Interior. Committee on Public Lands, Enabling Osage Indians Who Served in World War II to Obtain Loans Under the Servicemen’s Readjustment Act of 1944, HR Rep. No. 80-919. (1947). See also Felix Cohen, *Handbook of Federal Indian Law*, (1982 ed.) (Charlottesville, VA: The Michie Company, 1982), 788-797.

<sup>71</sup> BIA Circular No. 3610, Loan Guaranty Provisions of the Servicemen’s Readjustment Act of 1944, 1945, Folder 22 – Indian Affairs 1945, Box 82, Dennis Chavez Papers, CSR-UNM.

<sup>72</sup> Brophy to Gurney, 1946, Commissioner of Indian Affairs – Correspondence May 1946, Box 15, WBSB, HSTL.

who saw Native people living on reservations as risky investments.<sup>73</sup> For example, because lenders understood that Indian land was unable to be confiscated if the Native borrower was unable to pay back his loan, the in 1945 BIA stipulated that “If the lender and the Indian veteran borrower so agree, superintendents [were] hereby authorized to permit Indian veterans to assign income from trust land as security for the loan partially guaranteed by the Veteran’s Administration,” and superintendents were instructed to “give every assistance to sheriffs or other proper officers in entering upon Indian lands for the purpose of serving execution or other process.”<sup>74</sup> If lenders were “unwilling to make loans for buildings to be located on trust allotments,” the BIA would consider issuing “a fee patent or removal of restrictions on a small tract of land as a homesite, which then could be mortgaged to the lender.”<sup>75</sup> These liberalized and modernized regulations may have assuaged lenders’ concerns, but also may have confirmed their assumptions that Indians were not allowed to make contracts without BIA approval or interference. Under these regulations, superintendents had the power to act as liaisons between Native veterans and lenders, grant final authority to issue fee patents to mortgage land, assure access to Indian lands to law enforcement and other officers, and permit Indians to assign income from trust land as security for loans. Brophy insisted that “all possible assistance should be rendered Indian veterans in

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<sup>73</sup> Brophy to Members of House and Senate Committees on Indian Affairs and Interior Department Appropriations, 1945, Chronological File December 1945, Box 1, William Brophy Chronological File, HSTL.

<sup>74</sup> BIA Circular No. 3610, Loan Guaranty Provisions of the Servicemen’s Readjustment Act of 1944, 1945, Folder 22 – Indian Affairs 1945, Box 82, Dennis Chavez Papers, CSR-UNM.

<sup>75</sup> Ibid.

securing loans through the same lenders that serve other veterans.”<sup>76</sup> Similarly, in 1946, Brophy reassured the superintendent of the Sacramento Agency, John Rockwell, that “the Indian is entitled under the GI Bill of Rights to the same benefits that any veteran gets.”<sup>77</sup> However, despite these declarations, Native veterans were not subject to the same processes as other veterans. Instead, their ability to access GI Bill loans was filtered through the regulation and oversight of the BIA.

Notably, Brophy’s 1945 circular stipulated that Indian veterans could assign income from trust lands as security for loans only if *both* the lender and veteran borrower agreed to such an agreement, thereby granting Native veterans autonomy over their trust land. BIA agents were heavily involved in the administration of GI Bill loans because they wanted to protect Native men’s entitlement to these benefits—so much so that in special cases, trust restrictions would be lifted and fee patents granted for Native veterans to obtain loans.

However, despite Brophy’s circular and the Bureau’s “liberalized” regulations, Native veterans continued to face difficulty accessing GI Bill loans. The non-Native media seized on these denials, and pointed to Native veterans’ situations as proof of wardship’s limitations. Some members of the press and non-Native organizations wanted to draw attention to racial discrimination and Indian poverty. Others used the restrictions as rationale for the termination of the BIA and the integration of Native people into the polity. In both cases, media and organizational publicity about Native

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<sup>76</sup> Ibid.

<sup>77</sup> Brophy to Rockwell, 1946, Chronological File December 1945, Box 1, William Brophy Chronological File, HSTL.

veterans' attempts to access the GI Bill emphasized how wardship negatively impacted Indians' assumption of full American citizenship.

Articles in mainstream media outlets used the denial of GI Bill loans to Native veterans to illustrate the hardships all Indians endured due to wardship. For example, in a 1947 article for the *Christian Science Monitor*, Kimmis Hendrick equated wardship with enslavement and asserted that few Indian veterans "have opportunity to avail themselves of the GI Bill of Rights."<sup>78</sup> In 1948, Will Rogers wrote an extensive article for *Look Magazine* on poverty on the Navajo Reservation. Rogers asserted that as "wards," Navajos were "denied the same rights as other Americans." For example, he wrote, "Although there are over 3,500 Navaho veterans, not one GI home loan or business loan has been made to anyone on the Reservation. Under the Navaho's wardship status, it is questionable if one can be made legally."<sup>79</sup> Other sources maintained that the denial of GI Bill benefits to Native people exemplified inequality. A pamphlet published in the late 1940s by the AAIA asserted, "Every Veteran is entitled to the privileges underwritten by the GI Bill of Rights. Yet, American Indians, who gallantly served their country find it difficult to get these rights. Why? To a great extent because the American public as a whole does not understand or know the problems of these 400,000 fellow citizens, descendants of the original Americans."<sup>80</sup>

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<sup>78</sup> Kimmis Hendrick, "Bureaucracy Hit; Near-Famine Cited," *Christian Science Monitor*, December 3, 1947, National Congress of American Indians Records (NCAI), Series 4 – Tribal Files, Box 113, Navajo Tribe (Arizona) 1946-1947; National Museum of the American Indian Archive Center, Smithsonian Institution (NMAI).

<sup>79</sup> Will Rogers Jr., "Starvation Without Representation," *Look Magazine*, February 17, 1948, p.38, NCAI, Series 4 – Tribal Files, Box 113, Navajo Tribe (Arizona) 1948; NMAI.

<sup>80</sup> AAIA Pamphlet, "He Helped You Win the War," Navajo 1947, Box 93, Rio Grande Federal Irri. Project to Navajo Current, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

The AAIA urged potential members and donors to confront the discrepancy between Native peoples' service to the United States and their denial of rights under the GI Bill, contending, "He helped YOU win the war, won't YOU help him win his rights?"<sup>81</sup> Some Native veterans welcomed this kind of public exposure of their difficulties accessing the GI Bill, and reached out to non-Native organizations for help. For example, in 1946, 16 Crow veterans from Montana submitted an appeal to the General Federation of Women's Clubs for "aid in revising the GI bill of rights to provide equality for Indian veterans of World War 2."<sup>82</sup> Mainstream media coverage in venues like the *Christian Science Monitor* and *Look Magazine*, the group of Crow veterans, and the AAIA all framed their claims for Native eligibility for GI Bill loans in the language of equality and the rights of citizenship.

Pro-termination politicians also utilized language of equality and citizenship, arguing that "special Federal authority over Indians" was to blame for restricting Indians from accessing the rights to which they were entitled. To Nevada senator George Malone and others in favor of dissolving the BIA, "It [was] time that the individual Indians, both men and women, took their places in the community without segregation."<sup>83</sup> Claiming that the special federal authority was "hard for the average American to comprehend," Malone argued that the denial of GI Bill loans to Indian

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<sup>81</sup> Ibid.

<sup>82</sup> "Crow Indians Ask for Equality," *Great Falls Tribune*, January 7, 1946, Indian Policy (2 of 4), Box 16, Isolated Indian Allotments to Indian Policy, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>83</sup> 81 Cong. Rec. 14,778 (1949) (Speech of Senator Malone, "Tear Up the Indian Bureau by the Roots—Set the Indians Free"), Indian Bureau Liquidation, Box 15, Amos and Marie Hamilton to Indian Land Allotments, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.



veterans exemplified the limitations of the trust relationship between the BIA and Native tribes. In a 1949 speech delivered to the Senate, Malone argued that, “If he should happen to be a war veteran he cannot, as a rule, obtain a loan under the GI Bill of rights because his property is tied up in Indian Bureau trusteeship.”<sup>84</sup> Indians’ restriction from GI Bill loans proved that wardship was “segregating” them from the rest of the polity. In 1945, Pastor Don Klingensmith of the Bredhead, Wisconsin Methodist Church wrote to Albert Grorud, Special Investigator for the Senate Committee on Indian Affairs expressing similar views. Klingensmith asserted that “Indian wardship causes segregation from the general American culture, with harmful results to the Indian.” One of those harmful results was restricting Indians from accessing “the GI Bill of Rights, Social Security legislation, the old age and unemployment benefits, and other laws affecting the general social welfare,” which, Klingensmith argued, “apply equally to Indians.”<sup>85</sup> Those in favor of dissolving the BIA believed that Indians were prevented from accessing the GI Bill because the BIA perpetuated Native peoples’ wardship status and kept them in a state of inequality.

Thus, widespread understanding that wardship status precluded their eligibility for the GI Bill meant that the BIA’s effort to establish a protocol for Native veterans to access the benefits of the GI Bill was largely ineffective, and Indian veterans continued to face difficulties obtaining benefits. Non-Native members of the media, organizations devoted to Indian affairs, and Indians themselves assumed that Indians

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<sup>84</sup> Ibid.

<sup>85</sup> Klingensmith to Grorud, 1945, Indian Policy (2 of 4), Box 16, Isolated Indian Allotments to Indian Policy, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

could not access these benefits. Just as in battles over Native eligibility for need-based benefits under the Social Security Act, misperceptions and rumors restricted Indians from benefits. Rumors potentially lessened the likelihood that Indian veterans would even apply for GI Bill loans, especially for those Native people who lived in isolated areas far removed from VA offices. During a meeting of the Navajo Tribal Council in December 1945, Roger Davis, a member of the council, asked a question of a representative from the Phoenix office of the VA, Mr. Thompson, which reflected the impact of rumors: “I heard a rumor somewhere, down in Phoenix, one time, those Indians in the south of the state, the Pimas and Papagos, had a meeting in Phoenix somewhere and tried to get that grant through and the state denied that since these Indians were wards of the government, under the GI Bill of Rights.”<sup>86</sup> Thompson attempted to clear up the misunderstanding, arguing that “the state has no figure in that. That is the Veteran’s Administration. The law says any veteran of World War II.”<sup>87</sup> It is understandable that Davis was confused about the role of the state in administering GI Bill loans, because Arizona had vigorously denied responsibility for providing welfare benefits to Indian wards. In this case, Navajos may have assumed that accessing GI Bill loans would have been no different from accessing Old Age Assistance, Aid to Dependent Children, or Aid to the Blind, in such a hostile state.

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<sup>86</sup> Minutes of Navajo Tribal Council December 18-20, 1945, p.61, Navajo Tribal Council – Organization – Minutes of Meetings 12-18-45 6-23-46 1-7-47, Box 408, Phoenix Area Office Division of Extension and Industry Files, Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

<sup>87</sup> Ibid.

The lack of coordination between the BIA and other government agencies further fueled misinformation about Indian eligibility for GI Bill loans. For example, William Brophy worried that Indians would be overlooked in the formation of Community Advisory Centers, which were established in 1945 as facilities where veterans could obtain information and resources. Brophy urged all superintendents to “take steps to find out whether such a center is being established or has been established, and make plans to participate in the operations of the center.” If Indian agents did not reach out to the Community Advisory Centers, Brophy reasoned, “Indians may get inadequate information with respect to their status as citizens and their rights as veterans.”<sup>88</sup> In other cases, this lack of coordination was due to inadequate planning. In a 1947 AAIA newsletter, the John Adair noted that because the Navajo reservation straddled Arizona and New Mexico, Navajo veterans were required to deal with two different VA offices depending on the state in which they lived, producing “an administrative chaos which reflects lack of coordination between Indian Service and Veterans’ Administration in Washington.”<sup>89</sup> Both the BIA’s scrambling to coordinate with outside agencies and those agencies’ assumptions about wardship and the extent to which Indians were already “taken care of” led to confusion in the implementation of bureaucratic processes through which Native veterans could obtain loans and resources.

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<sup>88</sup> BIA Circular Letter, Community Advisory Centers, 1946, Veterans Rehabilitation, Box 165, Colorado River Agency Central Classified Files, RG 75, NARA – Pacific Region (R).

<sup>89</sup> John Adair, “The Navajo and Pueblo Veteran: A Force for Culture Change,” *The American Indian*, Vol. IV No. 1, 1947, p.10, Association on American Indian Affairs publication. Reference File – Assoc. On American Indian Affairs, Inc., Box 23, RG 220, HSTL.

*The BIA's Role in Veterans' Readjustment*

Non-Natives conceptualized Native veterans' readjustment to life after military service in contradictory ways. On one hand, military service represented the ultimate expression of the responsibilities of citizenship. On the other hand, those veterans who failed to adapt to postwar life represented Indians' inability exercise the duties of citizenship as wards. For example, in her article, "A New Era for Indian Americans," published in the 1956 report prepared for the Commission on the Rights and Liberties of the American Indian, Essie Skillern argued that the death of WWII veteran Ira Hayes, a Pima Indian who had become quite well known for his participation in the raising of the flag on Iwo Jima, was a graphic illustration of the inability of Indians to successfully leave the reservation and find "a place in the white man's peacetime world." Hayes, who suffered from alcoholism, died of exposure and alcohol poisoning in 1955.<sup>90</sup> Skillern wrote, "His fate is a reminder that not all Indians on reservations are prepared as yet to face the struggle which awaits them if and when Congress wills to deprive them of their tribal status."<sup>91</sup> For Skillern, the "reservation" was a racialized marker of backwardness that preempted even Hayes, a famous war hero, from integrating into white American society. The "tragic" figure of Ira Hayes, memorialized in music and movies since his death, represented enduring stereotypes

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<sup>90</sup> See Donald Fixico, *Termination and Relocation: Federal Indian Policy, 1945-1960* (Albuquerque: University of New Mexico Press, 1986), 3.

<sup>91</sup> Essie Skillern, "A New Era for Indian Americans," in "The Rights and Liberties of the American Indian: Background Information," p.168, Background Information – The Rights and Liberties of American Indians (Folder 1), Box 78, Files of the Commission on the Rights, Liberties, and Responsibilities of the American Indian, WBSB, HSTL.

about Indian wardship.<sup>92</sup> In popular culture, Hayes' alcoholism symbolized his inability to cope with the pressures of citizenship, and the insufficiency of even decorated military service to impel Native people to leave the confines of wardship.

BIA agents strained to reconcile these two opposing conceptions of Native veterans. Were they ready to assimilate? Or did they need continued guidance? Some BIA officials assumed that upon their return from WWII, Native veterans would possess a "new sense of power," "impatience with existing institutions," "increased self-assurance," and "potentially, at least, capab[ility] of assuming greater responsibility."<sup>93</sup> State agents believed that the GI Bill would be a crucial tool for veterans to speedily transition from wardship to citizenship. However, BIA personnel did not clearly understand how this transition would occur. For example, BIA agents were unsure whether it was their responsibility as "guardians" of Indian wards to make veterans aware of their eligibility for GI Bill benefits, or whether Native veterans were expected to take the initiative and apply for benefits purely of their own volition. In 1944, John Evans, general superintendent of the United Pueblos Agency, planned to implement an administrative system, where agency employees and tribal officials could track the progress of each returning veteran. However, Evans also asserted that, "It is important that the Indian should become aware of the benefits to which he, as a veteran, is entitled. And he should also take full advantage of the opportunities which

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<sup>92</sup> Examples include the 1961 film, *The Outsider*, where Hayes is played by Tony Curtis, and the 1964 song, "The Ballad of Ira Hayes," written by Peter La Farge and most popularly performed by Johnny Cash.

<sup>93</sup> United Pueblos Agency, Meeting of Division Heads on Re-Employment of War Veterans, War Pamphlets, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

are offered him.”<sup>94</sup> To Evans, it was not only the responsibility of the BIA and the tribal government to help individual veterans seek out benefits, but also the veteran’s own duty.

Although military service symbolized a great commitment of citizenship, and most likely did bring increased “self-assurance” and “power” to individual Native men, the path to GI Bill benefits was unclear. In 1944, Commissioner John Collier issued a memo to all BIA superintendents urging them to keep track of and inform tribal councils of any laws passed by individual states which would affect Indian war veterans: “Veterans of Indian blood from your jurisdiction should also be advised of such benefits and services available to them through the state so that, if desired, they may take advantage of the same.”<sup>95</sup> Collier impressed upon BIA agents the importance of keeping themselves apprised of any state legislation, because he may have contended that it was highly unlikely that states would extend extra outreach to Indian reservations. Indeed, many Native veterans *were* unaware of available benefits. For example, at a 1945 meeting of the Navajo Tribal Council, council member Paul Jones posed a question to a representative from the US Employment Service Office which revealed the gap between Native veterans’ knowledge of benefits and their eligibility for resources. Jones stated, “We have a number of veterans who are unaware of their rights and have not investigated the matter of readjustment pay. Without their

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<sup>94</sup> United Pueblos Agency Memo, Re-Employment of War Veterans, 1944, War Pamphlets, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

<sup>95</sup> BIA Memo to Superintendents Regarding Legislation for War Veterans, 1944, Military Activities – Registration – Selective Service, Box 165, Colorado River Agency Central Classified Files, RG 75, NARA – Pacific Region (R).

knowledge of this they are now unemployed.”<sup>96</sup> Because the ward/guardian relationship demanded that BIA officials “guide” individual Native people to full citizenship, BIA officials understood that it was their responsibility to establish access and knowledge of GI Bill benefits to Indian veterans.

The relationship between BIA officials and Native veterans was undergirded by a gendered view of citizenship which significantly differed from the ways in which officials interacted with Native wives of servicemen entitled to dependency allowances. The Office of Dependency Benefits had entrusted a certain level of paternalistic authority to superintendents when it empowered them to accept dependency allowances on behalf of those Native women who were supposedly “squandering” their benefits. In the case of veterans, more superintendents and field agents developed systems to assist returned veterans in obtaining employment and benefits due to them under new legislation, and fought against instances of racial discrimination based on Native peoples’ status as wards. In other words, for veterans, BIA officials worked more actively to assert Indians’ rights to welfare as *citizens*, rather than utilizing the quotidian structures of wardship to control and monitor the welfare payments Native people received. For example, in the 1946 Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, William Brophy asserted that, “In localities where Indian veterans have found difficulty in obtaining funds from commercial lenders, efforts are made by Indian Service personnel to get

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<sup>96</sup> Minutes of Navajo Tribal Council December 18-20, 1945, p.66, Navajo Tribal Council – Organization – Minutes of Meetings 12-18-45 6-23-46 1-7-47, Box 408, Phoenix Area Office Division of Extension and Industry Files, Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

for them the same kind of treatment that is accorded to other veterans.” Further, he noted, “Personnel in all branches and components of the Indian Service has given assistance to veterans.”<sup>97</sup> The types of benefits at stake certainly made a difference here. GI Bill benefits and loans were not characterized—in name or in practice—as “dependency” benefits. Veterans were entitled to these benefits in return for their service. Native peoples’ military service impacted how BIA personnel understood their roles in assisting Indians access the benefits of citizenship.

Additionally, the VA’s interaction with the BIA was quite different than the BIA’s interactions with other welfare agencies. In 1944, Thomas Nickerson, administrative assistant for the United Pueblos Agency, wrote that he was “impressed with the fact that the local organization of the Veterans Administration appeared to be very anxious to cooperate with the Indian Service in doing everything possible to make sure that the Indian veterans secure all the benefits to which they are entitled.”<sup>98</sup> In 1946, the Arizona representative for the Veterans Employment Service wrote to the superintendent of the Sells Indian Agency regarding the requests they had received from the Navajo and San Carlos Agencies to provide veterans with information, noting, “It has been our pleasure to make trips to these agencies to furnish them with the information desired.”<sup>99</sup> This kind of enthusiasm from the VA was not universal.

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<sup>97</sup> Annual Report of the Commissioner, Office of Indian Affairs, to the Secretary of the Interior, Fiscal Year Ended June 30, 1946, p.335, Correspondence with Institutions, Organizations, Etc. – National Congress of American Indians, Box 12, RG 220, HSTL.

<sup>98</sup> United Pueblos Agency Memo, Benefits to War Veterans Under the “GI Bill of Rights,” 1944, War Pamphlets, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

<sup>99</sup> Sawyer to Burge, 1946, Veterans Administration, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).



However, these instances represented a significant difference from how other Indian citizens were treated when they inquired about welfare eligibility. Specifically, representatives from the Bureaus of Public Welfare in Arizona and New Mexico had actively resisted visiting Indian reservations to provide information and take applications for the need-based programs of the Social Security Act. The difference reflects how military service impacted perceived entitlement for benefits, even if the applicants were also considered to be “wards.”

However, despite BIA agents’ keenness to work with other agencies and secure benefits for Indian veterans, high-ranking BIA officials contended that the BIA was not the only administrative body responsible for Indian veterans. In 1945, Assistant Commissioner William Zimmerman sent a memo to all superintendents which declared, “The Indian Service can perform an invaluable service to our Indian veterans if at each agency some employee or unit is charged with the responsibility of keeping informed on all legislation and on all agencies dealing with veterans’ matters.”<sup>100</sup> Though Zimmerman urged BIA personnel to be “patient and helpful,” and to “have regard for what the individual has gone through and how it has left him,” he also cautioned against Indian Service employees taking on too much responsibility for which they were not equipped. “We do not want to get in the position of overloading ourselves with work for which we have neither the funds nor personnel, and in the end have the Indian veterans accuse us of doing an inadequate job for them.”<sup>101</sup> Here,

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<sup>100</sup> BIA Circular No. 3604, Indian Service Assistance for Returned Veterans, 1945, Welfare – Social Security, Box 216, Sells Indian Agency Health and Social Welfare Correspondence of Community Worker, RG 75, NARA – Pacific Region (R).

<sup>101</sup> Ibid.

Zimmerman exposed the scope and confines of wardship—he encouraged BIA agents to be of service to Indian veterans, but recognized that Indian veterans would hold the BIA accountable for their postwar readjustment.

The BIA's efforts to assist veterans to secure loans and spread information disrupts a common historiographical narrative about Native military service. Donald Fixico has revealed that because of their exposure to the "outside world," non-Native politicians and members of the public saw Indian veterans as the population most "ready" to be freed from wardship and most likely to benefit from leaving reservations and disbanding from tribal society.<sup>102</sup> The dichotomy between "wards" on reservations and individuals whose military service had prepared them to enter mainstream society is a false one. Wardship prevented Native veterans from obtaining GI Bill loans, and the BIA was very much involved in the lives of Indian veterans. Wardship followed Native veterans, through administrative practices, racial assumptions, and legal ambiguity. For example, in 1950, a VA official wrote to the superintendent of the Pima Indian Agency for help in determining the circumstances of the death of John Williams to disburse payments to his heirs under his life insurance policy. Williams was a veteran, and, in the words of the VA, "a ward of the government."<sup>103</sup> To determine "to whom payment of the monies held can be made," the VA reached out to the BIA, demonstrating that in the VA officials' minds, Williams' status as a "ward" necessitated the BIA's involvement in determining how to distribute the money which

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<sup>102</sup> Fixico, *Termination and Relocation*, 19.

<sup>103</sup> Tonkin to Superintendent of Pima Indian Agency, 1950, Welfare – 1949-1951 Correspondence of James A. Helm, Box 149, Pima Indian Agency Records Relating to Welfare, RG 75, NARA – Pacific Region (R).

Williams had designated. Thus, although military service was understood to contribute to Native veteran's eventual assimilation, it did not automatically release Indians from the label of ward.

While some superintendents and agents cooperated with public welfare boards and urged caseworkers to simplify and speed the process for applicants for Old Age Assistance, Aid to the Blind, and Aid to Dependent Children, other BIA officials exercised paternalistic oversight over Native women who received monthly dependency allowance benefits. Towards veterans, BIA agents' attitudes were somewhere in the middle. Internal BIA communication reveals that Bureau leaders issued distinct instructions to agency employees to help veterans secure employment and communicate with VA representatives. These efforts show the extent to which the quotidian structures of wardship were integrated into BIA efforts to aid veterans. For example, the Committee on Veterans' Adjustment, a group of four BIA employees from the United Pueblos Agency in New Mexico, compiled a handbook for agents helping Native veterans. "You are not asked to consider yourself as a spy, a clinician or case worker," the handbook read. "Do not make your interest or observation so obvious as to be obnoxious. Care should be taken, too, to avoid raising the veteran's hopes unduly as to conditions of employment, or as to special considerations, rights or privileges. Be frank, honest, and practical."<sup>104</sup> The handbook instructed employees to be helpful, but also reflected the BIA's reluctance to express any guarantees

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<sup>104</sup> United Pueblos Agency, Veterans' Adjustment Handbook, Veterans Service Committee – War Veterans Education, Box 165, Colorado River Agency Central Classified Files, RG 75, NARA – Pacific Region (R).

concerning the benefits veterans might expect in return for military service. This uneasiness may have stemmed from difficulties Native veterans' experienced accessing benefits to which the BIA had assured them they were entitled. In the "Returned Veterans" section of their newsletter published in 1945 or 1946, the NCAI stated, "We understand that to date the Indian Bureau will try only to give referral service and *factual information* to its field service concerning benefits and assistance for returning service personnel. The assumption being that Indians should receive benefits exactly the same as any other individual."<sup>105</sup> This announcement demonstrates that BIA agents had been confused about the extent of their role in assisting returned veterans to maneuver through the system to access benefits.

In some agencies, BIA officials exercised administrative oversight over returned veterans, purportedly to help them access the benefits to which they were entitled. For example, BIA officials at many different reservations set up index systems to keep track of each returned veteran and their need for employment and benefits. In 1944, employees of the United Pueblos Agency met to discuss how to set up "a card system in which there was a record of each returning veteran, and that such a system should be handled either by the day school teachers or the area supervisors in cooperation with the tribal governments."<sup>106</sup> The superintendent of the agency, John

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<sup>105</sup> "The Returned Veteran," NCAI Newsletter Vol. 1, No. 4, August-September Claims Commission Issue, National Congress of American Indians (2 of 4), Box 26, McCabe, George, N. to National Cong. Of Amer Indians, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB. Emphasis added.

<sup>106</sup> United Pueblos Agency, Meeting of Division Heads on Re-employment of War Veterans, War Pamphlets, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

Evans, instituted a card system to “keep track of Indian veterans and to make certain that they are given all the assistance that they are entitled to as veterans.” Evans also considered setting up a similar system for returned war workers, in an effort to secure employment for them.<sup>107</sup> Superintendent C. H. Gensler of the Colorado River Agency also oversaw the creation of “an individual file on each Indian veteran,” which he offered to the Director of the Unemployment Compensation Division of the Employment Security Commission of Arizona to assist their work “regarding readjustment of allowance claims for all veterans in this area.”<sup>108</sup> Gensler noted that because of the “isolated location of this reservation, it is extremely difficult for the veterans to contact any of your offices.”<sup>109</sup> In addition to the individual veterans’ files, Gensler noted that various BIA personnel, including social workers and extension workers, could act as liaisons between Indian families and the Employment Security Commission. Similarly, Doris Weston, community worker for the Sells Agency in Arizona, arranged for a VA representative to come to Sells “every second Wednesday of each month” to take applications for benefits from veterans and discuss other issues.<sup>110</sup> Thus, some BIA officials worked actively to implement systems which would have ostensibly made it easier for Indian veterans to obtain benefits, or at least become aware of the bureaucratic channels they needed to go through outside of the

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<sup>107</sup> Evans to Governor of New Mexico, 1944, War Pamphlets, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

<sup>108</sup> Gensler to Parkinson, 1947, Military Activities, Box 165, Colorado River Agency Central Classified Files, RG 75, NARA – Pacific Region (R).

<sup>109</sup> Ibid.

<sup>110</sup> Willoughby to Weston, 1947, Veterans Administration, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

BIA itself. However, the use of card index systems and the tracking of individual veterans could also be perceived as extraneous or paternalistic oversight of Indian veterans on the part of the BIA.

Rather than viewing Native veterans as dependent wards, BIA officials may have actively worked to ensure that veterans received the benefits to which they were entitled because they, like most of the American polity, understood veterans to be citizens who had done their duty for the country. However, their perceptions of Native veterans' citizenship coexisted uneasily with a teleological understanding of veterans' assimilation into the "white world" because of Indians' wartime experiences. BIA agents believed was their responsibility to help Native people succeed in that world. For example, in 1945, Doris Weston reported to her supervisor that she had "assisted many of the 134 discharged Veterans with their social, economic, and health problems." In addition to submitting claims for disability, providing assistance to those veterans seeking employment off reservation, and setting up a weekly "Veteran's Readjustment Allowance program," Weston also "cooperated with Draft Boards and Army Recruiting Station in securing men for Military Service," and conducted weekly investigations "at request of Red Cross."<sup>111</sup> Much like other social workers working with marginalized populations eligible for welfare relief, Weston both provided resources *and* acted as a supervisor or investigator making sure that

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<sup>111</sup> Monthly Report to Superintendent of Sells Agency, November 1945, Monthly Report to Superintendent of Sells 1944-1945, Box 215, Sells Indian Agency Health and Social Welfare Correspondence of Community Worker, RG 75, NARA – Pacific Region (R).

Native people within the Sells Agency complied with state stipulations for military service and receipt of aid.

Other BIA agents, such as John Evans, Superintendent of the United Pueblos Agency, saw it as their “responsibility...to contribute our utmost, each in our own fashion, and as an organization, to the adjustment of the Pueblo war veteran.”<sup>112</sup> Evans stressed that whether Pueblo veterans chose to “fit themselves into the economic and social pattern of the community at large,” or “resume their familiar niche in the pueblo pattern from which they went to war,” it was the duty and obligation of BIA agents to help the veteran through the transition. “No clearer example ever existed,” Evans wrote, “of a specific need to ‘help the Indian help themselves.’”<sup>113</sup> In this case, Evans understood the BIA’s mission of guiding Native people towards citizenship and self-sufficiency to be even more crucial because of Indian veterans’ military service. In his 1947 story about Navajo and Pueblo veterans for the AAIA publication, John Adair echoed this understanding of the BIA’s responsibility to help Native veterans adjust to life after service. Adair warned that, “Indian Service should build for a future with this veteran population. If it does not do so, if the veteran is left to shift for himself, a new era of disillusionment will set in.”<sup>114</sup> Adair worried that if the BIA did not step in and help guide Native veterans into appropriate employment, that the “whole acculturating

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<sup>112</sup> United Pueblos Agency Memo, Readjustment Problems of Returning Pueblo Indian War Veterans, 1945, Corres Re Loans World War II – Indians in United States Army – Monthly Military Service Report, Box 165, Colorado River Agency Central Classified Files, RG 75, NARA – Pacific Region (R).

<sup>113</sup> Ibid.

<sup>114</sup> John Adair, “The Navajo and Pueblo Veteran: A Force for Culture Change,” *The American Indian*, Vol. IV No. 1, 1947, p.10. Association on American Indian Affairs publication. Reference File – Assoc. On American Indian Affairs, Inc., Box 23, RG 220, HSTL.

process,” which had been “greatly accelerated by the war,” would have been for nothing. He wrote, “In a certain sense it is a race against time, for a great many of these veterans, possibly the majority of them will slip back into their old ways after a period of years.”<sup>115</sup> Adair understood the BIA’s role in the lives of Native veterans explicitly as guides to proper citizenship, even more so than Evans, who asserted that BIA officials should help with readjustment even if the individual veteran decided to “resume their familiar niche.” Nevertheless, both men conceptualized the war as a process of acculturation, the beginning of a transition from “wardship” to full citizenship.

#### *Termination and the GI Bill*

Native veterans may also have faced difficulty accessing GI Bill loans due to increased political rhetoric about terminating the BIA altogether. In Zimmerman’s 1945 memo to superintendents, he emphasized that “we need to distinguish clearly between the tasks which we are fitted to do and for which we have the personnel and facilities and those tasks which belong to other agencies created to help the veteran.”<sup>116</sup> Zimmerman’s concerns about Bureau personnel overloading themselves and promising too much to Native veterans reflected an overall effort by the BIA and other policymakers to encourage Indians to look elsewhere for services and loans before turning to the BIA. For example, in his 1946 annual report to the Secretary of

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<sup>115</sup> Ibid., p.10-11.

<sup>116</sup> BIA Circular No. 3604, Indian Service Assistance for Returned Veterans, 1945, Welfare – Social Security, Box 216, Sells Indian Agency Health and Social Welfare Correspondence of Community Worker, RG 75, NARA – Pacific Region (R).



the Interior, William Brophy stated, “It was realized early that special action should be taken to encourage qualified Indian veterans to take advantage of the guaranty loan provisions of the GI Bill of Rights before seeking loans from tribal funds or the Federal revolving credit funds.”<sup>117</sup> Similarly, Brophy released a circular to all superintendents in order to “urge upon the Indian who seeks assistance from you to file his application with the proper authorities,” in order to receive unemployment compensation after returning to the reservation from work in war industries.<sup>118</sup> These BIA protocols reflect not only an effort to help Native veterans secure the benefits to which they were entitled, but also a desire to funnel Native requests outside of the BIA, an organization which many politicians wanted to dissolve in the postwar period.

To advocates of termination policy, wardship was especially limiting to those Native men and women who had served in the military in both World War I and World War II. To these legislators and state agents, military service symbolized both Native “readiness” to leave behind tribal life and incorporate themselves in to the American polity, as well as Native servicemen’s entitlement to equal treatment alongside veterans of other races and ethnicities. For example, in 1944, a group of seven congressmen formed the Select Committee to Investigate Indian Affairs and Conditions, which was tasked with investigating living conditions of Indians in Nebraska, South Dakota, North Dakota, Montana, Minnesota, Oklahoma, Arizona,

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<sup>117</sup> Annual Report of the Commissioner, Office of Indian Affairs, to the Secretary of the Interior, Fiscal Year Ended June 30, 1946 p.355, Correspondence with Institutions, Organizations, Etc. – National Congress of American Indians, Box 12, RG 220, HSTL.

<sup>118</sup> BIA Circular Letter, Unemployment Compensation for Veterans, 1946, Welfare, Box 216, Sells Indian Agency Health and Social Welfare Correspondence of Community Worker, RG 75, NARA – Pacific Region (R).

New Mexico, Washington, Idaho and Alaska. In their report to Congress, the committee asked, “Will the Indian who has recently doffed the uniform of Uncle Sam be willing to don the blanket of his forebears?” The committee “most vehemently denie[d] that he should.”<sup>119</sup> The committee conceptualized Indian veterans’ return to tribal life as a step backwards, and demanded that “The Indian who has fought to save freedom for humanity throughout the world should not be expected to subsist in an atmosphere which denies him freedom here at home.”<sup>120</sup> Further, they asserted that any legislation which would benefit returned veterans “should be so drawn that it will operate as effectively for the Indian veteran as for the veteran of any other nationality.”<sup>121</sup> To non-Natives, military service was a marker of Native competency, and it was the federal government’s responsibility to ensure that Indian veterans received equal opportunity and treatment like non-Native veterans. Some advocates of termination pushed this type of argument further to justify the complete dissolution of the BIA. For example, in a 1947 article for the *Washington Times-Herald*, Frank Waldrop argued, “the Indians in 1947 are capable of looking after themselves. More than 22,000 Indians served with our fighting forces in the recent war. About 45,000 more worked in war industries.”<sup>122</sup> If Native people could serve their country,

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<sup>119</sup> Select Committee to Investigate Indian Affairs and Conditions in the United States, *An Investigation to Determine Whether the Changed Status of the Indian Requires a Revision of the Laws and Regulations Affecting the American Indian* (H.R. 166), H.R. Rep. No. 2091 at 14 (1944), Folder 19 – Congressional Report Addressing Changed Status of American Indian 1944, Box 16, William Zimmerman Papers, CSR-UNM.

<sup>120</sup> *Ibid.*

<sup>121</sup> *Ibid.*

<sup>122</sup> Frank C. Waldrop, “Let ‘Em Go,” *Washington Times-Herald*, July 23, 1947, Indian Bureau Liquidation, Box 15, Amos and Marie Hamilton to Indian Land Allotments, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

Waldrop reasoned, “There is no excuse for the Indian bureau. Let ‘em go.”<sup>123</sup> Non-Native terminationists argued that Native veterans who had fought for freedom abroad should not be denied the rights of citizenship at home. Some believed that Indian veterans should be “freed” from wardship and the BIA should be abolished.

Non-Natives’ eagerness to secure Native veterans’ equal access to citizenship revealed their mistaken beliefs that Native people did not possess US citizenship. For example, soon after WWII, a group of non-Indian citizens from Illinois petitioned their senator, Scott Lucas, to demand that because 22,000 Native men had served in World War II, “full citizenship be granted all such veterans, all Indians born hereafter, all high school graduates, and all others judged by their tribal councils to be competent to manage their own affairs.”<sup>124</sup> To this group, as wards, Native people were not citizens. By achieving a certain level of assimilation, demonstrated by military service, high school diplomas, or other characteristics of “competency,” Native people should receive “full citizenship.”<sup>125</sup> This petition did not define what “full citizenship” entailed, but other proposals from the era were more specific. For example, in 1947, Senator James Murray (D-Montana), introduced a bill “To confer civil rights upon Indian veterans of World Wars I and II, to remove restrictions on the property of such Indians, and for other purposes.”<sup>126</sup> In addition to protecting Indians’ access to the

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<sup>123</sup> Ibid.

<sup>124</sup> Oak Street Circle Petition to Lucas, Indian Policy (2 of 4), Box 16, Isolated Indian Allotments to Indian Policy, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>125</sup> For more on “competency” in postwar legislation see Chapter 6.

<sup>126</sup> A Bill to Confer Civil Rights upon Indian Veterans of World Wars I and II, to Remove Restrictions on the Property of Such Indians, and for Other Purposes, S. 1000, 80<sup>th</sup> Cong. (1947), Indian File 1946-1952 Association on American Indian Affairs, Box 24, Harry S. Truman Staff Member Office Files Philleo Nash Files, HSTL.

“civil rights and liberties conferred by the Constitution and laws of the United States upon citizens” and their right to receive veterans’ benefits, Murray’s bill would have terminated Native veterans’ “wardship” status, bestowing upon them the “right” to sell personal property.<sup>127</sup> Murray purportedly proposed the bill in order to ensure equal treatment for those Native men who had served in the military by “lifting” wardship’s “restrictions.” However, Murray’s goal was to dissolve Native claims to land. As United States citizens, Native veterans were already entitled to their share in the benefits of veterans’ legislation as well as civil rights and liberties. Whether Murray was unclear about the nature of Native citizenship or not, he utilized public desire for equal citizenship rights for Native veterans to propose a system by which the trust restrictions on Native land would be lifted.

### **Native Veterans’ Access to the GI Bill’s Educational Provisions**

The final version of the GI Bill, passed in 1945, declared that the VA would provide to veterans the actual cost of up to four years of education and training—up to \$500 a year—on top of monthly stipends (\$65 a month for unmarried veterans and from \$75 to \$90 a month for those with dependents).<sup>128</sup> GIs used their benefits to pay for education at four-year colleges and universities, correspondence courses, and agricultural and manual training programs. Notably, the legislation granted discretion in determining admissions criteria to the educational institutions. Glenn Altschuler and Stuart Blumin argue that this practice meant that structurally, “the GI Bill perpetuated

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<sup>127</sup> Ibid.

<sup>128</sup> Altschuler and Blumin, *The GI Bill*, 82.

existing patterns of racial preference,” because admissions criteria included “segregation in the South and racial quotas in the North.”<sup>129</sup> Thus, despite the inclusive language of the bill itself, the GI Bill “did not reduce racial disparities in the United States.”<sup>130</sup> Wardship’s impact on their educational backgrounds and options meant that Native veterans faced specific challenges in accessing the educational provisions of the GI Bill.

For example, some Native veterans pointed out that because they had not finished high school, they could not access the benefits of the GI Bill for higher education. During the 1947 meeting with Senator Dennis Chavez and Congresswoman Georgia Lee Lusk of New Mexico, an ex-soldier from Laguna Pueblo voiced concerns about Native veterans’ access to the educational opportunities in the GI Bill. The veteran argued that “it is hard for Indians to take advantage of training offered under the GI Bill because they do not have high school educations.” In response, Lusk mentioned that “boys who do not have high school educations can go to trade schools or be apprenticed to shops under the GI Bill and learn a trade, and at the same time study school subjects without having to meet entrance requirements.”<sup>131</sup> Although the trade school option may have appealed to certain returned Native servicemen, the Laguna Pueblo veteran’s concerns point to how the educational benefits of the bill reinforced societal class and racial stratifications rather than challenged them. Historians Altschuler and Blumin and Ira Katznelson have pointed to similar

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<sup>129</sup> Ibid., 134.

<sup>130</sup> Ibid., 129.

<sup>131</sup> “Help for Indian GIs,” National Congress of American Indians, *Washington Bulletin*, Vol. 1, No. 4, June-July 1947, Indian Affairs [Trudeau] 1947-1948, Box 16, WBSB, HSTL.

limitations on African American veterans, noting that even those who had completed high school were often funneled into “agricultural and manual training programs instead of the liberal arts.”<sup>132</sup> Some Native groups highlighted Indian veterans’ ineligibility for university education to petition the United States government for more resources for Indian education. For example, in 1946, the Navajo Veterans of Foreign Wars issued a resolution to immediately remedy the “deplorable state of existing educational conditions among our Navajo people,” because “almost all of the returned veterans are unable to avail themselves of the privileges granted in the GI Bill of rights because of an inadequate elementary schooling.”<sup>133</sup> Thus, the Navajo Veterans of Foreign Wars highlighted their contributions as citizens of the United States, “for whose continuance we fought,” in order to demand that the US fulfill its obligation under wardship to provide education to the Navajo people.<sup>134</sup>

In its original drafts, the GI Bill specified that federal officials and agencies were prohibited from “directing or dictating in any way the servicemen’s education.”<sup>135</sup> This provision would have made it impossible for Native veterans to utilize GI Bill benefits to attend schools and participate in training programs operated by the BIA. Members of Congress later amended the provision to provide that, “Indian

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<sup>132</sup> Altschuler and Blumin, *The GI Bill*, 134. See also Katznelson, *When Affirmative Action Was White*.

<sup>133</sup> *A Bill Establishing a Joint Congressional Committee to Make a Study of Claims of Indian Tribes Against the United States, and to Investigate the Administration of Indian Affairs: Hearings on S. J. Res. 79, Before the Committee on Indian Affairs United States Senate, 79<sup>th</sup> Cong. 17 (1946)* (Resolution of Navajo Veterans of Foreign Wars and American Legion), Navajo, Box 93, Rio Grande Federal Irri. Project to Navajo Current, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>134</sup> *Ibid.*

<sup>135</sup> Beatty to BIA School Superintendents and Principals, 1944, Education Servicemen’s Readjustment Act, Box 201, Sells Indian Agency, Files of Community Worker, RG 75, NARA – Pacific Region (R).

schools operated or supervised by the United States, shall not be ineligible to supply education or training under this title by reason of such Federal operation or supervision.”<sup>136</sup> In order for Indian schools to be eligible to receive tuition payments from the VA, they had to obtain approval from the state Department of Education.<sup>137</sup> This provision and its amendment seem straightforward. However, there were some larger issues at stake. When Indian schools were permitted to receive tuition payments from the VA, Native veterans’ educational choices were filtered through their status as wards. On the positive side, if a reservation school was approved as a veterans’ training program, Native veterans would not have to travel far from home to receive education and/or training. This must have been an appealing option for many returned servicemen who wanted to retain close ties to their tribal communities and families. However, to what extent did members of Congress justify the inclusion of Indian schools in eligibility for VA tuition because they believed that these schools were the *only* suitable options for Native veterans? To what extent did the inclusion of Indian schools bolster existing societal class and racial divisions by steering eligible veterans *away* from other institutions of higher education?

We can see how some of these assumptions played out in 1944 conversations about the bill on the floor of the House of Representatives. Arizona Representative

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<sup>136</sup> Dean Smith, Analysis and Comparison of Provisions of Part VIII of Senate and House Bills (S.1767) Providing for Education of Veterans, S.1767 2 of 2 Folders 78<sup>th</sup> Cong., Box 64, 78<sup>th</sup> Congress, Papers Relating to Specific Bills and Resolutions (SEN 78A-E1), RG 46, NAB.

<sup>137</sup> Beatty to BIA School Superintendents and Principals, 1944, Education Servicemen’s Readjustment Act, Box 201, Sells Indian Agency, Files of Community Worker, RG 75, NARA – Pacific Region (R). Additionally, to be considered a full-time institutional training program, the program must have provided a minimum of 25 hours per week of “direct instruction” (other than on the job instruction). Stirling to Deputy Administrator, VA, 1947, Veterans Service Committee – War Veterans Education, Box 165, Colorado River Agency Central Classified Files, RG 75, NARA – Pacific Region (R).

John Murdock asserted that he wanted to “see to it that the State educational authorities have control over all educational facilities within their borders and not the bureaucrats in Washington.” But, he wondered, how would this affect “Indians and *their* schools?” Would the section of the bill “debar Indian veterans from making use of an Indian school, for instance, at Phoenix, Ariz., where there is a good school operated entirely by the Federal Government?”<sup>138</sup> By phrasing his query about Indians and *their* schools, Murdock betrayed his assumption that Native veterans would prefer only to attend Indian schools. John Rankin, representative from Mississippi, expressed his belief more clearly. He argued that, “If the State did recognize the Indian school the Veterans’ Administration would, because those Indians would rather go to that Indian school than to try to go to the University of Minnesota. We are trying to bring this down to a practical level.”<sup>139</sup> Was this consideration for Indian schools purely exercised for “practical” reasons, or did the congressmen assume both that Native veterans would prefer to attend Indian schools over other institutions, and that they would not have been able to attend institutions like the University of Minnesota due to their educational limitations?

BIA agents tried to identify the educational needs of returned servicemen by sending out questionnaires and surveys to gauge veterans’ in further education or vocational training. For example, in 1945, Superintendent John Evans of the United Pueblos Agency sent a letter to Pueblos currently serving in the armed services which asked, “Just want kind of training will you want after the war? Will you want to finish

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<sup>138</sup> 78 Cong. Rec. H4,345 (1944).

<sup>139</sup> Ibid.



a high school course, to have advanced vocational training, or to go on to college?”<sup>140</sup> In addition, perhaps hoping to prompt further assimilation, Evans asked, “Will you prefer to attend Indian schools which may qualify for this purpose, or would you rather take your training in the same schools as other returning veterans with whom you have lived and fought?”<sup>141</sup> Similarly, staff at the Colorado River Agency sent out a survey to returned veterans soliciting specific information about the type of training programs veterans wanted to utilize, “in order that we may help you get into the kind of training you want under the GI Educational Law.” Veterans were offered to choose between “on the job training,” “high school,” “business college,” or “college,” and a variety of skills and trades, including cattle production, farming, roads, irrigation, carpentry, and electric work.<sup>142</sup> BIA personnel clearly did make an effort to help Native veterans take advantage of training programs and educational opportunities, but significantly, the vast majority of opportunities offered were vocational training programs, rather than liberal arts colleges or universities. In compliance with a BIA circular requesting data on returned servicemen and women, BIA staff overseeing the Gila Bend, Papago, and San Xavier Reservations in Arizona reported that of the 172 members of the Tohono O’odham tribe who had served abroad, “23 have expressed their interest in the educational opportunities under the GI Bill of Rights.” Only one

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<sup>140</sup> United Pueblos Agency Memo, Benefits to War Veterans under the “GI Bill of Rights,” 1944, War Pamphlets, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

<sup>141</sup> Ibid.

<sup>142</sup> Colorado River Jurisdiction, Indian Veteran Training Questionnaire, Veterans Service Committee – War Veterans Education, Box 165, Colorado River Agency Central Classified Files, RG 75, NARA – Pacific Region (R).

was enrolled at a four-year institution, the University of Arizona. BIA staff expected that “the majority of these 23 will enter various High Schools, Trade Schools, and Business Colleges,” as well as “take advantage of the Correspondence Courses.”<sup>143</sup> Indian veterans’ choices of vocational training most likely stemmed from necessity—if they had not completed the requisite high school education to attend college—preference to remain close to family members, and/or desires to translate new skills they had learned while in the service to careers.

Just as Native women utilized the networks of social workers, superintendents, and field agents to assist them in receiving dependency allowance benefits, Native veterans also reached out to BIA personnel to access the educational benefits of the GI Bill. BIA agents acted as intermediaries between the VA and Native veterans themselves. For example, in 1945, Austin Ladd, chief clerk for the Colorado River Agency, forwarded forms to the VA office in Tucson, Arizona on behalf of Ray Buck, a veteran who wished to apply for further training under the GI Bill, “to continue with an electrical training course that was interrupted by his enlistment in the Armed Forces.”<sup>144</sup> Although Ladd had requested that any further forms needed for Buck to complete his application be sent directly to Buck himself, the VA responded to Ladd with additional instructions. Not only were BIA agents explicitly instructed to assist veterans, but VA staff might have assumed that the best way to communicate with returned Native servicemen was through the BIA. Native servicemen, like their wives

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<sup>143</sup> Statistics Pertaining to Papago Servicemen and Servicewomen, 1946, Indians at Work, Box 201, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

<sup>144</sup> Ladd and VA Letters, Ray Buck, 1945, Military Activities – Registration – Selective Service, Box 165, Colorado River Agency Central Classified Files, RG 75, NARA – Pacific Region (R).

during the war, might have also assumed that requests were more likely to be answered if the correspondence came from BIA agents. Social workers and field agents on reservations put effort into obtaining records of “each veteran’s location, employment or vocational training plans.”<sup>145</sup> Thus, veterans must have logically assumed that the BIA was equipped to help them access the educational and training benefits of the GI Bill. For example, BIA agents were required to submit reports detailing how many Native people had requested assistance in obtaining employment, education, and other GI Bill loans, suggesting that it was common practice for veterans to directly ask for assistance in these matters.<sup>146</sup> Because they understood wardship to be a relationship of legal obligation, logically, Native people reached out to the BIA for assistance in securing the benefits of the GI Bill.

The quotidian structures of wardship impacted the types of education Native veterans could access, and shaped BIA agents’ motivations for encouraging Native people to utilize the GI Bill’s educational opportunities. For example, the GI Bill revitalized one of the BIA’s longtime goals, to guide and improve Indian agriculture on reservations. A 1945 summary report of Indian irrigation projects written by staff at the Colorado River Agency in Arizona emphasized how important agriculture and irrigation were to BIA agents as they worked to guide Indian wards towards

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<sup>145</sup> Monthly Report to Commissioner of Indian Affairs, Navajo Agency, April-May 1946, Monthly Report to Commissioner of Indian Affairs 1946, Box 14, Colorado River Agency Central Classified Files, RG 75, NARA – Pacific Region (R).

<sup>146</sup> Fort Yuma Sub-Agency, Quarterly Report of Indian Men and Women Returning from Military Service and War Employment, 1945, Corres Re Loans World War II – Indians in United States Army – Monthly Military Service Report, Box 165, Colorado River Agency Central Classified Files, RG 75, NARA – Pacific Region (R).

citizenship. “In carrying out its obligations to establish these Indians on a firm economic base,” the report read, “the first step of the government should be to develop fully their present resources and educate them in the utilization and protection thereof.” The authors of the report asserted that after the war’s end, most Indians “will continue to rely upon reservation resources for a livelihood. It is, therefore, urgent that all feasible Indian Irrigation Projects be developed fully at an early date.”<sup>147</sup> By channeling GI Bill resources into existing programs designed to help Native people develop “their present resources,” the BIA built up their own established agricultural training programs. For example, in a 1946 letter to Senator John Chandler Gurney of South Dakota, Commissioner William Brophy acknowledged that although Indian veterans were “experiencing some difficulty” obtaining loans from banks and lending agencies, some reservations had found great success working with the VA to establish training programs. Under these programs, “a returned Indian veteran will work on his own farm two days a week under supervised instruction in good farming practices, and the Veterans’ Administration allows him subsistence for the time spent in this activity.”<sup>148</sup> In his 1946 annual report to the Secretary of the Interior, Brophy continued to laud the “on-the-farm training” programs which had been implemented “in cooperation with the Veterans’ Administration and the Indian schools or, where possible, with the public schools.” These agricultural training programs allowed Indians to “receive classroom instruction, and supervision and on-the-farm instruction

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<sup>147</sup> Summary of Indian Irrigation Projects in the Colorado River Basin, 1945, Indian Affairs 1945, Box 16, WBSB, HSTL.

<sup>148</sup> Brophy to Gurney, 1946, Commissioner of Indian Affairs – Correspondence May 1946, Box 15, WBSB, HSTL.

by agricultural experts,” as well as VA subsistence allowances under the GI Bill.<sup>149</sup> Native people were encouraged both by BIA programs and by their eligibility for certain GI Bill programs to acquire further agricultural skills. The opportunities Native veterans could access under the GI Bill were thus folded into the quotidian structures of wardship.

In some cases, the educational benefits of the GI Bill obviously boosted existing BIA agricultural programs. For example, in 1947, Omer Davis, the agricultural extension agent working with the Pima Agency, noted that the 60 members of the veterans’ farm project were “doing a very good job of planting fall gardens. In many cases, the veteran must clear and level the land necessary to put in these gardens, as they are taking up land that has not been farmed for many years and is now covered with mesquite.”<sup>150</sup> With the help of the added GI Bill benefits, veterans were doing more to farm the land than they had done in the past. In 1955, Robert Hackenberg, a research associate with the Bureau of Ethnic Research, compiled a report for the John Hay Whitney Foundation about economic and political change among Pima Indians on the Gila River Reservation. Hackenberg’s report revealed that veterans’ farm training programs had improved upon the BIA’s agricultural extension services’ previous efforts. “The percentage of younger men who completed this program and actually attempted serious farming was encouraging,” Hackenberg wrote. “The agency

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<sup>149</sup> Annual Report of the Commissioner, Office of Indian Affairs, to the Secretary of the Interior, Fiscal Year Ended June 30, 1946, p.356, Correspondence with Institutions, Organizations, Etc. – National Congress of American Indians, Box 12, RG 220, HSTL.

<sup>150</sup> Pima Indian Agency Jurisdiction, Combined Narrative Extension Report, October 1947, Monthly Reports 1942-1948 Pima Agency, Box 361, Phoenix Area Office Division of Extension and Industry Files, RG 75, NARA – Pacific Region (R).

superintendent compared this program with the extension service, attributing the success of the GI training to be the presence of one instructor for every twenty students, where there was only one extension man for nearly 10,000 Indians in the Pima jurisdiction.”<sup>151</sup> Hackenberg highlighted the key differences in previous BIA programs and the veterans’ training program, noting that the “instruction was carried on by Indians,” and that veterans were paid to participate. He asked, “What extension program could compete with this?”<sup>152</sup> However, Hackenberg also indicated that despite completing this type of training, Indians continued to face difficulties due to their status as wards. He wrote, “An inhibitory feature was that, though they could qualify for GI education, few of them could qualify for GI loans with which to get a good start in the farming business.”<sup>153</sup> Thus, though agricultural skills training programs were popular both with the BIA and with veterans themselves, after the training had been finished, Indians faced specific limitations in their access to other GI Bill benefits, such as business loans.

Native veterans’ options were more limited if they did not wish to enter an agricultural training program or one was not available. Vocational training in trades including carpentry, masonry, silversmithing, engineering, automotive mechanics, road construction, and power plant operation were offered on some reservations

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<sup>151</sup> Robert Hackenberg, *An Analysis of Tribal Economics and Tribal Government on the Gila River Reservation*, John Hay Whitney Foundation, 1955, p.119-120, Arizona – Gila River Tribes (Pimas), Box 84, William Brophy General File, HSTL.

<sup>152</sup> *Ibid.*, p.120.

<sup>153</sup> *Ibid.*, p.119-120.

through existing Indians schools.<sup>154</sup> However, many returned veterans wanted to continue training in skills they had learned during their service, such as Colorado River resident Philip Draper, who expressed desires for further training in welding.<sup>155</sup> Others focused on trades which would “enable them to obtain gainful employment.”<sup>156</sup> However, because of the BIA’s strong focus on agricultural skills, vocational training and trades programs were not as well established as farm training programs. In 1948, industrial consultant Max Drefkoff compiled a report on an industrial program for the Navajo reservation which revealed that many Navajo veterans “do not now find sufficient opportunity for ‘on-the-job’ training on the reservation, for the reason that no industries currently exist where such training can be had.”<sup>157</sup> Navajo leadership had made efforts to get information to veterans about opportunities for training in trades. In 1945, a representative from the Veterans’ Service office in Phoenix spoke to a tribal council meeting and emphasized, “The thing to remember is that these veterans under this bill get that living expense account in addition to any pension they may be drawing, and they don’t have to necessarily be in a school such as the college at Flagstaff. They may be working for a trader, silversmith, or taking some trade, but that

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<sup>154</sup> VA Memo, Facilities for Training Indian Veterans, 1947, Veterans Rehabilitation, Box 165, Colorado River Agency Central Classified Files, RG 75, NARA – Pacific Region (R).

<sup>155</sup> Colorado River Jurisdiction, Indian Veteran Training Questionnaire, Veterans Service Committee – War Veterans Education, Box 165, Colorado River Agency Central Classified Files, RG 75, NARA – Pacific Region (R).

<sup>156</sup> Max Drefkoff, “An Industrial Program for the Navajo Indian Reservation,” Report to the Commissioner of Indian Affairs, 1948, p. 6, Box 93, Rio Grande Federal Irri. Project to Navajo Current, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>157</sup> Ibid.

trade must be part of the apprentice training program.”<sup>158</sup> These types of programs were not as established within existing structures, and thus, harder to find. Moreover, the difficulties Navajos—and other Native veterans—had in obtaining vocational training outside of agriculture were compounded with the fact that “banks in the vicinity of the reservation are reluctant to make loans to Navajos for the purpose of engaging in business.”<sup>159</sup> Lending institutions’ assumptions about wardship negatively impacted the ability of Native veterans to obtain business loans. This phenomenon is the subject of the next and final section of this chapter.

### **Native Veterans’ Access to GI Bill Loans for Homes and Businesses**

In the postwar period, tribal leaders and political organizations devoted to Indian affairs frequently highlighted the poor quality of housing on Indian reservations. In a 1950 newsletter, the AAIA characterized reservations as “neglected slum areas,” and “a disgrace to the nation.”<sup>160</sup> Part of the reason why such “slums” were so widespread, the AAIA argued, was because Indians had been denied benefits under the Federal Housing Act of 1949, and thus, “neither the State nor the Federal

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<sup>158</sup> Thompson Statement, Minutes of Navajo Tribal Council, December 18-20, 1945, p. 60, Navajo Tribal Council – Organization – Minutes of Meetings 12-18-45 6-23-46 1-7-47, Box 408, Phoenix Area Office Division of Extension and Industry Files, Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

<sup>159</sup> Max Drefkoff, “An Industrial Program for the Navajo Indian Reservation,” Report to the Commissioner of Indian Affairs, 1948, p. 6, Box 93, Rio Grande Federal Irri. Project to Navajo Current, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>160</sup> “The No-Man’s-Land of Indian Slums,” *Indian Affairs*, Newsletter of the American Indian Fund and the AAIA, April 21, 1950, Assoc on American Indian Affairs (2 of 2), Box 8, Supplement Approps. 1952 to Survey Conditions, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.



Government has or has had authority or funds for Indian housing.”<sup>161</sup> Similar to battles between states and the federal government over Social Security benefits, this “jurisdictional no-man’s-land” reflected the impact of wardship on Native peoples’ receipt of much needed benefits.<sup>162</sup> Acting as lawyer for the All-Pueblo Council, Felix Cohen protested the absence of any loans to Indians within the “some 80 million dollars or more for repairing and rebuilding rural housing” appropriated by Congress in 1949, but the Farmers’ Home Administration “turned down [his] protest and refused to alter its discriminatory policy.”<sup>163</sup> Tribal leaders argued that in order for Native people to interact with other races on an equal basis, Indians badly needed home repair and building. For example, in a 1956 meeting with Commissioner of Indian Affairs Glenn Emmons and representatives of the San Carlos Apache Tribe, Tribal Council Chairman Jess Stevens asserted that San Carlos Apaches “need to live in better homes.” “Our children of today are getting to the point where they are intermingling a lot with other races of people,” Stevens argued. “They are afraid to bring their friends home because of deplorable homes,” and that, “is the biggest draw back that they have.”<sup>164</sup> Thus, after WWII, wardship meant Native people occupied an ambiguous position and faced difficulties accessing federal housing programs. As this section will demonstrate, the GI Bill’s provisions for home loans did not remedy these problems.

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<sup>161</sup> Ibid.

<sup>162</sup> Ibid.

<sup>163</sup> Cohen to Officers of All Pueblo Council and Pueblo Governors, 1950, Folder 26 – Indian Affairs All-Pueblo Council 1950-1960, Box 134, Dennis Chavez Papers, UNM-CSR. For more on Indians’ ineligibility for housing improvement programs, see Nancy Kwak, *A World of Homeowners: American Power and the Politics of Housing Aid* (Chicago: The University of Chicago Press, 2015), 180-182.

<sup>164</sup> Commissioner’s Meeting, San Carlos Agency, 1956, Folder 9 – Indian Affairs Commissioner’s Conference Phoenix Area, El Paso, Box 3, Glenn Emmons Papers, UNM-CSR.

The GI Bill furnished low-cost loans to veterans to aid in the purchase of property, including homes, farms, and businesses. In the postwar period, homeownership became a realizable dream for a significant majority of American families.<sup>165</sup> By 1956, thanks to the GI Bill, 42 percent of World War II veterans were homeowners.<sup>166</sup> However, the bill's effects were not equally distributed to all racialized veterans. Banks and VA loan officers had the power to deny loans to black applicants purely based on race, and higher level administrators of the VA's loan program reinforced racialized institutions about where money from the national treasury could be spent. As Glenn Altschuler and Stuart Blumin note, in addition to localized instances of bigotry, VA loan officers and bankers contributed to the structural racism of the bill by defining applicants' worthiness based on redlining, which ultimately "denied mortgage loan guarantees to most African Americans and actively promoting the continuing segregation of all-white neighborhoods."<sup>167</sup> These practices were understood to protect the nation's "public purse" by refusing loans to "perceived high-risk borrowers."<sup>168</sup> Thus, although in theory VA-backed mortgages and loans for small businesses were non-discriminatory, in practice, these loan programs reinforced structural racism.

Native veterans were also perceived to be "high-risk," but for different reasons. Most significantly, Native veterans who lived on reservations were unable to secure loans for housing, farming, or businesses because of lenders understood that Indian

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<sup>165</sup> Altschuler and Blumin, *GI Bill*, 187-188.

<sup>166</sup> Lizabeth Cohen, *Consumers' Republic*, 141.

<sup>167</sup> Altschuler and Blumin, *GI Bill*, 201.

<sup>168</sup> Altschuler and Blumin, *GI Bill*, 199; 201.

property was not owned by individual Native people, but either by the tribe or the government. For example, in 1946, W.C. Sawyer, a representative for the Veterans Employment Service of Arizona, wrote to the superintendent of the Sells Indian Agency to offer support and services to Native veterans seeking educational and employment benefits. However, Sawyer also asserted that though they could “also discuss the matter of loan provisions of the GI Bill...there is not much opportunity for veterans living on the reservation where property is Government owned to take advantage of the loan provisions.”<sup>169</sup> In their compilation of statistics concerning returned Tohno O’odham servicemen and servicewomen, BIA staff at the Gila Bend, Papago, and San Xavier Reservations found that although “one Veteran attempted to secure a loan to carry on his cattle industry,” the loan was not granted because the veteran was “living on Tribal land.”<sup>170</sup> Lenders turned down Indian veterans for VA-backed mortgages because their land was held in trust by the federal government, or was owned by the tribe.

Reservation land epitomized Indian dependence upon the federal government. In 1947, Kimmis Hendrick wrote in the *Christian Science Monitor*, “The only way a reservation Indian can gain independence is to leave the reservation.” Native veterans could not obtain GI loans to build homes, because, Hendrick noted, “the Government holds title to his land.”<sup>171</sup> In the eyes of lenders, reservation land was more than just a

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<sup>169</sup> Sawyer to Burge, 1946, Veterans Administration, Box 202, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

<sup>170</sup> Statistics Pertaining to Papago Servicemen and Servicewomen, 1946, Indians at Work, Box 201, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

<sup>171</sup> Kimmis Hendrick, “Bureaucracy Hit; Near-Famine Cited,” *Christian Science Monitor*, December 3, 1947, NCAI, Series 4 – Tribal Files, Box 113, Navajo Tribe (Arizona) 1946-1947; NMAI.

symbol of governmental control, it was a poor source of loan security. A 1945 article published in the *Great Falls Tribune* described a NCAI meeting where members had discussed the “question of whether trust-status land offered by Indians could be accepted as collateral for loans under the GI bill of rights.” Stephen De Mers, Salish veteran and chairman of the Flathead Tribal Council was quoted, asserting, “money lenders questioned the land as security for loans because it cannot be sold.”<sup>172</sup> Native veterans continued to face these issues into the 1950s. For example, the 1952 report on the effects of the Navajo and Hopi Long-Range Rehabilitation Program revealed that “Navajos and Hopis are usually unable to obtain loans from commercial banks because they lack the necessary security. They cannot mortgage their land because it is held in trust by the United States.”<sup>173</sup> Similarly, in 1956 meetings with Commissioner of Indian Affairs Glenn Emmons, many tribal representatives expressed their concerns about the difficulty tribal members faced in obtaining loans for housing and equipment. For example, Mrs. Art Hooper, representative for the Yomba Shoshone Tribe on Nevada’s Reese River Reservation, spoke of the difficulties her son had in getting a loan, “because he lives on the reservation.” While the BIA superintendent of Reese River’s agency offered that, “The Reese River people are good people, but are so far away that a bank couldn’t supervise their loans,” Emmons’ deputy

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<sup>172</sup> “Amendment to GI Bill Asked to Aid Indian Vets,” *Great Falls Tribune*, October 23, 1945, National Congress of American Indians (2 of 4), Box 26, McCabe, George, N. to National Cong. Of Amer Indians, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>173</sup> *Planning in Action on the Navajo-Hopi Indian Reservations: A Progress Report on the Land and Its People*, The Long-Range Program for Navajo-Hopi Rehabilitation as of March 31, 1952, p.30, Navajo, Box 93, Rio Grande Federal Irri. Project to Navajo Current, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

commissioner W. Barton Greenwood asserted that, “The problem on a GI loan is that they would be using tribal land and would not have anything to offer as security.”<sup>174</sup> Charlie Malotte of the Te-Moak Tribe of Western Shoshone asserted that “We would sure like to get loans for the boys...They want to get loans. My son is one. He has got three kids. He has got an assignment and no machinery. He asked for a loan and couldn’t get it.”<sup>175</sup> As was mentioned above, the BIA had provided in 1945 that “Indian agency superintendents may authorize the use of income from [trust] lands as security for loans partially guaranteed by the Veteran’s Administration,” as well as “other liberal provisions.”<sup>176</sup> However, despite these provisions, lending agencies remained wary of granting loans to Native applicants. In the early 1950s, BIA officials changed Bureau regulations to “permit mortgaging of such lands under certain conditions.”<sup>177</sup> However, many lenders were still reluctant to extend loans to Native applicants because they “feared that the Secretary [of the Interior], under existing statutes, had no right to permit the execution of mortgages on restricted lands by a regulation.”<sup>178</sup> Without “specific legislative authority,” banks and lenders “refused to accept Indian lands as security for loans,” until President Dwight Eisenhower signed a

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<sup>174</sup> Commissioner’s Meeting, Reese River, 1956, Folder 3 – Indian Affairs Commissioner’s Conferences Phoenix Area, Box 3, Glenn Emmons Papers, UNM-CSR.

<sup>175</sup> Commissioner’s Meeting, Te-Moak, 1956, Folder 3 – Indian Affairs Commissioner’s Conferences Phoenix Area, Box 3, Glenn Emmons Papers, UNM-CSR.

<sup>176</sup> Annual Report of the Commissioner, Office of Indian Affairs, to the Secretary of the Interior, Fiscal Year Ended June 30, 1946, p.355, Correspondence with Institutions, Organizations, Etc. – National Congress of American Indians, Box 12, RG 220, HSTL.

<sup>177</sup> BIA Press Release, “Indian Bureau Moves to Transfer Functions,” 1953, Myer Dillon S Commissioner of Indian Affairs, Box 26, McCabe, George, N. to National Cong. Of Amer Indians, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>178</sup> Felix Cohen Memo to Clients, Public Law 450, 1956, Folder 8 – Correspondence Regarding Various Tribal Legal Matters 1952-1961, Box 3, William Zimmerman Papers, UNM-CSR.

law authorizing mortgages and deeds of trust on individual Indian trust or restricted lands in 1956.<sup>179</sup>

Returned Native servicemen believed that the difficulties they faced in obtaining loans for housing, businesses, and farming demonstrated larger issues of racial discrimination. Their restriction from access to GI Bill loans shows that wardship overshadowed Native veterans' ability to access the "opportunity" promised by the GI Bill in exchange for their military service. For example, in his 1947 article for the AAIA newsletter, John Adair argued that "Many Indians while they were in the Service were planning on opening garages, service stations, and small businesses, and now that they are unable to secure loans they feel that access to the dominantly white economy is denied them."<sup>180</sup> Adair argued that Navajo and Pueblo veterans saw the difficulty they had in securing loans under the GI Bill as "points of difference and discrimination between themselves and the white man."<sup>181</sup> In a monthly report to the Commissioner of Indian Affairs from 1946, the superintendent of the Truxton Canon Agency in Arizona wrote that "Indian GI veterans are still undecided as to what they want to do." However, the superintendent went on to remark, "Many of them want to borrow money for the purpose of building homes and extremely few want to go into business other than cattle." The veterans' "indecision" was most likely the result of the

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<sup>179</sup> Ibid. Under this new law, trust status was not removed, but "trust was lifted to the extent of the debt and the lender may levy upon the land as if it were owned in fee simple." Although Indian advocates argued that this law would make it easier for Indians to obtain credit, because "restrictions on alienation are removed in cases of foreclosure," there was a risk that borrowers could lose their land entirely.

<sup>180</sup> John Adair, "The Navajo and Pueblo Veteran: A Force for Culture Change," *The American Indian*, Vol. IV No. 1, 1947, 8-9. Association on American Indian Affairs publication. Reference File – Assoc. On American Indian Affairs, Inc., Box 23, RG 220, HSTL.

<sup>181</sup> Ibid., p.8.

fact that “banks are very cautious in extending loans to them.”<sup>182</sup> Native veterans wanted and needed to access GI Bill benefits. Indeed, the 1952 Navajo and Hopi Long-Range Rehabilitation Program Report stated pointedly, “The Indians need cash to establish themselves in income-producing enterprises.”<sup>183</sup> However, when lending agencies’ assumptions about wardship coupled with BIA regulations against permitting mortgages on trust land, Native veterans were shut out of GI Bill loans and the government’s stated goal of providing “opportunity” to veterans.<sup>184</sup>

Native GIs looked to both the BIA and tribal leadership to provide alternative methods of securing loans. During a 1945 meeting of the Navajo Tribal Council, Kizzie Yazzie relayed the concerns of a Navajo veteran: “I have been in battle and places of danger and I have returned and need to live on. I need assistance. I want you and the Councilmen to be for us veterans, with the Superintendent and others, that something be done with acquiring land or something from which we can make a living.”<sup>185</sup> At the same meeting, the Navajo Tribal Council issued a resolution urging that because “discharged Navajo veterans need lands on which they can develop farms and establish homes,” the federal government should “give every assistance to these

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<sup>182</sup> Monthly Report to Commissioner of Indian Affairs, Truxton Canon Agency, August 1946, Mo Reports to Comm – Truxton, Box 2, Phoenix Area Office District Director’s Classified Files, RG 75, NARA – Pacific Region (R).

<sup>183</sup> *Planning in Action on the Navajo-Hopi Indian Reservations: A Progress Report on the Land and Its People*, The Long-Range Program for Navajo-Hopi Rehabilitation as of March 31, 1952, p.30, Navajo, Box 93, Rio Grande Federal Irri. Project to Navajo Current, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>184</sup> For more on the GI Bill as an “opportunity” bill see Altschuler and Blumin, *GI Bill*, 82.

<sup>185</sup> Statement of Kizzie Yazzie, Minutes of Navajo Tribal Council, December 18-20, 1945, p. 31, Navajo Tribal Council – Organization – Minutes of Meetings 12-18-45 6-23-46 1-7-47, Box 408, Phoenix Area Office Division of Extension and Industry Files, Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

veterans in acquiring farm lands wherever such Federally owned or controlled lands are available for settlement.”<sup>186</sup> Other tribal groups looked directly to the federal government to provide alternative loan programs in order to alleviate general tribal dissatisfaction with local banks. The Navajo veterans of American Legion Post 52 issued a resolution in 1946 which officially requested that the BIA work around lending agencies’ assumptions about wardship and find a way for Native veterans to obtain loans for housing. The resolution read, “Whereas, lending agencies under the GI Loan Program will not make loans for housing on the reservation because of tribal ownership of the realty...Be it resolved...that we lend our assistance to Indian veterans in a housing program by urging the federal government to create a lending agency within the Indian Service for the purpose of making loans for Indian veteran housing on the reservation.”<sup>187</sup> Bodie Graham, Fallon Paiute-Shoshone, told Commissioner Emmons in 1956 that, “we want some kind of loan program. We wondered whether some kind of a loan could be made by the Indian Service.” Graham noted that his people would “rather have credit loan in some way from the government,” to “improve our condition.”<sup>188</sup> Similarly, that same year John Rainer, Chairman of the All-Pueblo Council, voiced to Emmons that “one important concern is housing in the Pueblos. We would need Federal help to find ways and means to

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<sup>186</sup> Ibid., Resolution, “Loans to Individual Veterans,” p. 33.

<sup>187</sup> Veterans’ Resolution on GI Bill, Proceedings of the Meeting of the Navajo Tribal Council, July 23-26, 1946, p. 48-49, Navajo Tribal Council – Organization – Minutes of Meetings 12-18-45 6-23-46 1-7-47, Box 408, Phoenix Area Office Division of Extension and Industry Files, Minutes of Navajo Tribal Council, RG 75, NARA – Pacific Region (R).

<sup>188</sup> Commissioner’s Meeting, Fallon, 1956, Folder 3 – Indian Affairs Commissioner’s Conferences Phoenix Area, Box 3, Glenn Emmons Papers, UNM-CSR.



obtain credit... We want to get together with the Bureau to see if something can be worked out.”<sup>189</sup> Native groups looked to their relationship with the federal government as a way of accessing resources which could improve their homes and economic conditions, when they were faced with the reluctance of lending agencies to grant loans.

### **Conclusion**

After WWII’s end, the non-Native public, including many legislators and politicians, championed a narrative of Native assimilation into the American polity, accelerated by military service. Because of their purportedly increased familiarity with the “white world” outside of reservations, veterans were the subjects of some of the first iterations of new policies designed to BIA.<sup>190</sup> However, despite the belief that Native veterans were primed for assimilation, military service did not absolve them from assumptions about wardship. Namely, non-Native conceptualizations of wardship drastically impaired their ability to fully access the benefits of the GI Bill, which would have further expanded economic opportunities and improved living conditions in Indian country. Wardship impacted Native veterans’ use of the educational and training provisions of the GI Bill. Like other non-white veterans, because many Native servicemen did not possess high school educations, they were unable to utilize the educational provisions of the GI Bill for institutions of higher

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<sup>189</sup> Bureau-Tribal Conference, 1956, All-Pueblo Council, Folder 5 – Indian Affairs Commissioner’s Conferences Gallup Area First Session, Box 3, Glenn Emmons Papers, UNM-CSR.

<sup>190</sup> Fixico, *Termination and Relocation*, 15; 19.

learning. Native veterans took advantage of educational training programs, most successfully in agriculture. But these curricula often built off or incorporated existing BIA programs, or were housed within existing Indian schools. Assumptions about wardship directly impaired Native eligibility for home and business loans, as lending agencies were wary of granting loans to Native veterans who had only trust property to offer as security. Lack of knowledge of Native peoples' status in the American polity and ambiguous BIA protocols made it difficult for Indians to receive loans. Ultimately, wardship fundamentally shaped the ways in which returned Native servicemen could utilize the benefits of the GI Bill to which they were entitled as citizens.

Thus, the GI Bill failed to undermine non-Native conceptualizations of wardship, just as it failed to challenge existing racialized institutions like residential segregation and economic inequality. Although Native people could access certain aspects of the GI bill, the bill did not provide the same measure of "opportunity" for Indian veterans as it did for white veterans. However, Native veterans utilized their records of military service to demand both entitlement to equal rights of citizenship, and fulfillment of the United States' legal obligations to tribal nations. When they were turned down for loans under the GI Bill by lending agencies, they turned to the federal government to implement an alternative process so they too could access these types of benefits. They also formed all-Indian veterans' organizations, petitioned their tribal councils and reached out to state and local politicians for assistance. Throughout Native veterans' readjustment to civilian life, BIA agents worked within the quotidian

structures of wardship to assist them in accessing GI Bill benefits. Although BIA leaders encouraged superintendents and social workers to direct Native veterans to apply for benefits through outside channels, many BIA employees attempted to do as much as they could to ensure Indians received assistance when Native veterans faced difficulties. Notably, the gendered act of military service seems to have changed the way BIA agents viewed their relationships with Native people. For veterans, they offered assistance rather than simply exercising direct oversight. Veterans' entitlement to GI Bill benefits also lead the VA to more actively reach out to the BIA, as compared to welfare caseworkers who resisted extending their services to needy Native people applying for Social Security benefits.

For many non-Native veterans, the GI Bill represented an enormous opportunity for upward mobility, through education and home ownership. However, Native veterans could not access those same opportunities, because wardship's ambiguity prevented them from obtaining full benefits. Native peoples' experiences should be incorporated into GI Bill historiography to add more to our understanding of how the bill did little to challenge existing racial hierarchies. Wardship played a large role in how Native men navigated the increasing rhetoric of assimilation and "full citizenship" in the postwar world. When we consider the difficulties Indian veterans had in accessing the GI Bill, we can further disrupt the dichotomy of "reservation" versus the "white world." Wardship introduces multivalent avenues for exploring the role of military service in shaping the dynamics of Native peoples' citizenship. In other words, military service did not simply signify Indian veterans' path to

assimilation. Rather, it introduced new conflicts and opportunities into Native veterans' interactions with tribal leadership, the BIA, and other state agencies.

## Chapter 6

### Full Citizenship for “Competent” Indians: Race and Gender in Indian Emancipation Bills, 1944-1954

#### Introduction

Since the 1887 Dawes Act, politicians have touted plans to abolish the Bureau of Indian Affairs (BIA) and “emancipate” “competent” Native people from wardship. Historians have described how “competency boards,” commissioners charged with allotting Indian land, evaluated Native people based on their perceptions of their intellectual abilities, blood quantum, and potential to integrate into the American polity. If Native people were deemed “competent,” they would receive an allotment, and embark on a path from “wardship” to “citizenship.”<sup>1</sup> In the early twentieth century, members of Congress continued to introduce bills aimed at “emancipating” Indians from the control of the United States government. Before the passage of the Indian Citizenship Act (ICA) in 1924, Senator Harry Lane (D-Oregon) proposed two bills in 1916 and 1917 which would have bestowed citizenship upon Indians who had already received or would receive allotments, and reorganized the BIA “with a view to its speedy abolition and the complete emancipation of the American Indian from the

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<sup>1</sup> See for example, Rose Stremlau, *Sustaining the Cherokee Family: Kinship and the Allotment of an Indigenous Nation* (Chapel Hill: The University of North Carolina Press, 2011); David A. Chang, *The Color of the Land: Race, Nation, and the Politics of Landownership in Oklahoma, 1832-1929* (Chapel Hill: The University of North Carolina Press, 2010); and Joanne Barker, *Native Acts: Law, Recognition, and Cultural Authenticity* (Durham: Duke University Press, 2011).

control, supervision, and management of the United States Government.”<sup>2</sup> After the passage of the ICA, Representative John McGroarty (D-California) proposed two joint resolutions in the House of Representatives in 1936 and 1937 which would have created an “Indian Emancipation Commission.” The commission would have abolished the BIA, examined existing treaties to recommend the earliest date they could be annulled, and transferred all assets and property to Indians.<sup>3</sup> These unsuccessful bills would have enacted sweeping changes to the status of both individual Native people and the BIA itself.

Beginning in 1944, members of Congress proposed a new process which would “emancipate” “competent” Native people from wardship and abolish the BIA. Between 1944 and 1954, Republican congressmen Francis Case of South Dakota, Hugh Butler of Nebraska, and Wesley D’Ewart of Montana proposed eleven bills in the House and Senate which would implement a system whereby individual Indians would apply directly for “certificates of competency.”<sup>4</sup> Once declared competent by a

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<sup>2</sup> Bill for the Abolishment of the Indian Bureau, the Closing Out of Indian Tribal Organizations, and for Other Purposes, S. 4452, 64<sup>th</sup> Cong. (1916); and Bill for the Abolishment of the Indian Bureau, the Closing Out of Indian Tribal Organizations, and for Other Purposes, S. 415, 65<sup>th</sup> Cong. (1917).

<sup>3</sup> Bill to Abolish the Bureau of Indian Affairs, to Abolish the Office of Commissioner of Indian Affairs, to Create an Indian Emancipation Commission, and for Other Purposes, H.J. Res. 506, 74<sup>th</sup> Cong. (1936); and Bill to Abolish the Bureau of Indian Affairs, to Abolish the Office of Commissioner of Indian Affairs, to Create an Indian Emancipation Commission, and for Other Purposes, H.J. Res. 114, 75<sup>th</sup> Cong. (1937).

<sup>4</sup> The bills included Bill to Emancipate the Indians of the United States, H.R. 5115, 78<sup>th</sup> Cong. (1944); Bill to Provide for Removal of Restrictions on Property of Indians Who Serve in the Armed Forces, H.R. 3681, 79<sup>th</sup> Cong. (1945); Bill to Emancipate Certain Indians of the United States Who Served in the Armed Forces During World War I and World War II, H.R. 2165, 80<sup>th</sup> Cong. (1947); Bill to Emancipate the Indians of the United States and to Establish Certain Rights for Indians and Indian Tribes, H.R. 2958, 80<sup>th</sup> Cong. (1947); Act to Emancipate United States Indians in Certain Cases, H.R. 1113, 80<sup>th</sup> Cong. (1947); Bill to Emancipate United States Indians in Certain Cases, S. 186, 81<sup>st</sup> Cong. (1949); Bill to Provide a Decree of Competency for United States Indians in Certain Cases, H.R. 2724, 81<sup>st</sup> Cong. (1949); Bill to Provide a Decree of Competency for United States Indians in Certain Cases, H.R. 457, 82<sup>nd</sup> Cong. (1951); Bill to Provide a Decree of Competency for United States Indians in

judge or the Secretary of the Interior, Native people would be “emancipated” from wardship and able to sell their property if they so desired.

Historian Kenneth Philp has argued that the latter half of the 1940s represented “a turning point in Indian history comparable to the end of treaty making, land allotment, and tribal organization under the Indian Reorganization Act.”<sup>5</sup> Scholars have only briefly considered competency bills as part of the widespread effort by Republicans in Congress to terminate the BIA and extend citizenship rights to Indians in the postwar period. Competency legislation provides a heretofore under-examined lens through which to view larger efforts to terminate the trust relationship between Native nations and the United States government. More broadly, the motivations behind competency legislation illustrate how non-Natives’ racialized and gendered definitions of wardship, citizenship, and Indian identity served to undermine tribal communities, families, and sovereignty.

This chapter examines how competency was conceptualized as a gendered and racialized category by the lawmakers who proposed and supported these bills. Although there were slight procedural variations within the bills, all eleven generally followed the same format. First, an individual Native person interested in “emancipating” him or herself from wardship would apply for a “certificate of competency” from an authority (depending on the bill, either the Secretary of the

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Certain Cases, S. 485, 82<sup>nd</sup> Cong. (1951); Bill to Provide a Decree of Competency for United States Indians in Certain Cases, S. 335, 83<sup>rd</sup> Cong. (1953); and Bill to Provide a Decree of Competency for United States Indians in Certain Cases, H.R. 4985, 83<sup>rd</sup> Cong. (1954).

<sup>5</sup> Kenneth R. Philp, *Termination Revisited: American Indians on the Trail to Self-Determination, 1933-1953* (Lincoln: University of Nebraska Press, 1999), 68.

Interior or a naturalization court judge). The adjudicator would examine the applicant's "moral and intellectual qualifications" and ability to manage their business affairs to determine whether the decree or certificate of competency could be granted. If judged to be "competent," he or she would be freed of the "disabilities" caused by wardship, and no longer eligible to receive any of the "gratuitous" services extended to Indians by the BIA, including, most importantly, the trust restrictions on property. Many of these proposed bills stipulated that spouses and minor children would also be declared competent when an applicant received his or her decree. Lawmakers understood competency as a catch-all term that signaled individual Native peoples' deserving achievement of "first-class citizenship" due to their demonstrable "responsibility," "self-sufficiency," and ability to manage their own affairs. Crucially, "competent" Indians were judged on their likelihood to become a "drain" on state welfare resources. Indeed, many competency bills required that representatives from local welfare departments be present at competency hearings to weigh in on whether an individual applicant should be granted his or her certificate. Thus, competency legislation reveals another way wardship intersected with postwar ideologies of welfare dependency.

This chapter contains two central arguments. The first revolves around three mutually reinforcing key definitions: "competency," "citizenship," and "Indianness," which taken together, reveal conflicts between how non-Natives and Indians understood Native peoples' place in the mid-twentieth-century American polity. Non-Natives' defined "real" Native people as incompetent wards who were a potential



drain on public resources. *Competency* reflected a distinct racialized and gendered understanding of what “proper” citizenship meant. Some mid-twentieth century definitions of competency were reminiscent of allotment policies which defined “competent” Indians as moral, intelligent, and members of nuclear family units. However, in the mid-twentieth century, competency also signaled that one would be able to hold onto property in a responsible manner, and would be unlikely to utilize welfare benefits. Politicians who supported competency legislation discussed the dangers of Indian wardship in the same ways as they discussed how poor welfare recipients needed to learn to “value” work and desire to not be “dependent.”

Competency thus contributes to historical understandings of “proper” *citizenship* in the mid-twentieth century, a term also defined by gendered responsibility and self-sufficiency. Through conversations and conflicts over competency legislation, the ideology of “first-class citizenship” was deployed as a method to restore Native peoples’ abilities to be self-sufficient individuals. Politicians used “first-class” or “full” citizenship to deprive Native people of their land and political relationship with the United States. Lastly, *Indian*, as a racial and legal term, was further defined by both competency and citizenship. Legislators who drafted competency bills assumed that Indians were incompetent until proven otherwise. Likewise, they understood the BIA’s oversight and control over Native people to be the reason why Native people could not access “full” citizenship. Therefore, “Indianness” itself was defined by Bureau oversight, and “competent” Native people were not “Indian” enough to remain under the confines of wardship.

This chapter's second argument is that competency legislation proposed a bureaucratic process which would not only have terminated the BIA, but would have also "exterminated" Native people. In addition to a mandatory age limit on wardship—21 years—competency bills also stipulated that children with at least one competent parent would also be "emancipated" from wardship. The imposition of competency onto children and spouses of applicants undermined the sovereignty of Native nations by depriving tribes of the authority to regulate membership, and denying "competent" tribal members trust restrictions which protected their land from sale. Native critics argued that the goal of competency legislation was to ultimately deprive tribes of land. Thus, competency represents an understudied illustration of the process of the "elimination of the native," described by Patrick Wolfe. Rather than a "one-off occurrence," Wolfe argues that we should understand "elimination as an organizing principal of settler-colonial society."<sup>6</sup> Although pitched as "emancipatory" bills which would free Indians from specific "disabilities," competency legislation was designed to eliminate Native societies, one family at a time. Although these bills were unsuccessful,<sup>7</sup> persistent proposals of this type of legislation, hearings on the topic, and copious amounts of correspondence about the bills reveal the importance of the imagined category of competency in determining the nature and status of Indians' place in the postwar American polity.

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<sup>6</sup> Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8, no. 4 (December 2006), 88.

<sup>7</sup> The only bill to pass the House was H.R. 1113 in 1947. See Philp, *Termination Revisited*, 76.

The following chapter is divided into five sections. In the first section, I describe how legislators adjudicated competency. Politicians' definitions of competency, citizenship, and Indianness demonstrated how similarly legislators and policymakers thought about the process of ending wardship and the problem of welfare dependency. The second section explores how Indian racialization was linked to competency. Non-Native racialized assumptions of "Indian incompetence" reinforced ideas about "real" Indians needing BIA guidance while "competent" Native people benefited from wardship in ways they did not deserve. The third section is devoted to gender, which politicians institutionalized as a main component of competency legislation in two ways. First, as legislators assumed that all applicants for competency decrees would be male, they defined competency as the applicant's ability to provide for his family unit. Second, competency acted as an "extermination" bill through the automatic bestowal of competency onto the spouses and children of individual Native applicants. I assess how gender and family components of the bills were a key point of contention for Native people, who saw competency legislation as depriving existing and future Native children of their rights as members of tribal nations and as wards. The fourth section unpacks Native critiques of competency legislation further by analyzing the ways in which the bills threatened systems of community governance and tribal sovereignty because the bills interfered with tribes' authority to determine rights and benefits of tribal membership, and granted federal officials the right to partition Native land. Lastly, in the fifth section, I analyze Native critiques of how competency legislation would leave "competent" Indians vulnerable

to increased hostility and discrimination from state and local governments. Tribal leaders questioned whether “competent” Indians would be able to receive welfare assistance and be safeguarded from extreme poverty. In this section I analyze the ways in which Native people saw competency as a path to poverty and landlessness, and criticized legislators who attempted to pass these bills without Native peoples’ consent.

Overall, this chapter analyzes and examines an understudied component of the termination era to reveal how racialized and gendered definitions of “competency,” “citizenship,” and “Indianness” served an ongoing project of “eliminating” Native people through assimilation into the American polity. Crucially, these bills instituted specific stipulations which identified which Indians would be able to leave the confines of wardship and enter “full citizenship.” Indians who met the “moral and intellectual” requirements of competency would be “emancipated” from wardship, and ultimately cease to be Indian at all. Competency reinforced wardship’s definition as a state of racialized dependency. Native critics of competency legislation argued that it undermined Indian land rights, tribal sovereignty, and, in a broader sense, Native humanity.

Table 6.1 Proposed Competency Bills, 1944-1954

### Proposed Competency Bills, 1944-1954

<b>Bill</b>	<b>Date</b>	<b>Sponsor</b>
<b>HR 5115</b>	1944	Francis Case (R-South Dakota)
<b>HR 3681</b>	1945	Francis Case (R-South Dakota)
<b>HR 2165</b>	1947	Francis Case (R-South Dakota)
<b>HR 2958</b>	1947	Francis Case (R-South Dakota)
<b>HR 1113</b>	1947, 1948	Hugh Butler (R-Nebraska)
<b>S 186</b>	1949	Hugh Butler (R-Nebraska)
<b>HR 2724</b>	1949	Wesley D'Ewart (R-Montana)
<b>HR 457</b>	1951	Wesley D'Ewart (R-Montana)
<b>S 485</b>	1951	Hugh Butler (R-Nebraska)
<b>S 335</b>	1953	Hugh Butler (R-Nebraska)
<b>HR 4985</b>	1954	Wesley D'Ewart (R-Montana)

## **Adjudication of Competency**

### *The Moral and Intellectual Qualifications for “Full” Citizenship*

How did administrators and judges determine a Native applicant’s “competency”? In the four bills he proposed in the House between 1944 and 1947, Representative Francis Case (R - South Dakota) offered specific criteria. Two of Case’s bills, H.R. 3681 (1945) and H.R. 2165 (1947) would have only “emancipated” Native veterans of World War I and World War II. The other two bills, H.R. 5115 (1944) and H.R. 2958 (1947), also proposed emancipating those with high school diplomas, certificates of competency from the superintendent of their reservations, or documentation that they had lived off-reservation for a period of five years. In a significant shift, Senator Hugh Butler’s (R-Nebraska) 1948 bill, H.R. 1113, altered criteria for competency. In this and five subsequent bills,<sup>8</sup> judges and officials tasked with determining Indian “competency” were instructed to “consider significant factors bearing upon the applicant’s moral and intellectual qualifications and his ability to manage his own affairs.”<sup>9</sup> The racialized phrase “moral and intellectual qualifications” harkened back to nineteenth-century interpretations of Indian wardship, when policymakers argued that Native people needed white education and guidance in order to advance to the next level of “civilization.” Additionally, the language shares similarities with reformers’ implementation of standards of “morality” in welfare policies, due to their assumptions that welfare “dependence” was rooted the recipients’

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<sup>8</sup> These bills included S. 186 (1949), H.R. 2724 (1949), H.R. 457 (1951), S. 485 (1951), and S. 335 (1953).

<sup>9</sup> Act to Emancipate United States Indians in Certain Cases, H.R. 1113, 80<sup>th</sup> Cong. (1947).

individual moral failings.<sup>10</sup> Proponents of competency legislation recapitulated standards of “morality” and “intelligence” to judge whether Native people had sufficiently embraced the standards necessary to be “emancipated” from wardship.

In 1954, some politicians questioned the use of the vague phrase, “moral and intellectual qualifications.” For example, in his report to accompany H.R. 4985, Representative Arthur Miller of Nebraska asserted that the phrase “may give the Secretary or the courts too great a latitude in ruling against competency.”<sup>11</sup> Miller proposed that judges evaluate whether the applicant had enough experience and ability to “manage his or her business affairs, including the administration, use, investment, and disposition of any property turned over to such person and the income or proceeds therefrom, with such a reasonable degree of prudence and wisdom as will be apt to prevent him or her from losing such property or the benefits thereof.”<sup>12</sup> Thus, Miller connected competency not only to the applicant’s ability to manage their finances and real estate holdings effectively, but also the adjudicators’ impression of whether or not the applicant would be likely to “lose” his or her property. A later draft of H.R. 4985 directed adjudicators to assess whether the applicant was “a person of sound mind,” who “understood the consequence of his act.”<sup>13</sup> Miller’s suggestions implied that if an

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<sup>10</sup> See Linda Gordon, *Pitied but Not Entitled: Single Mothers and the History of Welfare, 1890-1935* (New York: The Free Press, 1994), 45; 61; 304.

<sup>11</sup> Committee on Interior and Insular Affairs, Report to Accompany H.R. 4985, Providing a Certificate or Decree of Competency for United States Indians in Certain Cases, H.R. Rep. No. 836, at 9 (1953). National Congress of American Indians Records (NCAI), Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); National Museum of the American Indian Archive Center, Smithsonian Institution (NMAI).

<sup>12</sup> *Ibid.*

<sup>13</sup> Confidential Draft of H.R. 4985, February 1, 1954, Association on American Indian Affairs File – Correspondence 1953-1954, Box 75, Philleo Nash White House/Association on American Indian Affairs Files, Harry S. Truman Library (HSTL).

Indian person lost their land after receiving a certificate of competency, it would be due to his or her lack of “prudence and wisdom,” rather than non-Native land-grabbing. Thus, competency decrees also represented a bestowal of “moral” citizenship, an understanding that when measured by white standards, “competent” Native people would show responsibility and prudence managing their assets, including land.

*Competency and Responsibility vs. Wardship and Welfare Dependency*

Proponents of competency legislation defined American citizenship as responsibility and self-sufficiency. In Francis Cases’ earlier bills, competency would only be granted to those who had demonstrated their self-sufficiency through military service, high school education, or living off reservations. Starting in 1947, competency bills explicitly addressed the assumption that Native people could become drains on public resources if they were no longer “wards” of the federal government. After 1947, the bills specified that the court was responsible for notifying any relevant officials to attend competency hearings and testify in favor or against the applicant. Those relevant officials included governmental heads of towns and counties, superintendents from applicants’ reservations, heads of tribal councils, and representatives from “the local welfare department of the State, county, and city government.”<sup>14</sup> Wesley D’Ewart, chairman of the House Committee on Public Lands, asserted in 1947 hearings over H.R. 1113, “We felt the county commissioner should have an

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<sup>14</sup> This clause was included in H.R. 1113, S. 186, H.R. 2724, H.R. 457, S. 485, S. 335, and H.R. 4985.



opportunity to be heard because in the event the Indian is not competent he might become a county charge, and therefore a lien on the welfare funds of that county.”<sup>15</sup> Later, D’Ewart argued that judges who rashly bestowed competency certificates upon Indians who did not deserve them would face dire consequences: “If he loads the tax rolls of the welfare funds of that county with undue charges, those circumstances will be known, and if it is because of releasing Indians who should not have been released, he will not long remain Judge of that county.”<sup>16</sup> Politicians reasoned that if they were to receive welfare benefits, Native people should not truly have been declared “competent,” equating wardship with dependency upon federal support. Doing so, they ignored Native peoples’ entitlement to welfare benefits as American citizens.

The association between dependency and incompetency reveals larger assumptions about the nature of postwar “full” citizenship. Even members of organizations committed to assisting Native people, such as the Association on American Indian Affairs (AAIA), assumed Native people were not full citizens because of their relationship with the federal government. For example, in a letter to other members concerning H.R. 1113, AAIA member Charles Elkus asserted, “There must be a time when Indian citizens will be presumed competent unless the contrary is shown.” Until that time, “It is up to the Office [of Indian Affairs] to see that they are sufficiently equipped *to take their place as citizens* or for the Office to turn its job over

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<sup>15</sup> Unpublished Hearing, “Emancipation of Indians,” House of Representatives Subcommittee on Indian Affairs of the Committee on Public Lands, June 20, 1947, 80<sup>th</sup> Cong., at 9, HRG-1947-PLH-0317, <http://congressional.proquest.com/congressional/docview/t29.d30.hrg-1947-plh-0317?accountid=14524>.

<sup>16</sup> *Ibid.*, at 29.

to someone else.”<sup>17</sup> Elkus portrayed Indian citizenship as constrained and managed by the BIA. Non-Natives assumed that if “competent” Indians were to take their place as full citizens, they would participate in American citizens’ “value obligation to work” instead of becoming a drain on public resources.<sup>18</sup> Until Native people sufficiently proved their ability to work, manage their financial affairs, and support their families without government assistance, non-Natives would presume that Indians people would be perpetually dependent on government resources. The rationale behind competency legislation mirrored similar efforts in the late 1940s and 1950s to “rehabilitate” poor women welfare recipients’ families and finances through work, teaching the “value of not being ‘dependent.’”<sup>19</sup>

Beginning with the 1947 bills, one phrase specified key differences between the citizenship of “competent” Indians versus the wardship of “incompetent” Indians. If an individual Native applicant was granted a decree of competency, he or she would “no longer be entitled to share in any of the benefits or gratuitous service extended to Indians as such by the United States.”<sup>20</sup> This language reflected widespread understanding that any resources or protections Native people received from the federal government were “gratuitous”—supposedly unearned services. According to

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<sup>17</sup> Elkus to Lesser, 1948, Association on American Indian Affairs File – Correspondence 1947-1948, Box 75, Philleo Nash White House/Association on American Indian Affairs Files, HSTL. Emphasis added.

<sup>18</sup> Linda K. Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York: Hill and Wang, 1998), 80.

<sup>19</sup> Jennifer Mittelstadt, *From Welfare to Workfare: The Unintended Consequences of Liberal Reform, 1945-1965* (Chapel Hill: The University of North Carolina Press, 2005), 59.

<sup>20</sup> Act to Emancipate United States Indians in Certain Cases, H.R. 1113, 80<sup>th</sup> Cong. (1947). This phrase was included in all subsequent competency bills, S. 186, H.R. 2724, H.R. 457, S. 485, S. 335, and H.R. 4985.

this logic, wardship impeded Native peoples' ability to fully engage in the "reciprocal relationship" between the state and its citizens, because Native people were not fulfilling the duties which merited such benefits. As stated in previous chapters, Indian "privilege" drew racialized ire from non-Natives who accused Indians of profiting from state welfare resources without paying their fair share of taxes. Competency legislation reveals how consistently non-Native state agents recast Native peoples' legal relationship with the United States—one based on treaties and formal agreements—as a relationship between a group of minority citizens who were unfairly privileged because they received benefits they did not earn. Wardship was equated with the system of old poor laws which "understood relief as charity or a *gratuity*," rather than with New Deal programs of public assistance, which were understood to be a right of citizenship.<sup>21</sup> Native peoples' "privileged" position as "protected" wards worked to deprive them of their right to public assistance, as citizens.

#### *Competency Legislation and the Mischaracterization of Indian Citizenship*

Not only did competency bills misrepresent wardship as "gratuitous," but competency procedures also mischaracterized Indian citizenship. In 1947, Francis Case's bill, H.R. 2165 stipulated that Native applicants could apply for their decree either from the superintendent of the agency which had jurisdiction over their reservation or tribe, *or* through a judge in a naturalization court. Hugh Butler's bills, H.R. 1113 (1947) and S. 186 (1949) stipulated that Native applicants should apply to

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<sup>21</sup> Karen M. Tani, *States of Dependency: Welfare, Rights, and American Governance, 1935-1972* (New York: Cambridge University Press, 2016), 10. Emphasis added.

naturalization courts directly for their certificates of competency. The five bills proposed by Butler and Wesley D'Ewart from 1949 to 1954 specified that applicants should apply to the Secretary of the Interior, but if their application was disapproved, they could appeal to a naturalization court judge. By inserting naturalization courts into competency proceedings, proponents of the legislation divulged their belief that Native people were “less” than full citizens because of their wardship status. However, the bills did not equivocate “decrees of competency” with naturalized citizenship. Rather, H.R. 1113 specified that, “any Indian *who is a citizen of the United States,*” may apply to “any naturalization court for the area in which he resides for a ‘writ of competency,’” upon reaching the age of 21.<sup>22</sup> Therefore, to obtain competency certificates, applicants first needed to be citizens.

In their bi-monthly newsletter, *The Washington Bulletin*, the National Congress of American Indians (NCAI) highlighted competency legislation’s contradictions and confusions about Indian citizenship. About H.R. 1113, the NCAI asserted, “Under the guise of a bill to ‘emancipate’ Indians, a bill passed by the House and now before the Senate would place Indians of the United States in the same position as foreigners before a Naturalization Court.”<sup>23</sup> The NCAI interpreted the naturalization court specification as a devaluation of Indians’ legal status—from citizens to “foreigners” with less rights. Furthermore, they emphasized that the bill was “based on

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<sup>22</sup> Act to Emancipate United States Indians in Certain Cases, H.R. 1113, 80<sup>th</sup> Cong. (1947).

<sup>23</sup> “Phony Emancipation,” National Congress of American Indians, *Washington Bulletin*, Vol. 2, No. 2, March-April 1948, National Congress of American Indians (1 of 4), Box 26, McCabe, George, N. to National Cong. Of Amer Indians, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, Records of the US Senate, Record Group 46 (RG 46), National Archives Building, Washington, DC (NAB).

misunderstandings and misconceptions about the legal position of Indians,” specifically, “the false idea that Indians are aliens, subject to special character investigations, when in fact Indians have been citizens of the United States since 1924.”<sup>24</sup> The “misunderstandings and misconceptions” about Native peoples’ status could have been clarified, the NCAI asserted, if only Congress had been “willing to hold hearings and hear from Indians and others who wished to testify.”<sup>25</sup> The NCAI argued that competency legislation reflected another example of the US government’s failure to “govern by consent,” imposing unnecessary bureaucratic process onto Indians in order to “emancipate” them and turn them into full citizens.

Foreshadowing proposed competency bills, the 1944 House Select Committee to Investigate Indian Affairs and Conditions argued that BIA regulations and procedures impeded “Indians who have the capacity to lead competent, independent lives,” and recommended a change in procedure whereby competent Native people would “at their own volition be certified as full-fledged citizens.”<sup>26</sup> These procedures rested on vague definitions of “competency,” which would signal which Native applicants could be granted the “rights and responsibilities of citizenship.”<sup>27</sup> But how exactly would “full” or “first-class” citizenship affect Native peoples’ lives? In 1947, newspaper coverage of Francis’ Case’s proposed competency bill, H.R. 2958, drew a firm line

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<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Select Committee to Investigate Indian Affairs and Conditions in the United States, *An Investigation to Determine Whether the Changed Status of the Indian Requires a Revision of the Laws and Regulations Affecting the American Indian* (H.R. 166), H.R. Rep. No. 2091 at 2 (1944), Folder 19 – Congressional Report Addressing Changed Status of American Indian 1944, Box 16, William Zimmerman Papers, CSR-UNM.

<sup>27</sup> Ibid.

between “full citizenship” and residence on a reservation. For example, “If granted citizenship, the Indian would be released from government restrictions and he would be allowed to sell his allotted property if he desires.” If a Native person “le[ft] a reservation,” that would signal that they had “accept[ed] full citizenship rights.”<sup>28</sup> Further, in the 1953 House report to accompany H.R. 4985, the Committee on Interior and Insular Affairs reasoned that if an Indian person obtained a declaration of competency, it would be so they could eventually “withdraw completely from the tribe, obtain his share of tribal property, and go his way—as a truly ‘first-class citizen.’”<sup>29</sup> Thus, legislators and the non-Native public understood that if individual “competent” Native people left reservations and separated from tribal communities, they would be “full” citizens. The classification of “full” or “first-class” was irrelevant—Indians already were citizens. However, by asserting that Native citizenship was *less* than “first-class,” proponents of competency legislation justified implementing a system which judged whether Native peoples’ “moral and intellectual qualifications” would prevent them from becoming drains on public resources. In the name of lifting Native people into “first-class” citizenship, lawmakers attempted to assimilate Native people into the American polity.

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<sup>28</sup> “Indian Citizenship Occupies Indian Affairs Subcommittee,” Newspaper Unknown, Selective Service Miscellaneous, Box 201, Sells Indian Agency Files of Community Worker, Records of the Bureau of Indian Affairs, Record Group 75 (RG 75), National Archives and Records Administration – Pacific Region (Riverside) (NARA – Pacific Region (R)).

<sup>29</sup> Committee on Interior and Insular Affairs, Report to Accompany H.R. 4985, Providing a Certificate or Decree of Competency for United States Indians in Certain Cases, H.R. Rep. No. 836, at 7 (1953). NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

The effort to ensure Native people had access to “first-class” or “full” citizenship reflected common intellectual and political understandings of American race relations in the era. In 1944, Swedish social scientist Gunnar Myrdal published his study of race, *The American Dilemma*. Myrdal highlighted the discrepancy between the “American Creed,” a moral ideology of equality, freedom, and fair opportunity, and African American experiences of prejudice, poverty, and segregation. The Creed included the understanding that all Americans deserved the right to “a decent living standard and a measure of economic security.”<sup>30</sup> In order to reconcile African American poverty with the Creed, whites rationalized that blacks were by nature, “inferior and should be kept inferior.”<sup>31</sup> Myrdal included several examples of how whites expressed this rationalization of black poverty: “‘Actually, they live on us white people;’ ‘They couldn’t sustain themselves a day if we gave them up’; ‘The whites pay all the taxes anyway.’”<sup>32</sup> On a smaller scale, competency legislation represented similar efforts to reconcile Native poverty and lack of assimilability with the American Creed. If *competent* Indians were given the rights of first-class citizenship, they would be expected to compete for their share of fair economic opportunity in the same manner as whites. If they were considered *incompetent*, their poverty could be explained the same way black poverty was—their inferior moral and intellectual qualifications necessitated continued dependence upon responsible, tax-paying, independent white Americans.

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<sup>30</sup> Arnold Rose, *The Negro in America: The Condensed Version of Gunnar Myrdal’s An American Dilemma* (New York: Harper & Row, Publishers, 1948), 72.

<sup>31</sup> *Ibid.*, 76.

<sup>32</sup> *Ibid.*, 74.

Proponents of competency legislation considered a Native applicant's desire to be declared competent as a marker in and of itself of his or her "readiness" to leave wardship behind. In their report on H.R. 4985, the House Committee on Interior and Insular Affairs asserted that the general purpose of the bill was to establish a procedure where ward Indians would be able to "*on their own initiative*, bring about termination of the operation of Federal laws applicable to Indians as such."<sup>33</sup> The ideology of the American Creed was embedded into competency legislation. Myrdal argued that the Creed emphasized the "essential dignity of the individual," and the demand for "fair opportunity and free scope for individual effort."<sup>34</sup> When a Native applicant applied for a decree of competency, it would supposedly signal his or her readiness to assimilate into a society which valued individual effort. Earlier Congressional reports also rewarded Native people for individual effort and choice. For example, the 1944 House committee which investigated Indian living conditions recommended that the Seventy-ninth Congress pass legislation "which will permit the *individual* Indian, *upon his own petition*, to graduate into full citizenship status when he is able to present evidence showing that he has the capacity to live his life as a *free and independent* citizen."<sup>35</sup> These types of proposals echoed nineteenth-century

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<sup>33</sup> Committee on Interior and Insular Affairs, Report to Accompany H.R. 4985, Providing a Certificate or Decree of Competency for United States Indians in Certain Cases, H.R. Rep. No. 836, at 7 (1953). NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI. Emphasis added.

<sup>34</sup> Rose, *Negro in America*, 2; 71.

<sup>35</sup> Select Committee to Investigate Indian Affairs and Conditions in the United States, An Investigation to Determine Whether the Changed Status of the Indian Requires a Revision of the Laws and Regulations Affecting the American Indian (H.R. 166), H.R. Rep. No. 2091 at 15-16 (1944), Folder 19 – Congressional Report Addressing Changed Status of American Indian 1944, Box 16, William Zimmerman Papers, CSR-UNM. Emphasis added.



allotment policies in their institutionalization of an individual processes of assimilation. They also reveal a deep-rooted racialization of wardship which pitted wardship against “full” citizenship, defined by severance of tribal membership and acceptance of Americanized ideals of individualism.

Noted expert on tribal law, Felix Cohen, took issue with how legislators understood the individual’s role in the competency process. He asserted that there was no need for a complicated legal procedure which left even “competent” Native people “still subject to Bureau authority,” and “subject to all Federal laws and Bureau regulations and limitations that apply to tribal affairs and tax-exempt tribal property.”<sup>36</sup> Further, Cohen claimed that “expatriation is a natural right of every human being,” and competency legislation would “take that precious right away from the individual Indian and put it into the Interior Department, with a possible appeal to the courts.”<sup>37</sup> Under competency legislation, individual Native applicants would be required to prove their competence, something no other American citizen was required to do.<sup>38</sup> Cohen’s critiques thus illustrate that at their core, legislators’ racialized assumptions of wardship meant Indians needed outside adjudicators to determine whether they were able to live as self-sufficient, “responsible” citizens.

### **Competency and the Definition of “Indian”**

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<sup>36</sup> Testimony of Felix S. Cohen on H.R. 4985, House Committee on Interior and Insular Affairs, July 7, 1953, Folder 8 – Correspondence Regarding Various Tribal Legal Matters 1952-1961, Box 3, William Zimmerman Papers, CSR-UNM.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

*Wardship's Limitation of Indian Racial Equality*

Proponents of competency legislation believed that “competent” Indians were being held back by wardship. Additionally, they asserted that wardship led non-Indians to presume Native people were by nature “incompetent.” AAIA member Charles Elkus opposed H.R. 1113’s bureaucratization of competency. In 1948, he asserted, “Competency should not be obtained by either going to the Commissioner of Indian Affairs or to a court.” Rather, the public would take Native competency as read “when [Indians] are no longer living in tribal relationship and on a reservation.”<sup>39</sup> Though he protested H.R. 1113’s procedures, Elkus and the authors of competency bills shared an assumption—Indians were set apart from the rest of the citizenry, whether by their residence on reservations or because of their relationship with the federal government. Many non-Natives, Elkus included, saw the BIA’s supervision and protection of Indian land and people as something that was holding Indians back from proper fulfillment of citizenship. Some purported that competency legislation would remedy this problem and answer the pleas of competent Native people who felt oppressed by the BIA. In 1947, Hugh Butler argued before Congress that the BIA should be terminated because Indians “from every tribe, in every state and in every community where Indians reside, have beseeched their representatives in the Senate and the House to pass legislation granting them equal rights of citizenship with their white neighbors.”<sup>40</sup> Further, in the 1953 House report on H.R. 4985, the Committee on

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<sup>39</sup> Elkus to Lesser, 1948, Association on American Indian Affairs File – Correspondence 1947-1948, Box 75, Philleo Nash White House/Association on American Indian Affairs Files, HSTL.

<sup>40</sup> Statement by Senator Hugh Butler in Explanation of Bills Introduced to Remove All Restrictions on the Indian Tribes, 1947, Indian Bureau Liquidation, Box 15, Amos and Marie Hamilton to Indian Land

Interior and Insular Affairs asserted that in order to free Native people from the disabilities of wardship, legislation should be enacted to repeal “existing statutory provisions which set Indians apart from other citizens, thereby abolishing certain restrictions deemed discriminatory.”<sup>41</sup> The provisions that “set Indians apart” included the restrictions on property transactions, restrictions on the sale and use of liquor, and questions of state civil and criminal jurisdiction over Indians. The Committee depicted these restrictions as antiquated stipulations which did not align with American values of equality for all citizens.

In a lengthy letter to AAIA president Oliver LaFarge in 1955, Secretary of the Interior Douglas McKay asserted that competency legislation would give Indians the opportunity to live as responsible citizens, no longer held back because of race. McKay wrote, “We do not believe that a man who has demonstrated his competence and seeks control of his property should be denied that privilege merely because he happens to be Indian.”<sup>42</sup> McKay’s assertions echo claims dating back decades, that the BIA continued to exercise discriminatory oversight over competent Indians when it had no real reason to do so. In 1935, Oklahoma senator Elmer Thomas wrote to Commissioner of Indian Affairs John Collier arguing that competent Indians’ land should not be restricted. “The fact that the Government retains supervision over the

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Allotments, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>41</sup> Committee on Interior and Insular Affairs, Report to Accompany H.R. 4985, Providing a Certificate or Decree of Competency for United States Indians in Certain Cases, H.R. Rep. No. 836, at 5 (1953). NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

<sup>42</sup> McKay to LaFarge, 1955, NC16/4/1 Correspondence on Various Subjects, Box 2, Series 4 - US Bureau of Indian Affairs 1934-1959, Collection No. 16 – Records of the Pyramid Lake Paiute Tribe (PLPT), University of Nevada, Reno, Special Collections (UNR).

lands of competent Indians and supervision over the funds and securities of competent Indians says to the entire population—Indians and white—that it is immaterial what progress the Indians make. They and their descendants are to be held as perpetual wards of the Federal Government.”<sup>43</sup> Thomas understood wardship to mean that Native peoples’ racial identities outweighed their individual abilities to manage their land and finances. This argument resurfaced in the 1950s. In 1953, the Department of the Interior requested a survey of the BIA and recommendations for improving organization and operating procedures. The survey team found that “the problem of determining ‘competency’ of individual Indians needs further study. The Bureau is handling the affairs of many completely competent and oftentimes financially independent Indians.”<sup>44</sup> Similarly, in 1954, the House Subcommittee on Indian Affairs issued a report on terminating the federal government’s relationship with Indian tribes, which asserted, “No further Indian Bureau handling of such matters [leases of Indian lands and contract negotiations] in the case of competent Indians is desirable or necessary.”<sup>45</sup> Terminationist politicians consistently returned to the idea that the BIA’s oversight of competent Indians forced them to live, as Hugh Butler claimed, in conditions of “racial segregation,” “inferior status,” and subject to “control by race

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<sup>43</sup> Thomas to Collier, 1935, John Collier’s Correspondence (2 of 4), Box 10, Chromium to Corr. Re. Copper Products, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>44</sup> Report of Survey Team, Bureau of Indian Affairs, 1954, 5, Folder 15 – Bureau of Indian Affairs 1954, Box 136, Dennis Chavez Papers, CSR-UNM.

<sup>45</sup> Arthur Lazarus, Jr. and Richard Schifter, Memo to Clients, H.R. Rep. No. 2680, 1954, Folder 28 – Legislation Termination 1953-56, Box 16, William Zimmerman Papers, CSR-UNM.

legislation.”<sup>46</sup> They argued that Indian identity’s association with incompetency held Native people back from living their lives unencumbered by federal oversight.

While some proponents of competency bills argued that the United States needed to lift its racialized burden on Native people who themselves wanted to be emancipated from wardship, others tapped into racialized fears about competent Indians taking advantage of the trust relationship between tribes and the federal government. Often, this argument discounted Indian identity itself. For example, in their 1944 report to the House of Representatives, the Select Committee to Investigate Indian Affairs and Conditions in the United States argued that, “It is apparent that a clear-cut definition of ‘What is an Indian?’ is necessary if only for the purpose of measuring Bureau requirements and efficiency. It is believed that of the total figure of 401,819 only from one-half to two-thirds of those listed are actually Indians for whom the Indian Bureau has the direct responsibility of assisting in anything more substantial than bookkeeping processes.”<sup>47</sup> In claiming that up to one-half of all Native people in the United States were only “Indian” for the purposes of “bookkeeping”—essentially that BIA officials had inflated the population of Native people to keep themselves employed—the committee defined “real” Indians as wards in need of governmental guidance. In 1945, Don Klingensmith, pastor of the Bredhead,

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<sup>46</sup> Statement by Senator Hugh Butler in Explanation of Bills Introduced to Remove All Restrictions on the Indian Tribes, 1947, Indian Bureau Liquidation, Box 15, Amos and Marie Hamilton to Indian Land Allotments, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>47</sup> Select Committee to Investigate Indian Affairs and Conditions in the United States, An Investigation to Determine Whether the Changed Status of the Indian Requires a Revision of the Laws and Regulations Affecting the American Indian (H.R. 166), HR Rep. No. 2091 at 12 (1944), Folder 19 – Congressional Report Addressing Changed Status of American Indian 1944, Box 16, William Zimmerman Papers, CSR-UNM.

Wisconsin Methodist Church, wrote to special investigator of the Senate Committee on Indian Affairs, Albert Grorud, with his concerns about the damaging effects of Indian wardship on Native people. “There is no adequate way to determine just who is an Indian,” Klingensmith wrote. “Do not many wards come to *expect* special protection and assistance, and *resist* efforts toward competency?”<sup>48</sup> Klingensmith implied that not only did Native people resist competency, but they also overinflated their Indian identities to reap the benefits of wardship. Both the House committee and Klingensmith believed that many of those classified as Indian were only claiming that identity for the special “privileges” it brought.

High-ranking BIA officials also shared the understanding that certain “competent” Native people were hiding behind an ambiguous Indian racial identity only to take advantage of government resources. In 1953, Commissioner of Indian Affairs Dillon Myer wrote a memo to the Secretary of the Interior where he expressed his fears about continued BIA responsibility for “competent” Indians. Myer argued that many of the individually allotted trust lands were owned by “highly competent Indians who insist on maintaining their lands in trust,” because they had “certain advantages,” including “being free from property taxes,” “priorities in the purchase of other Indian lands, borrowing tribal and Indian Bureau loan funds, and using other tribal resources without adequate payment.”<sup>49</sup> Myer accused “alleged tribal leaders

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<sup>48</sup> Klingensmith to Grorud, 1945, Indian Policy (2 of 4), Box 16, Isolated Indian Allotments to Indian Policy, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB. Emphasis added.

<sup>49</sup> Dillon Myer Memo to Secretary of Interior, 1953, 1950-1953 Commissioner of Indian Affairs Memoranda and Reports (2 of 4), Box 2, Dillon Myer Papers, HSTL.

with a modicum of Indian blood” of exploiting “other tribal members (who are less competent than they are) through shady real estate deals.”<sup>50</sup> By asserting that the “competent” Native people possessed only a “modicum of Indian blood,” Myer defined “real” Indians as incompetent. Those Native people who insisted on maintaining the trust relationship to reap the advantages of tax exemption and access to tribal loan funds, were, in Myer’s eyes, too competent to be wards and too competent to be *Indian*. Myer argued that competent Native people were responsible for instigating Indian opposition to his termination policies. He asserted that, “a great majority of the Indians are opposed to having the Bureau get out of business. This is particularly true of those Indians who are profiting through the exploitation of their less competent neighbors.”<sup>51</sup> Myer reasoned that “competent” Indians were opposed to termination because they were benefitting from wardship at the expense of others.

#### *Inherent Incompetence, Dependency, and Indian Race*

In the mid-1950s, defining Indianness was a popular conversation topic. Politicians and members of nonprofit organizations struggled to agree on whether “Indian” was purely a legal status—essentially defined by wardship—or if the characteristics of Indianness, incompetency included, were constituted by blood. In a letter to AAIA Executive Director Alexander Lesser in 1954, Oliver La Farge proposed that the AAIA draft its own competency bill. One of the issues La Farge wanted to resolve in the AAIA’s version of the bill was the problem of defining Indian

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<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

identity. He wrote, “I have real sympathy with the desires of [Barry] Goldwater and many others to cut off the free list those persons who are Indians only by legal definition and who have no true claim upon the federal government. Perhaps we should give some consideration to this problem in working up a competency bill.”<sup>52</sup> La Farge’s use of the term “free list” implied that he believed one could become a “legal” Indian with no trace of Native ancestry, purely for the benefits of wardship. Others proposed solutions to the question of Indian identity more explicitly linked to blood quantum criteria. For example, the Department of the Interior’s 1954 survey team claimed that, “A legislative definition of who is an Indian in the legal sense is needed.” While no one could “answer precisely” who an Indian was, they found that, “Various limited definitions exist, such as the legal limitation that the Bureau can pay school tuition only for Indians possessing a minimum of one-quarter degree of Indian blood.”<sup>53</sup> The association of blood quantum with Indian dependence upon BIA resources reinforced the understanding that “true” Indians were those who were taken care of by the government. The easiest way to define Indianness was to assess Native levels of dependence and incompetency, so that those who were taking advantage of wardship could be “cut off the free list.”

Policymakers and members of the public found it very difficult to separate “dependency” from racialized Indianness, no matter what the circumstances were. For example, in 1955, Charles Jones, a scout for a nonprofit which provided academic

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<sup>52</sup> LaFarge to Lesser, 1954, Association on American Indian Affairs File – Competency, Box 75, Philleo Nash White House/Association on American Indian Affairs Files, HSTL.

<sup>53</sup> Report of Survey Team, Bureau of Indian Affairs, 1954, 4, Folder 15 – Bureau of Indian Affairs 1954, Box 136, Dennis Chavez Papers, CSR-UNM.



scholarships, wrote to Oliver La Farge of the AAIA after taking a tour through the Midwest in search of black and Indian applicants. Jones wrote to La Farge to report his observations on termination policies, tribal government, and employment in North Dakota. He included commentary of several non-Natives who he had asked about “what they thought of industry coming into reservations.” One responded, “[Indians] would become dependent on it from eight to five just the way they are on the government.” Jones was surprised at the response, noting that, “This is nearly like saying that Ford is bad for Detroit because people are dependent on it.”<sup>54</sup> However, he understood the argument, noting that, “[The plant] remains apart from the Turtle Mountain people, and they don’t identify with it. Because the plant holds all the cards, it becomes a case of dependency.”<sup>55</sup> Jones and his interviewees contended that even if the industrial plant on the reservation provided employment for tribal members, due to the nature of Indian behavior, it would only become a substitute for the BIA itself. Similarly, David Delorme, a social scientist who had conducted field research on the Turtle Mountain Indian Reservation, wrote to Commissioner of Indian Affairs Glenn Emmons in 1953 in opposition of termination policies. He wrote that although “It is believed that 70 or 80 per cent of the Turtle Mountain people are competent to handle both their personal and tribal affairs,” “the tribe, during recent years has engaged in three major economic activities, none of which has been noted for its success.”<sup>56</sup>

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<sup>54</sup> Jones to LaFarge, 1955, Folder 12 – Correspondence Oliver LaFarge and Material Regarding Tuscarora Tribe, Box 2, William Zimmerman Papers, CSR-UNM.

<sup>55</sup> Ibid.

<sup>56</sup> Delorme to Emmons, 1953, Indians – News Releases of Indian Bureau 1949-54 (3 of 3), Box 43, Philleo Nash White House Files, HSTL.

While Delorme does not claim that residents on the Turtle Mountain reservation were incompetent, he justified retaining wardship by pointing out the failures of recent economic ventures. Both Jones and Delorme highlighted Native peoples' seeming inability to succeed in the "white" economic world.

The stigma of inherent Native dependence also followed Indians off reservations. For example, in 1955, Mrs. Dean Albertson wrote a letter to the editor of the *Washington Evening Star* where she argued that the BIA's relocation program, which encouraged Native people to relocate from reservations to urban areas, had "resulted in serious welfare and slum problems in cities like Chicago and Los Angeles." The problems within these newly formed urban Native communities, "can be quite simply be traced through concerned agencies in these cities as stemming from the lack of education, skills, necessary training of the Indian citizen."<sup>57</sup> Albertson argued that Indians were improperly equipped to exist in a world outside reservation boundaries, and that the BIA had not properly trained them to be self-sufficient citizens. This kind of racialized critique of Indian poverty stemming from BIA failure was nothing new. In 1947, for example, Wisconsin citizen J.W. Norris wrote to his congressman John Byrnes with his concerns about Indian affairs. "I don't know what the general policy of the Indian Service is in the manner of providing help for the Indians," Norris wrote. "Many of them don't make much of an effort to help themselves." Norris repeatedly described the Native people he interacted with as

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<sup>57</sup> Mrs. Dean Albertson, "Indian Problem," Letter to Editor of *Washington Evening Star*, October 25, 1955, Folder 8 – Vocational Training Public Education 1935-57, Box 5, William Zimmerman Papers, CSR-UNM.

“simple children” who did not know what to expect from “the great White Father or his minor agents.”<sup>58</sup> Competency legislation arose out of this contradictory racialized context. On the one hand, politicians and the public believed that Native people were perpetually dependent upon the government, inherently unable to function as citizens. On the other hand, many also believed that competent Indians were hiding behind their racial identity to benefit from wardship. In both cases, wardship defined Indian identity itself.

Those who championed competency legislation argued that it would simplify and clarify the process for defining who Indians were, and more specifically, who the federal government was required to protect. However, those who opposed competency legislation pointed out that decrees of competency would further complicate Native peoples’ already ambiguous legal status. In their petition to Congress and the President requesting disapproval of H.R. 1113, the AAIA argued that “the procedures authorized by the Bill creates a new class of persons—Indians for tribal purposes, non-Indians for Indian Bureau purposes.” The “new,” class of persons would create a “nuisance,” and “endless litigation” as state authorities and tribal leaders attempted to discern who was eligible to benefit from tribal resources such as timber, oil, and water, and federal responsibilities such as irrigation, credit, health, and education.<sup>59</sup> Felix Cohen contended that holding a decree of competency would mean that a successful Native

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<sup>58</sup> Norris to Byrnes, 1947, Folder 21 – BIA Correspondence General 1946-1947, Box 2, William Zimmerman Papers, CSR-UNM.

<sup>59</sup> AAIA Petition to President and Congress Requesting Disapproval of H.R. 1113, Association on American Indian Affairs Files – Correspondence 1947-1948, Box 75, Philleo Nash White House/Association on American Indian Affairs Files, HSTL.

applicant would become “an Indian and a non-Indian, a ward and not a ward, a competent incompetent.”<sup>60</sup> Native groups also opposed the creation of a more ambiguous status. At the 1954 Emergency Conference of American Indians on Legislation hosted by the NCAI, representatives from the Council of the Pueblo of Zia declared that “the Competency Bill would create classes of Indians which we do not now have and do not want.”<sup>61</sup> Similarly, in 1953, the All Pueblo Council resolved that competency legislation “is ambiguous with regard to the rights and responsibilities of the ‘competent’ Indian.”<sup>62</sup> Rather than crystallizing “full” citizenship, decrees of competency would have created an additional ambiguous status for Indians which hovered somewhere between wardship and citizenship.

## **Gender and Indian Extermination**

### *Husbands’ Competency and Wives’ Dependency*

Gender ideologies significantly influenced proponents of competency legislation. The definition of “competency” itself was shaped by gendered assumptions about male responsibility and female dependency. Some bills also explicitly stipulated how competency would affect marriage and family relationships, including the indigenous identity of Native children. This section unpacks specific

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<sup>60</sup> Testimony of Felix S. Cohen on H.R. 4985, House Committee on Interior and Insular Affairs, July 7, 1953, Folder 8 – Correspondence Regarding Various Tribal Legal Matters 1952-1961, Box 3, William Zimmerman Papers, CSR-UNM.

<sup>61</sup> Statement of Council of Pueblo of Zia, Emergency Conference of American Indians on Legislation Program, Prepared Resolutions, p.8, Indians – National Congress of American Indians Report – Washington Conference February 1954, Box 42, Philleo Nash White House Files, HSTL.

<sup>62</sup> All-Pueblo Council Resolution Opposing H.R. 4985, Folder 26 – Indian Affairs All-Pueblo Council 1950-1960, Box 134, Dennis Chavez Papers, CSR-UNM.

legislative language and points out key points in political discussions about competency legislation where gender was institutionalized as a main criterion for competency.

Politicians utilized gendered constructs to adjudicate competency. In the four bills he proposed from 1944 to 1947, Francis Case suggested criteria, which if met, would automatically bestow competency upon Native applicants. These criteria were rooted in a gendered understanding of the fulfillment of citizenship duties. The most recognizable was military service. Politicians and the public believed that if a Native veteran had been honorably discharged from the armed services, he should be eligible for “full citizenship rights.”<sup>63</sup> Case’s 1944 bill H.R. 5115 and 1947 bill H.R. 2958 also specified that those applicants who possessed a high school education, a recommendation from an agency superintendent or tribal council leadership, or had lived away from a reservation for a period of five years should also receive competency decrees automatically. Although these three criteria applied equally to men and women, veterans were the focus of all four of Case’s bills. To Case, military service was such a clear fulfillment of the duties of citizenship that it merited direct conferral of competency onto a Native applicant. There was no such equivalent for Native women to demonstrate fulfillment of their duties of American citizenship. Most likely, proponents of competency legislation assumed that it would be men who would be applying for competency.

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<sup>63</sup> “Indian Citizenship Occupies Indian Affairs Subcommittee,” Newspaper Unknown, Selective Service Miscellaneous, Box 201, Sells Indian Agency Files of Community Worker, RG 75, NARA – Pacific Region (R).

This assumption was made clear at the 1947 House Subcommittee of Indian Affairs of the Committee of Public Lands hearings on Indian emancipation.<sup>64</sup> In those hearings, legislators raised questions about the relationships between “competent” Native men and their wives.<sup>65</sup> Frank Barrett, Republican Representative from Wyoming, asked if wives should automatically receive decrees of competency when their husbands were deemed competent. Barrett argued that just as the United States owed “an obligation to the man and the wife as wards of the government and also an obligation to the children,” “the man owes an obligation to his wife and to the children to provide for their support. He is the natural guardian of his own children.”<sup>66</sup> Barrett continued, “It seems to me that if a man is competent that the whole family should be released.”<sup>67</sup> Barrett understood that male heads of nuclear family households were the “guardians” of their wives and children. Other congressmen agreed with Barrett. Francis Case argued that before granting competency, the court needed to determine “whether this man is competent not only to manage his own affairs, but competent to take the place of government in looking after his family and children.”<sup>68</sup> Thus, if they received a declaration of competency, Native men would be recognized as responsible patriarchs of their nuclear family units. If Native men were “taking the place of the government” as guardians of their wives and children’s financial welfare, then, by

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<sup>64</sup> These hearings addressed H.R. 1113, H.R. 2165, and H.R. 2958.

<sup>65</sup> The issue of automatic conferral of competency on spouses was not directly inserted into the bills until H.R. 4985 in 1954.

<sup>66</sup> Unpublished Hearing, “Emancipation of Indians,” House of Representatives Subcommittee on Indian Affairs of the Committee on Public Lands, June 20, 1947, 80<sup>th</sup> Cong., 26, HRG-1947-PLH-0317, <http://congressional.proquest.com/congressional/docview/t29.d30.hrg-1947-plh-0317?accountid=14524>.

<sup>67</sup> *Ibid.*, 27.

<sup>68</sup> *Ibid.*, 37-38.

definition, wives and children should also receive competency decrees. Barrett's and Case's language in these hearings demonstrate that politicians assumed all competency applicants would be men.

Assistant Commissioner of Indian Affairs William Zimmerman also argued that wives should receive automatic declarations of competency with their husbands. However, Zimmerman rooted his contention in more practical and logistical terms. Zimmerman asserted that if spouses did not automatically receive competency, "you will have a man who, let us say, is competent, and he gets a certificate and he disposes of the family property which is in his name, and his wife and his children will still be federal responsibility. His wife might disagree, and she might have been a member of the tribe and have property in her own right, but not sufficient to support the family."<sup>69</sup> Zimmerman, a high-ranking BIA official, saw the likely administrative mess which would result if family property, stake in tribal assets and resources, and guardianship of children was divided between "competent" and "incompetent" spouses. He also pointed to the marital disputes which might arise if wives preferred not to divest of their tribal property. The committee did not answer Zimmerman's concerns, choosing instead to assert that competency determinations should progress on an individualized basis, and that within 21 years the "problem would resolve itself."<sup>70</sup> Members of the committee were most likely unfamiliar with the bureaucratic processes involved in administering and dividing property and tribal resources. Additionally, they simply assumed that if a man received a declaration of competency, it would not matter if his

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<sup>69</sup> Ibid., 18.

<sup>70</sup> Ibid., 21.

wife formally applied—as guardian of the family, the man was responsible for making decisions concerning finances, property, and even the family’s relationship with the larger tribal community.

Members of the House Subcommittee on Interior and Insular Affairs continued to debate automatic conferral of spousal competency. In July 1953, the subcommittee issued a report which highlighted the practical problems which would arise if one member of the family was declared competent and released from wardship, but the rest of the family’s land continued to be held in trust. Some saw this convoluted division of family competency as counter to the central goal of termination policies—to abolish the BIA. Assistant Secretary of the Interior Orme Lewis argued that “It would not be practicable to terminate the rights of the head of a family to special Federal benefits while leaving the spouse and minor children eligible for such benefits.”<sup>71</sup> Thus, the subcommittee proposed that “applications by married persons for certificates of competency should be considered only on a family basis.” They argued that applications of married people would be considered “only if the spouse also files an application.” This signaled legislators’ desires to prevent possible familial disputes about tribal property. However, the subcommittee specified that “if one of them is determined to be a competent person, patents in fee should be issued to all the trust land of the applicants, their minor children, and any other minor children in the

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<sup>71</sup> Committee on Interior and Insular Affairs, Report to Accompany H.R. 4985, Providing a Certificate or Decree of Competency for United States Indians in Certain Cases, H.R. Rep. No. 836, at 9 (1953). NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.



custody of the applicants.”<sup>72</sup> Therefore, although husbands and wives would apply for competency together, both spouses did not need to be judged competent for all members of the family to receive decrees. This stipulation further reflects the subcommittee’s belief in patriarchal family structures. It was unlikely that a court or the Secretary of the Interior would find a Native wife competent and her husband incompetent, and bestow her with the power of guardianship over the rest of the family.

In May 1954, the subcommittee was still discussing proper procedures for family applications. George Abbott, Special Counsel to the House Interior Committee, attempted to parse out whether the specifications about married couples meant that the bill “involuntarily” declared competency. Abbott stated, “To that extent in so far as a declaration of competency would reach the other spouse, that is in a sense, I suppose involuntary; but there it would be a case of common interest, presumably, and that would be considered with other factors.”<sup>73</sup> He clarified further that, “In any case the application would be made on behalf of the applicant, the spouse, children, so we can clear the record on that point that it is not involuntary because the application in the first instance is voluntary.”<sup>74</sup> From the committee’s perspective, the adjudicating authorities should presume that all members of the family were voluntarily submitting applications. This point of view further reified their assumption that Native families

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<sup>72</sup> Ibid.

<sup>73</sup> Unpublished Hearing, “To Provide a Decree of Competency for US Indians in Certain Cases,” House of Representatives Subcommittee on Indian Affairs; Committee on Interior and Insular Affairs, May 7, 1954, 83<sup>rd</sup> Cong., at 4-5, HRG-1954-IIA-0084, <http://congressional.proquest.com/congressional/docview/t29.d30.hrg-1954-ia-0084?accountid=14524>.

<sup>74</sup> Ibid., 5.

would conform to patriarchal structures where the head of the household's decision would stand for all other household members.

Notably, the simultaneous spousal application requirement did not make it into the final version of the bill. The question of divided competency within families was not formally resolved until Wesley D'Ewart's 1954 bill, H.R. 4985. That bill specified that if one spouse was declared competent, competency would be automatically bestowed upon the other spouse and any minor children under either the applicant's or spouse's custody. The exact language stipulated, "In the event an applicant is married and living with his or her spouse, such application shall be made by the applicants and spouse and on behalf of any minor children over whom the applicant or the spouse has custody under tribal or State law."<sup>75</sup> If "one of the adult applicants" was found competent, *all* members of the family would be "no longer subject to Federal laws applicable to Indians as such...and the recipient or recipients and heirs thereof shall no longer be entitled to share any of the benefits or gratuitous service extended to Indians as such by the United States."<sup>76</sup> H.R. 4985 explicitly proposed to end wardship by family unit rather than by individual.

Even members of the AAIA, an organization committed to Indian issues, presumed that most applicants for competency would be men. For example, in 1954, AAIA members drafted their own version of competency legislation which proposed three distinct criteria to judge which individual Native people were "eligible for

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<sup>75</sup> Bill to Provide a Decree of Competency for United States Indians in Certain Cases, H.R. 4985, 83<sup>rd</sup> Cong. (1954).

<sup>76</sup> *Ibid.*

termination of his special status under Federal law.” The first two criteria were that an applicant must show that “he has been graduated from an accredited high school,” or that “he has, in each of the three years immediately preceding the date of application, earned more than \$3600.00 from wages, salaries, fees for services, or net profits on a business operated by him without supervision by the Bureau of Indian Affairs.”<sup>77</sup>

These stipulations demonstrate that the AAIA also assumed “competency” to be the gendered responsibility of male applicants to generate enough income to provide for his family’s future. The AAIA took the “\$3600 figure...from the social security law, that figure being the maximum amount from which social security deductions are made.” However, AAIA members noted that the legislation should “make allowances” for “Indians who farm their own land,” because “their food and housing budget needs will be considerably lower than those of Indians living in the city.”<sup>78</sup> The AAIA assumed that if a Native applicant had earned enough to live independently from the BIA, he would also have earned enough to prevent him from relying on needs-based welfare programs.

The AAIA’s version of the competency bill also tapped into long-standing gendered and racialized assumptions about marriage as a path to citizenship. In order to extend competency eligibility to “housewives who do not have the opportunity to earn the required amount of money,” the third criteria proposed that, “in the case of a

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<sup>77</sup> AAIA Draft Competency Bill, 1954, Association on American Indian Affairs File – Correspondence April 1954, Box 76, Philleo Nash White House/Association on American Indian Affairs Files, HSTL.

<sup>78</sup> Amendments to AAIA Draft Competency Bill, 1954, Association on American Indian Affairs File – Correspondence April 1954, Box 76, Philleo Nash White House/Association on American Indian Affairs Files, HSTL.

married woman, that her husband, to whom she shall have been married for five years immediately preceding the date of application and with whom she has shared a household during such period, is, on the date of application, a person other than an Indian having special status under the law.”<sup>79</sup> In this proposal, Native women—specifically, those who had demonstrated that they were in a long-term marriage and were currently sharing a house with their husbands—were able to achieve competency only if their husband had already done so. The language of “a person other than an Indian having special status” in this stipulation was vague enough to include both non-Native men and those Native men who had already applied and been granted decrees of competency. In either case, if their husbands had demonstrated through their racial identity or their financial earnings that they would not be dependent upon the federal government, the AAIA assumed that their wives would also not be dependent. Though this proposed language did not end up in the final versions of H.R. 4985, it demonstrates how deeply patriarchal assumptions about responsibility and independence were woven into debates about Native competency and eligibility for “emancipation.”

### *Native Children’s Competency*

Beginning with H.R. 1113 in 1947, legislators included a specific clause which proposed an end to federal wardship by adjusting Native children’s legal status. The clause, which was inserted into every subsequent competency bill, read: “Any Indian

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<sup>79</sup> AAIA Draft Competency Bill, 1954, Association on American Indian Affairs File – Correspondence April 1954, Box 76, Philleo Nash White House/Association on American Indian Affairs Files, HSTL.

born after the date of the enactment of this Act, who is a citizen of the United States, and any child of parents, either of whom has been issued a ‘decree of competency’ shall, upon reaching the age of twenty-one years, be free of all disabilities and limitations specially applicable to Indians.”<sup>80</sup> By granting competency at the age of 21 for any Native child born to one competent parent, and to *any* Native child born after the bill passed into law, the bill proposed to eliminate Indians’ relationship with the federal government within a specific period of time. Age became the only requirement for receiving a decree of competency, with the assumption that “competent” parents would pass on the skills needed for such a decree to their children. This stipulation would have imposed an involuntary change in legal status after childhood, and, within 21 years after the bill’s passage, eliminated the relationship between the federal government and Native tribes.

Native people and activists were strongly opposed to the automatic declaration of competency onto children. For example, in 1953, NCAI president Joseph Garry issued a statement on H.R. 4985 which criticized its compulsive aspects. Garry asserted that if an Indian received a certificate of competency, “his spouse and minor children would automatically be granted this same certificate without request. Patent in fee would be issued to them for all their property, thus losing their rights of federal protection on their lands and property as well as their privileges of tax freedom.”<sup>81</sup>

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<sup>80</sup> Act to Emancipate United States Indians in Certain Cases, H.R. 1113, 80<sup>th</sup> Cong. (1947). The clause was repeated in S. 186, H.R. 2724, H.R. 457, S. 485, S. 335, and H.R. 4985.

<sup>81</sup> Joseph Garry, “What is the Competency Bill – H.R. 4985?” May 4, 1953, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

Similarly, at the 1954 Emergency Conference of American Indians on Legislation, the NCAI issued a statement outlining the aspects of the bill which conference attendees found most objectionable. The first objection was that, “The spouse and children of an Indian declared competent automatically become competent and thus lose their rights to federal services for Indians; all their trust lands became subject to taxation and alienation with the consequent danger of loss.”<sup>82</sup> Both Garry and NCAI members at the 1954 conference pointed out that the spouse and children of Indians declared competent had no choice of whether or not they wanted to have their lands removed from trust restrictions. This involuntary removal meant that Native women and children would lose tax exemption and be subject to increased danger of losing their land altogether. In 1954, the All-Pueblo Council argued that H.R. 4985 “would impose upon the spouse and children of an Indian declared competent the status of non-Indian, irrespective of their desires and in violation of the rights guaranteed them by the Federal Government.”<sup>83</sup> Native objections to the bill were that one member of the family’s actions could drastically impact the others’ rights as wards without their permission. This compulsive imposition of competency posed a danger to Indian land holdings.

Native groups especially disapproved of the automatic conferral of competency onto Native children because it would deprive children of their own choice. For

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<sup>82</sup> Session, Saturday, February 27, 1954, Emergency Conference of American Indians on Legislation Program, Summary of Sessions, Indians – National Congress of American Indians Report – Washington Conference February 1954, Box 42, Philleo Nash White House Files, HSTL.

<sup>83</sup> Representatives from Arizona and New Mexico Resolution Against H.R. 4985, 1954, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

example, Garry's statement pointed to the fact that the bill would terminate wardship for all Native babies born after the bill's enactment if either parent had a certificate of competency, which "deprives the unborn of the freedom of choice."<sup>84</sup> At the 1954 New Mexico Conference of Social Welfare, Pueblo, Navajo, and Apache leaders publicly condemned competency legislation in a resolution which asserted that "the bill was unfair to Indian children."<sup>85</sup> Additionally, the All-Pueblo Council's 1954 resolution specifically highlighted that many tribes would "suffer hardship and injustice," with the bill's passage, "particularly the children of such tribes."<sup>86</sup> Native groups objected to the fact that parents' choices to separate from wardship would be imposed upon their children, before those children were able to voice their own opinions.

Frank Ducheneaux, Chairman of the Cheyenne River Sioux Tribe, offered insight as to why Native people found the provisions in the bill about children so objectionable. At a 1954 meeting of the House Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, Ducheneaux asserted that if parents applied for competency, they would be "committing their children to something that they know nothing about, taking rights and privileges away from that group that do not

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<sup>84</sup> Joseph Garry, "What is the Competency Bill – H.R. 4985?" May 4, 1953, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

<sup>85</sup> "Competency Bill Condemned by New Mexico Indian Leaders," *The New Mexican*, June 13, 1954, Folder 15 – Bureau of Indian Affairs 1954, Box 136, Dennis Chavez Papers, CSR-UNM.

<sup>86</sup> Representatives from Arizona and New Mexico Resolution Against H.R. 4985, 1954, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

know anything about it.”<sup>87</sup> Members of the subcommittee did not understand Ducheneaux’s objections to what they saw as a legitimate exercise of parental authority. Congressman Wayne Aspinall of Colorado pressed Ducheneaux, asking, “Is it not your feeling that a parent has been by his own motion made competent, or if he desires by his own motion to have his incompetency removed, the parent has more right than any other individual or segment of society to determine what shall happen to the children, to his children?”<sup>88</sup> To Aspinall, if a Native head of household had been declared competent, he alone should have the right and responsibility to decide what was best for his family’s future. Ducheneaux responded, “Congressman, but we all think we are competent; that is, I believe everybody thinks he is competent to handle his own affairs, but when it comes to waiving the rights of somebody other than yourself, I do not think they should have a right to do that.”<sup>89</sup> Rather than granting ultimate decision making authority to “competent” Indian fathers, Ducheneaux conceptualized Native children as individuals with their own stakes in their tribal communities. He continued, “I do not think that the parent should have the right to waive any privileges that their children might have before they are competent to speak for themselves.”<sup>90</sup> In his assertion that Native children should be entitled to make their own decisions whether to apply for competency, Ducheneaux challenged

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<sup>87</sup> Unpublished Hearing, “To Provide a Decree of Competency for US Indians in Certain Cases,” House of Representatives Subcommittee on Indian Affairs; Committee on Interior and Insular Affairs, May 7, 1954, 83<sup>rd</sup> Cong., at 6, HRG-1954-IIA-0084, <http://congressional.proquest.com/congressional/docview/t29.d30.hrg-1954-ia-0084?accountid=14524>.

<sup>88</sup> *Ibid.*, 6-7.

<sup>89</sup> *Ibid.*

<sup>90</sup> *Ibid.*, 7.



Americanized assumptions about parental responsibility and the goal of termination itself. Increasingly exasperated, Aspinall challenged, “How will we ever be able to remove the status of incompetency? Who is going to speak for the child? Are you going to permit the child of all incompetent people to reach the age of maturity as incompetents?”<sup>91</sup> Eager to speed along Indian integration into the polity as nuclear family units headed by “competent” men, Aspinall was unwilling to consider Native peoples’ unique history with the United States or cultural differences in childrearing and family management. Ducheneaux saw competency as a threat to all members of Native families as well as a threat to the financial well-being and land base of Indian tribes.

### *Competency as Extermination*

One of the main critiques Native people and their supporters leveled at competency legislation was that Native children would be excluded from access to the resources and benefits from the federal government as wards, the “rights promised to them by treaties, agreements, and statutes of the United States.”<sup>92</sup> For example, in 1951, the Southwest Indian Newsletter published a critique of H.R. 457 and S. 485, which argued that the bills “would exclude Indian children born after the bill becomes law, as well as children of so-called ‘competent’ Indians, from accessing Indian hospitals, credit facilities, education and other benefits including tax-exemption on

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<sup>91</sup> Ibid., 7.

<sup>92</sup> AAIA Petition to President and Congress Requesting Disapproval of H.R. 1113, Association on American Indian Affairs Files – Correspondence 1947-1948, Box 75, Philleo Nash White House/Association on American Indian Affairs Files, HSTL.

lands.”<sup>93</sup> Similarly, in his 1953 testimony before the House Committee on Interior and Insular Affairs representing the San Carlos Apache, Hualapai, Blackfeet, Winnebago, Laguna Pueblo, and All-Pueblo Council, lawyer Felix Cohen argued that HR 4985 would “put an end to such services and subsidies” as “hospital services, education, road maintenance, and various other public services to Indians on Indian reservations.”<sup>94</sup> Native groups especially feared Native children’s loss of such resources because there was no guarantee that these benefits and services would be replaced by other sources. For example, in 1953 the All-Pueblo Council issued a resolution opposing competency legislation because, they argued, “the proposed legislation would deprive our Pueblo Indians of many protections, benefits, and services they now receive from the Federal Government without providing for transfer of these to state or local government.”<sup>95</sup> Southwestern tribes like the Pueblos were especially wary of proposals to terminate the federal government’s responsibility for Indian welfare due to their previous experiences with Arizona and New Mexico’s public welfare offices who refused to process Native applications for Social Security benefits.

Competency legislation exemplified attempted assimilation, and as such, should be situated within the long history of Native people’s legal extermination.

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<sup>93</sup> “Legislative Roundup,” *Southwest Indian Newsletter*, Vol. 1, No. 1, February 1951, Indians – Southwest Indian Newsletter February 1951-February 1952, Box 44, Philleo Nash White House Files, HSTL.

<sup>94</sup> Testimony of Felix S. Cohen on H.R. 4985, House Committee on Interior and Insular Affairs, July 7, 1953, Folder 8 – Correspondence Regarding Various Tribal Legal Matters 1952-1961, Box 3, William Zimmerman Papers, CSR-UNM.

<sup>95</sup> All-Pueblo Council Resolution Opposing H.R. 4985, Folder 26 – Indian Affairs All-Pueblo Council 1950-1960, Box 134, Dennis Chavez Papers, CSR-UNM.

Competency bills set a fixed date for the “end” of Indian wardship. When children born after the bill’s enactment turned 21, they would automatically be declared “competent,” and, as the AAIA argued in 1948, deprived of “rights guaranteed to the Indians in perpetuity.”<sup>96</sup> Children with at least one competent parent would be no longer “Indian” in a legal sense, after their parent received his or her decree. These aspects of competency legislation which “set a date and a time when wardship will eventually end,” was, according to Wesley D’Ewart, sponsor of H.R. 2724, H.R. 457, and H.R. 4985, “done deliberately.”<sup>97</sup> Critics argued that this “degree of compulsion,” as another member of the House Committee on Interior and Insular Affairs classified it, could have damaging effects, not just on Native children’s individual choices, but also on Native communities as a whole.<sup>98</sup> For example, in 1948, Vice President of the New Mexico Association on Indian Affairs, Catherine Farrelly, sent a letter to Senator Dennis Chavez of New Mexico to voice her opposition to HR 1113, a bill for which Chavez had declared his support. Farrelly argued that “this bill is not voluntary but mandatory,” and that it would be “as great a threat to the welfare of the Indians as any piece of legislation in the past 25 years.”<sup>99</sup> In 1953, New Mexico citizen Peter Kunstadter wrote to Chavez asserting that HR 4985 “provides for the ultimate

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<sup>96</sup> “So-Called Emancipation Bill Threatens American Indian Rights,” AAIA Press Release, 1948, Association on American Indian Affairs File – Correspondence 1947-1948, Box 75, Philleo Nash White House/Association on American Indian Affairs Files, HSTL.

<sup>97</sup> Unpublished Hearing, “To Provide a Decree of Competency for US Indians in Certain Cases,” House of Representatives Committee on Interior and Insular Affairs, July 15, 1953, 83<sup>rd</sup> Cong., 35, HRG-1953-IIA-0176, <http://congressional.proquest.com/congressional/docview/t29.d30.hrg-1953-ia-0176?accountid=14524>.

<sup>98</sup> *Ibid.*, 32.

<sup>99</sup> Farrelly to Chavez, 1948, Folder 29 – Indian Affairs New Mexico Association of Indian Affairs 1947, Box 82, Dennis Chavez Papers, CSR-UNM.

destruction of these communities, by providing that each Indian born after the law was enacted would automatically be declared competent on reaching the age of 21.”<sup>100</sup> That same year, John Collier declared in a letter to the editor of the *New York Times*, “Rather than eliminating the Indian Bureau, in whole or in part, as so many past ‘emancipation’ bills have proposed to do, H.R. 4985 takes the approach of solving the ‘Indian problem’ by eliminating the Indians.”<sup>101</sup> What Farrelly, Kunstadter, and Collier all articulated was that without wardship, Indians would cease to exist as Indians. By legally ending wardship, competency legislation recast “Indianness” as a vaguely defined racial, ethnic or ancestral identity, rather than a legal status of members of sovereign nations with historical agreements with the US government. Ultimately, if Native people lost their rights to that continued legal relationship with the United States, it would damage the structure and autonomy of Native tribes.

If all Native people were eventually declared “competent,” would tribes be able to retain sovereignty, power over determination of membership, and/or administration of land or other assets? In her analysis of Canada’s Indian Act, Mohawk scholar Audra Simpson has addressed the extent to which state citizenship has impacted social and community practices of indigenous nations in Canada. Simpson argues that in the case of the Mohawk people of Kahnawà:ke, the tribe adopted aspects of the Indian Act, including a patrilineal model of descent, which

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<sup>100</sup> Kunstadter to Chavez, 1953, Folder 38 – Legislation Indian Affairs 1953-1954, Box 30, Dennis Chavez Papers, CSR-UNM.

<sup>101</sup> John Collier, Letter to Editor, *New York Times*, July 16, 1953, Competency Decree (HR 4985) Bills Letters Notes Statements Clippings, Series II - Programs and Projects, Part III 1945-1956, John Collier Papers (University Microfilms International, Reel 45), Arizona State University Law Library.

effectively disenfranchised Indian women from their Indian status when they married non-Native men.<sup>102</sup> After Canada amended the law in 1985 to address the gender bias in this patrilineal system, Simpson writes that the community of Kahnawà:ke continued to debate about how membership within the tribe should be determined. Simpson argues that clashes between the people of Kahnawà:ke and the state over issues of citizenship and membership revealed larger conflicts within the community over developing “what would be the means for determining who we were—and who was not eligible to be recognized by us as being who we are.”<sup>103</sup> Simpson’s work demonstrates that multi-faceted and overlapping discourses of sovereignty and belonging are encoded within state laws which govern citizenship and membership. What proponents of competency legislation presented as a straightforward, administrative process of “freeing” individual Native people from governmental oversight, would have had similarly deep implications for larger issues of tribal community and family formation.

Canada’s Indian policies were not entirely foreign to US advocates of termination. In the early 1950s, policymakers looked to Canada’s legal process of “enfranchisement” as a guide for possible American termination policies. In his work paper on termination, S. Lyman Tyler explained how individual Indians in Canada became “enfranchised.” Tyler found that, “after an Indian has applied to the Minister of Citizenship and Immigration for enfranchisement, the Governor in Council may, on

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<sup>102</sup> Audra Simpson, “On Ethnographic Refusal: Indigeneity, ‘Voice,’ and Colonial Citizenship,” *Junctures* 9 (December 2007), 73.

<sup>103</sup> *Ibid.*

the Minister's recommendation, declare the Indian, his wife and their minor children enfranchised, provided that: 1) the Indian is 21; 2) he is capable of assuming the duties and responsibilities of citizenship; and 3) he is capable of supporting himself and his dependents."<sup>104</sup> Competency bills in the United States bore much resemblance to the Canadian process of enfranchisement, including the patriarchal assumption that Native men would only be able to assume the responsibilities and duties of full citizenship if they could demonstrate their ability to provide for their families.

In the eyes of both the state and the tribes who assimilated the policy, Canada's Indian Act legally "exterminated" the Indian identities of women who married non-Native men, and the children of those unions. This gendered "path to citizenship," reminiscent of both nineteenth-century assimilation policies and mid-twentieth-century competency proposals in the United States, reinforced, as Simpson calls it, a sign of "colonialism's ongoing existence and simultaneous failure." State agents' efforts to "eliminate Indigenous people" and assimilate them into "a white, property-owning body politic" survive. But so too, does Native resistance.<sup>105</sup>

### **Competency and Tribal Sovereignty**

*The Ambiguous Relationship between Tribes and "Competent" Indians*

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<sup>104</sup> S. Lyman Tyler, "A Work Paper on Termination: With an Attempt to Show Its Antecedents," 70, Memo #55 – Agenda for 7<sup>th</sup> Meeting San Francisco Work Paper on Termination Its Antecedents 8-28-58, Box 69, William Brophy Commission on the Rights, Liberties, and Responsibilities of the Indian, HSTL.

<sup>105</sup> Audra Simpson, *Mohawk Interruptus: Political Life Across the Borders of Settler States* (Durham: Duke University Press, 2014), 7-8.

Competency bills undermined systems of tribal sovereignty and community governance. The legislative language created an ambiguous “dual status” for Native people, echoing the language of the Indian Citizenship Act. Significantly, nearly all competency bills contained a phrase which protected “competent” Indians from losing any of the rights “to which he would otherwise be entitled as a member of any Indian tribe.”<sup>106</sup> Beginning with H.R. 1113 in 1947, the language became more specific. The following phrase was inserted into every subsequent competency bill:

“After receiving a ‘decree or judgment of competency,’ the applicant, if a member of a tribe, may continue on the tribal rolls, as a member of the tribe. Any Indian who has been adjudged competent as herein provided shall in no manner be deprived of his or her tribal rights or treaty benefits; and in no way shall he or she be alienated from any benefits or payments of funds which may accrue to the tribe, band, group, or ward of the Federal Government through settlement of claims as provided in section 12, Public Law 726, approved August 13, 1946, by reason of a decree of competency obtained under the provisions of this Act.”<sup>107</sup>

This kind of language allowed “competent” Indians to remain on tribal rolls as members in tribes and ensured that they would receive their portion of any claims their tribe received because of the Indian Claims Commission. In their 1953 report on HR 4985, the Committee on Interior and Insular Affairs further clarified their intent, asserting that, “H.R. 4985 does not operate to deprive Indians declared competent vested interest or interests which might accrue in tribal assets or resources; it does not deprive the individual declared competent of future benefits or payments which might

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<sup>106</sup> Bill to Emancipate the Indians of the United States, H.R. 5115, 78<sup>th</sup> Cong. (1944). The only bill in which this kind of language did not appear was H.R. 3681, which only targeted Native veterans.

<sup>107</sup> Act to Emancipate United States Indians in Certain Cases, H.R. 1113, 80<sup>th</sup> Cong. (1947). This paragraph also appeared in S. 186, H.R. 2724, H.R. 457, H.R. 485, S. 335, and H.R. 4985.

accrue by reason of claim settlement, award or judgment.”<sup>108</sup> Thus, a Native person with a declaration of competency would not have been financially divorced from his or her tribe, but allowed to maintain a stake in tribal assets and resources.

Additionally, competency legislation did not necessarily “emancipate” Native people from wardship. For some tribes, the protection of “tribal rights or treaty benefits” would have safeguarded continued provisions for healthcare and education by the federal government. Indeed, in a 1949 letter to Senator Joseph O’Mahoney opposing H.R. 2724, Oliver La Farge of the AAIA pointed out that “To the extent that educational services, for example, are called for in treaties, these provisions are clearly mutually contradictory and would lead to utter confusion.”<sup>109</sup> However, although competency bills safeguarded “tribal rights and treaty benefits,” they also specified procedures and goals for removing trust restrictions on Indian land and other property, which will be discussed further below.

Native organizations, tribes, and non-Native advocates argued that competency legislation damaged existing tribal governance and negatively impacted communities by allowing “competent” Native people to maintain vested financial interests in tribes they had left. For example, in his 1953 statement on competency, NCAI president Joseph Garry asserted that this aspect of the legislation would “lessen an individual Indian’s regard for the conservation of property of his tribesmen, knowing that this

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<sup>108</sup> Committee on Interior and Insular Affairs, Report to Accompany H.R. 4985, Providing a Certificate or Decree of Competency for United States Indians in Certain Cases, H.R. Rep. No. 836, at 8 (1953). NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

<sup>109</sup> LaFarge to O’Mahoney, 1949, Indian File 1946-1952 Association on American Indian Affairs, Box 24, Harry S. Truman Staff Member Office Files Philleo Nash Files, HSTL.



competency would in no way jeopardize his standing with the tribe in financial benefits or otherwise.”<sup>110</sup> Similarly, in their 1954 Emergency Conference of American Indians on Legislation, the NCAI protested that one of the “principal objectionable features” of H.R. 4985, was that, “An Indian declared competent on his own application or otherwise, continues on the tribal rolls and shares in tribal assets and income.”<sup>111</sup> Other tribal groups also pointed to how competency legislation would pit “competent” Indians against those without decrees of competency and split up Native families. At a 1953 Laguna Pueblo tribal council meeting, the tribe issued a resolution asking Congress to reject H.R. 4985, because the bill “encourages anti-tribal Indians to undermine the property and tribal organization and disrupts enterprises of communities and families who want to remain together.”<sup>112</sup> In a 1954 resolution, tribal representatives from Arizona and New Mexico argued that “allowing an Indian declared competent to continue on the tribal rolls even though he desires to be considered a non-Indian,” essentially allows him to “continue to enjoy the rights and privileges he has rejected.”<sup>113</sup> Native critics pointed to the discord which competency legislation would sow within Native communities, potentially allowing “competent” Indians to benefit from tribal resources after having “rejected” their Native identity.

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<sup>110</sup> Joseph Garry, “What is the Competency Bill – H.R. 4985?” May 4, 1953, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

<sup>111</sup> Session, Saturday, February 27, 1954, Emergency Conference of American Indians on Legislation Program, Summary of Sessions, Indians – National Congress of American Indians Report – Washington Conference February 1954, Box 42, Philleo Nash White House Files, HSTL.

<sup>112</sup> Council of Laguna Pueblo, Resolution, December 12, 1953, NCAI, Series 4 - Tribal Files, Box 111, Tribal Files Laguna (Pueblo-New Mexico) 1948-1961; NMAI.

<sup>113</sup> Representatives from Arizona and New Mexico Resolution Against H.R. 4985, 1954, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

Non-Native advocates for Indians, including members of the AAIA and lawyer Felix Cohen, also opposed these stipulations within competency bills. To them, the legislation seemed to allow “competent” Indians to continue to influence tribal matters but share no real responsibility with other tribal members. The AAIA issued a press release in 1948 opposing H.R. 1113, where they argued that one of the “worst features of the bill” was the provision that invited “Indians who secede from tribal groups to assert claims against tribal assets,” which gave “dissident individuals power to attach and veto tribal arrangements established democratically by majority decision.”<sup>114</sup> In his testimony against H.R. 4985 before the House Committee on Interior and Insular Affairs in 1953, Cohen asserted that “individuals who do not want to be Indians” will continue “to have all the rights but none of the responsibilities of tribal membership.”<sup>115</sup> Critics contended that “competent” Indians could influence tribal politics and financial resources, potentially impacting other tribal members’ assets without any repercussions.

Other critics of competency bills pointed out that despite their continued connection with tribes, “competent” Indians would not be allowed to receive any of the services and resources to which tribal members were entitled. For example, a 1951 issue of the Southwest Indian Newsletter argued that H.R. 457 and S. 485 allowed competent Indians to “participate in Tribal affairs, thus giving them a voice in tribal

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<sup>114</sup> “So-Called Emancipation Bill Threatens American Indian Rights,” AAIA Press Release, 1948, Association on American Indian Affairs File – Correspondence 1947-1948, Box 75, Philleo Nash White House/Association on American Indian Affairs Files, HSTL.

<sup>115</sup> Testimony of Felix S. Cohen on H.R. 4985, House Committee on Interior and Insular Affairs, July 7, 1953, Folder 8 – Correspondence Regarding Various Tribal Legal Matters 1952-1961, Box 3, William Zimmerman Papers, CSR-UNM.

actions and programs from which they will not be allowed to benefit.”<sup>116</sup> Similarly, in a 1953 letter to the editor of the *New York Times*, John Collier asserted that HR 4985 and S 335 would “prevent those Indians now living who wish to remain as fully participating members of an Indian tribe or community from reaping the full benefits of such participation. This is done by the provision in the bill which gives the Indian who has resigned from the tribal property rights and interests in tribal affairs notwithstanding his complete severance from the tribal organization.”<sup>117</sup> In his 1953 testimony, Felix Cohen also emphasized that although they would retain the rights of tribal membership, “competent” Indians would no longer be eligible to “participate in any of the benefits of such public services.”<sup>118</sup> Competency legislation failed to fully separate “competent” tribal members from their tribes, allowing them to have a voice in tribal affairs, but, at the same time, leaving them unable to benefit from programs and services.

By proposing a legal procedure to determine the rights of individual members within tribes, competency legislation also usurped tribes’ authority to establish their own protocols for membership. In a statement printed in an AAIA and American Indian Fund newsletter, the San Carlos Apache Tribal Council and the Inter-Tribal Council of Arizona asserted that “An ‘emancipation’ bill, if enacted on the lines of

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<sup>116</sup> “Legislative Roundup,” *Southwest Indian Newsletter*, Vol. 1, No. 1, February 1951, Indians – Southwest Indian Newsletter February 1951-February 1952, Box 44, Philleo Nash White House Files, HSTL.

<sup>117</sup> John Collier, Letter to Editor, *New York Times*, July 16, 1953, Competency Decree (HR 4985) Bills Letters Notes Statements Clippings, Series II - Programs and Projects, Part III 1945-1956, John Collier Papers (University Microfilms International, Reel 45), Arizona State University Law Library.

<sup>118</sup> Testimony of Felix S. Cohen on H.R. 4985, House Committee on Interior and Insular Affairs, July 7, 1953, Folder 8 – Correspondence Regarding Various Tribal Legal Matters 1952-1961, Box 3, William Zimmerman Papers, CSR-UNM.

H.R. 4985 would severely disrupt the operation of tribal government and shatter the foundation on which tribal economic and social organization is based.”<sup>119</sup>

Furthermore, they asserted that competency legislation was unnecessary because, “an Indian who wants to sever all relations with his tribe and with the Federal Government, as an Indian, can do so without special legislation. We had a case of this nature last year where an enrolled member of the Tribe disaffiliated himself from the Tribe. Such action should be optional, and not mandatory.”<sup>120</sup> Similarly, at the NCAI Emergency Conference, Diego Abeita, spokesperson for the All-Pueblo Council and the Isleta, Domingo, Tesuque, and San Felipe Pueblos, and Jicarilla Apache, demanded, “Indians should not be subjected to humiliation of securing a piece of paper from the Secretary of the Interior to prove competency.”<sup>121</sup> In their correspondence, AAIA members suggested that the rights of “competent” Indians within tribal affairs should be left up to the tribes. For example, in 1954, Oliver La Farge wrote to Alexander Lesser, “Could it be put up to the tribes themselves to determine whether such persons, having been declared non-Indian, should or should not continue to have rights in the government or business management of the tribe?”<sup>122</sup> In their own version of a competency bill, the AAIA directed that a person who had

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<sup>119</sup> “The Indian Tribes Speak,” Statement of San Carlos Apache Tribal Council and Inter-Tribal Council of the State of Arizona, *Indian Affairs*, Newsletter of the American Indian Fund and the AAIA, Association on American Indian Affairs File – Correspondence March 1954, Box 76, Philleo Nash White House/Association on American Indians Files, HSTL.

<sup>120</sup> Ibid.

<sup>121</sup> Diego Abeita Statement, Session, Saturday, February 27, 1954, Emergency Conference of American Indians on Legislation Program, Summary of Sessions, Indians – National Congress of American Indians Report – Washington Conference February 1954, Box 42, Philleo Nash White House Files, HSTL.

<sup>122</sup> LaFarge to Lesser, 1954, Association on American Indian Affairs File – Competency, Box 75, Philleo Nash White House/Association on American Indian Affairs Files, HSTL.

received a decree of competency “shall lose his right to vote in tribal affairs. However, the tribe may, at its discretion, restore the right to vote to him.”<sup>123</sup> Both Native criticisms of competency legislation’s subversion of tribal autonomy and the AAIA’s efforts to restore (limited) tribal authority over membership reflected larger political issues of defining Indian identity and membership in tribal nations.

Joanne Barker has noted how Indian tribes, the federal government, and the non-Native public continue to battle over jurisdiction over membership criteria. Barker asserts that being excluded from tribal membership does not mean that one is “merely excluded from its associated legal rights.” Exclusion also reflects one’s “lack of cultural authenticity.”<sup>124</sup> The United States has a history of using individual Native people’s “authenticity” to determine their eligibility for citizenship. Barker notes that during the administration of allotment policy, BIA officials would adjudge individual Native people’s “competency” to determine if they were “ready” to manage the “demands of private property ownership.” Individuals with less “Native blood” were more likely to be considered competent.<sup>125</sup> Thus, as Native people moved farther away from the perception of the “authentic” Indian, whether that was through biology or behavior, they were in more danger of losing their rights as tribal members. In turn, tribes themselves were stripped of the power to determine who was eligible for membership. Mid-twentieth-century competency proposals demonstrate the endurance of these assumptions about authenticity and citizenship. These bills had the power to

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<sup>123</sup> AAIA Draft Competency Bill 1954, Association on American Indian Affairs File – Correspondence April 1954, Box 76, Philleo Nash White House/Association on American Indian Affairs Files, HSTL.

<sup>124</sup> Barker, *Native Acts*, 83.

<sup>125</sup> *Ibid.*, 89.

potentially impact the dynamics of tribal membership as well as Native peoples' attainment of "full" citizenship.

Native and non-Native critics of competency legislation also pointed to how the bills threatened the relationship between tribal nations and the United States constituted through treaties. In 1954, Martin Vigil, chairman of the All-Pueblo Council, wrote to President Eisenhower to argue that competency legislation would enlarge the power of the BIA, increase confusion, and perpetuate a series of hearings and investigations which "would never end." "Pending Indian legislation is the most ruinous in the black record of one hundred and fifty years of broken promises by the Federal Government," Vigil wrote. "You swore to protect our rights."<sup>126</sup> Vigil reminded Eisenhower that according to the Declaration of Independence, "government is derived from the *consent* of the governed," and that not only had Native people not consented to competency legislation, "we have not even been consulted."<sup>127</sup> By emphasizing the "promises" the federal government made, Vigil pointed to the legal relationship between tribes and the United States. However, he also reminded Eisenhower of the American political promise of citizens' rights to be "governed by consent."

Non-Natives also pointed competency legislation's threats to existing treaties. For example, in 1953, concerned constituents wrote to Senator Dennis Chavez of New Mexico about Chavez's support for competency legislation. "Recently there has been

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<sup>126</sup> Vigil to President Eisenhower, 1954, Folder 26 – Indian Affairs All-Pueblo Council 1950-1960, Box 134, Dennis Chavez Papers, CSR-UNM.

<sup>127</sup> Ibid.

a trend which would effectively eliminate the provision of these treaties which were entered into with good faith of all parties concerned,” wrote Peter Kunstadter. “The ‘Indian Emancipation Bill’ is representative of this trend.”<sup>128</sup> Lauri and Walter Keller asserted that, “Perhaps it would not be amiss to state here that, if such legislative action should be taken, there could be no escape from a sense of personal shame and guilt with regard to the destruction of Indian rights as established by treaty and agreement.”<sup>129</sup> Similarly, Florence Hawley Ellis wrote to Chavez, “This bill, if passed, would simply be one more chapter in the already disgraceful record of the United States Government in its treaty relations with the Indians.” Ellis continued, “In a word, the Butler-D’Ewart Bill would make scraps of paper out of hundreds of years of treaty obligations solemnly ratified by the tribes and the United States Senate.”<sup>130</sup> To Chavez’s constituents and to many Native people, competency legislation ignored treaty stipulations and undercut tribes’ ability to determine their own governmental processes and membership requirements.

### *Competency Legislation and Native Land*

Through competency bills, legislators wanted to free Indian land from trust restrictions. With a certificate of competency, a Native applicant would receive a patent in fee for their land, and trust restrictions would be removed on his or her land

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<sup>128</sup> Kunstadter to Chavez, 1953, Folder 38 – Legislation Indian Affairs 1953-1954, Box 30, Dennis Chavez Papers, CSR-UNM.

<sup>129</sup> Lauri and Walter Keller to Chavez, 1953, Folder 38 – Legislation Indian Affairs 1953-1954, Box 30, Dennis Chavez Papers, CSR-UNM.

<sup>130</sup> Ellis to Chavez, 1953, Folder 38 – Legislation Indian Affairs 1953-1954, Box 30, Dennis Chavez Papers, CSR-UNM.

and other financial property. Some bills offered more details about how competency decrees would affect tribal land. For example, H.R. 2958, Francis Case's 1947 bill, stipulated that "nothing in this Act shall be construed to require the division or sale of tribal property, real or personal," and that the Secretary of the Interior would be unable to permit the sale of any tribal lands "except when approved by a two-thirds vote of all adult members of the tribe to which the land belongs." Furthermore, H.R. 2958 stated that "It is hereby declared to be the intent of Congress that the tribal lands of all Indian tribes shall be preserved as a homeland for the members of their respective tribes and shall not be diminished except by approval of the tribe as herein provided."<sup>131</sup> In 1947, these safeguards of tribal approval disappeared. The bills proposed between 1947 and 1954 authorized the Secretary of the Interior, if he deemed it practicable, to partition tribal land to release the "competent" person's physical property or the financial share of the property. For example, in H.R. 1113 (1947) the Secretary of the Interior was instructed to make every effort to divide land "held jointly or in common with other heirs." However, if it was "impracticable to divide same according to their inherited interests he shall sell the interest or interests of the individual Indian applicant who has been adjudged competent and pay to him or her the net proceeds of such sale."<sup>132</sup> Hugh Butler's 1949 bill, S. 186 imbued the Secretary of the Interior with even more power, stating, "If the individual Indian who has been adjudged competent holds jointly or in common with other heirs an undivided interest in land the Secretary may

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<sup>131</sup> Bill to Emancipate the Indians of the United States and to Establish Certain Rights for Indians and Indian Tribes, H.R. 2958, 80<sup>th</sup> Cong. (1947), at 5-6.

<sup>132</sup> Act to Emancipate United States Indians in Certain Cases, H.R. 1113, 80<sup>th</sup> Cong. (1947), at 5-6.



in his discretion partition such land.”<sup>133</sup> All subsequent bills contained the same language. In H.R. 457 (1951), Wesley D’Ewart introduced language which also protected the rights of non-Native lessees of tribal land: “Provided further, that the Secretary may make such provisions as he deems necessary to protect the rights, interests, and investments of lessees and permittees in any such land.”<sup>134</sup> Legislators extended these protections further in H.R. 4958 (1954), directly stipulating that nothing in the bill would “abrogate the interest of any lessee or permittee.”<sup>135</sup> If passed, competency legislation would not only have affected the applicant and his or her family, but many more tribal members. Critics of competency bills argued that the legislation invested the Secretary of the Interior with the power to divide land among individuals or even to sell land altogether.

Native critics of competency legislation contended that freeing land from restrictions increased the likelihood that it would be sold. For example, in 1953, the Council of the Pueblo of Laguna issued a resolution against H.R. 4985, asserting that “The main motive power behind this new drive to remove federal protection of Indian rights comes from selfish interest who want the lands that are still left us.”<sup>136</sup> That same year the All-Pueblo Council issued their own resolution, stating that “The provision for removal of restrictions on Indian property threatens the loss to Indians of

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<sup>133</sup> Bill to Emancipate United States Indians in Certain Cases, S. 186, 81<sup>st</sup> Cong. (1949), at 3-4.

<sup>134</sup> Bill to Provide a Decree of Competency for United States Indians in Certain Cases, H.R. 457, 82<sup>nd</sup> Cong. (1951), at 4.

<sup>135</sup> Bill to Provide a Decree of Competency for United States Indians in Certain Cases, H.R. 4985, 83<sup>rd</sup> Cong. (1954), at 11.

<sup>136</sup> Council of Laguna Pueblo, Resolution, December 12, 1953, NCAI, Series 4 - Tribal Files, Box 111, Tribal Files Laguna (Pueblo-New Mexico) 1948-1961; NMAI.

individual land holdings, which, for many of our Pueblo Indians, is their chief base of economic security.”<sup>137</sup> Similarly, in 1954, Moses Twobulls, President of the Oglala Sioux Tribal Council, wrote to Chairman of the House Committee on Interior and Insular Affairs, Arthur Miller to protest H.R. 4985. Twobulls argued that, “Enactment of this bill would give more Indians the idea they could get patent fees easily, and even more Indians than already do would feel forced to try to sell their land to meet current emergencies. Wholesale issuance of ‘competency decrees’ would surely follow and then wholesale selling off of Indian land.”<sup>138</sup> At the NCAI emergency conference in 1954, Diego Abeita, spokesperson for the All Pueblo Council, explicitly connected competency and loss of Native land and resources, asserting that “In order to get our lands, they are going to declare us competent. How do we know the Secretary of the Interior is competent to declare us competent? We discovered a while ago that we had found oil, and that disturbed a lot of people. Now we have discovered we’re sitting on a pile of uranium, and that is driving them crazy.”<sup>139</sup> Native critics looked back on the history of allotment policies and saw the result of releasing trust restrictions—massive loss of Indian land. Therefore, they understood that competency legislation would surely “jeopardize the safety of ownership.”<sup>140</sup>

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<sup>137</sup> All-Pueblo Council Resolution Opposing H.R. 4985, Folder 26 – Indian Affairs All-Pueblo Council 1950-1960, Box 134, Dennis Chavez Papers, CSR-UNM.

<sup>138</sup> Twobulls to Miller, 1954, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

<sup>139</sup> Quoted in W.V. Eckardt, “Terminating the Indians,” *The New Leader*, April 26, 1954, 17, Folder 14 – New Mexico Association on Indian Affairs 1955, Box 83, Dennis Chavez Papers, CSR-UNM.

<sup>140</sup> “From Our Mail, Escondido, California,” National Congress of American Indians, *Washington Bulletin*, Vol. 2, No. 2, March-April 1948, National Congress of American Indians (1 of 4), Box 26, McCabe, George, N. to National Cong. Of Amer Indians, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

Critics also disapproved of how bills after 1947 allowed the Secretary of the Interior to partition land which was held jointly by more than one person. In 1954, when the NCAI gathered for their emergency conference, they claimed that under H.R. 4985, “The Secretary of the Interior may sell or divide, without Indian consent, Indian trust heirship land whenever any one of the heirs is declared competent.”<sup>141</sup> At the same conference, the group issued a resolution which proclaimed that because the Secretary was imbued with the power to “partition such land, or, if he deems partition impracticable, may sell the land or any part thereof,” the legislation “authorize[d] the Secretary to sell the land without the Indian’s consent, which we deem is contrary to all laws of equity.”<sup>142</sup> Non-Natives also critiqued the provision which allowed the Secretary to partition and/or sell jointly held land. For example, in his 1953 testimony against HR 4985, Felix Cohen asserted, “if a dozen Indians are co-owners of a trust allotment, and one of them wants the land sold while the other 11 want to have the land continued in its trust status, the Secretary can follow the wishes of the minority of 1 and disregard the wishes of the other 11 owners if he deems partition impracticable.”<sup>143</sup> In a 1954 article published in *The New Leader*, W. V. Eckardt contended that, “The real gimmick in this bill is the provision allowing any ‘competent’ Indian to request that his land be sold for his benefit. If he owns the land

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<sup>141</sup> Session, Saturday, February 27, 1954, Emergency Conference of American Indians on Legislation Program, Summary of Sessions, Indians – National Congress of American Indians Report – Washington Conference February 1954, Box 42, Philleo Nash White House Files, HSTL.

<sup>142</sup> NCAI Emergency Conference Delegates Resolution Opposing H.R. 4985, February 27, 1954, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

<sup>143</sup> Testimony of Felix S. Cohen on H.R. 4985, House Committee on Interior and Insular Affairs, July 7, 1953, Folder 8 – Correspondence Regarding Various Tribal Legal Matters 1952-1961, Box 3, William Zimmerman Papers, CSR-UNM.

jointly with other members of the tribe, as he usually does, he can still get the Secretary of the Interior to sell out the joint holdings for his share.”<sup>144</sup> Native and non-Native people interpreted the Secretary’s power to partition land as a threat to the property interests of all tribal members which would contributed to a weakening of community unity. To many, the land issue stood out as one of the most egregious aspects of proposed competency legislation. Indeed, in their meeting to establish their platform for the 1960 election, the Democratic National Committee associated the Republican Party with competency legislation, noting that “The Republicans also tried to pass a so-called ‘competency bill’ which would have forced sale of jointly held Indian land.”<sup>145</sup>

Competency bills were based upon the racialized idea that as wards, Indian men and women irresponsibly avoided taxation. Some critics argued that competency legislation was a blatant attempt to tax Indian property. For example, in 1951, lawyer James Curry sent a memo to Ruth Bronson of the NCAI, asserting, “We have a day to day fight with respect to the taxation of Indian lands. Most of the so-called emancipation bills are for the purpose of bringing Indian lands under taxation.”<sup>146</sup>

Later that same year, Curry distributed a report of the annual meeting of the Governors’ Interstate Indian Council, a group of governors, Indian agents, and tribal

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<sup>144</sup> W.V. Eckardt, “Terminating the Indians,” *The New Leader*, April 26, 1954, 17, Folder 14 – New Mexico Association on Indian Affairs 1955, Box 83, Dennis Chavez Papers, CSR-UNM.

<sup>145</sup> Frank George, “Statement on American Indians,” Before the Democratic Platform Committee, May 1960, Folder 40 – Statement on American Indians by Frank George 1960, Box 7, William Zimmerman Papers, CSR-UNM.

<sup>146</sup> James Curry Memo to Bronson, 1951, NCAI, Series 8 - Attorneys and Legal Interest Groups, Box 457, Curry, James E. – Attorney, Correspondence 1951; NMAI.

representatives from states with large Native populations. Curry described how when Senator Charles Eaton “urged the elimination of so-called ‘wardship,’” representatives of the NCAI and the tribes in attendance “questioned whether this would lead to taxation of Indians and whether wardship could be lifted without their consent.” Eaton replied that, “no such legislation should be adopted without ‘at least consulting’ the Indians as to their views.”<sup>147</sup> To Eaton and others, emancipation was a voluntary process. Only Indians who no longer wanted to be wards would apply for decrees of competency. Moreover, since competency was understood to be a judicable category, only those Native people who could take on the responsibilities of citizenship—including paying taxes—would be successfully “emancipated.” In his 1953 statement opposing competency, NCAI president Joseph Garry warned that taxes posed additional threats of land loss. He predicted, “that this bill, if enacted, would immediately take away the greater per cent of individual allotted Indian lands by forced sales of inherited lands through partition or for non-payment of taxes, thus paralyzing any plan of economic development which would insure the Indian’s future security.”<sup>148</sup> State officials continued to conceive of competency as a pathway to “responsible” citizenship, even after the last bill had failed to pass. In a 1955 speech at the annual NCAI convention, Commissioner of Indian Affairs Glenn Emmons spoke of his plans to institute a method by which Native people could obtain fee patents for

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<sup>147</sup> James Curry Report on the Meeting of the Governors’ Interstate Indian Council, 1951, NCAI, Series 8 - Attorneys and Legal Interest Groups, Box 457, Curry, James E. – Attorney, Legislative Reports, 1951; NMAI.

<sup>148</sup> Joseph Garry, “What is the Competency Bill – H.R. 4985?” May 4, 1953, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

land. He claimed, “We believe most deeply that if the Indian wants a fee patent and he is competent, then we have no moral or legal right to deny his application.”<sup>149</sup>

Emmons assured the audience that fee patents would only be issued, “to persons who would be considered, by all reasonable standards, as fully competent to make the necessary decisions concerning their own personal property.”<sup>150</sup> Emmons and others believed that “competent” Native people should bear the burdens of citizenship, including making their own financial decisions and paying taxes.

### **Further Oppositions to Competency Legislation**

#### *Competency, Racial Discrimination, and Poverty*

Native groups opposed competency legislation because of the threat of land loss, the automatic conferral of competency onto children and spouses, and the subversion of tribal sovereignty. Additionally, Native people feared that if Indians were “emancipated” from wardship, they would face hostility and discrimination from state and local governments. Native people worried that they would lose a measure of protection from poverty without the trust relationship with the federal government and restrictions on the sale of Indian property. If, a “competent” family fell on hard economic times, would they be able to access welfare benefits as other citizens or be followed by the racial stigma of their former wardship? Would “competent” Native

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<sup>149</sup> Emmons Address to NCAI Convention, 1955, Folder 14 – Indian Affairs Speeches 1955-1957, Box 2, Glenn Emmons Papers, CSR-UNM.

<sup>150</sup> Ibid.

families profit from receiving fee patents for their land or would the land pass into non-Native ownership?

Before competency legislation was enacted, Native people wanted assurance that they would be able to access local welfare programs and other public services if needed. In his 1953 testimony before the House Committee on Interior and Insular Affairs, Felix Cohen contended that, “Indians all over the country are worried at the prospect of a sudden cut-off of Federal services before arrangements have been made with the states for a taking over of the school, health, and other public services that are now rendered by the Federal Government.”<sup>151</sup> Controversies in Arizona and New Mexico over their denial of voting rights and Social Security benefits to Indians led Native people and their advocates to ask if a decree of competency would shield Indians from racial discrimination and restriction from needed benefits. For example, in an 1948 issue of their newsletter, *Indian Truth*, the Indian Rights Association argued that “existing injustices,” such as Arizona and New Mexico’s refusal to grant Social Security benefits to Indians, “would not be corrected by such legislation as H.R. 1113.”<sup>152</sup> In their 1953 resolution against H.R. 4985, the All Pueblo Council claimed that competency legislation “does not offer any practical remedy for discrimination attitudes to which Indians may be subjected by their neighbors.”<sup>153</sup>

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<sup>151</sup> Testimony of Felix S. Cohen on H.R. 4985, House Committee on Interior and Insular Affairs, July 7, 1953, Folder 8 – Correspondence Regarding Various Tribal Legal Matters 1952-1961, Box 3, William Zimmerman Papers, CSR-UNM.

<sup>152</sup> “Emancipating the Indian,” *Indian Truth*, Indian Rights Association, Vol. 25, No. 3, May-August 1948, 5, 1948 Trip California and West (3 of 4), Box 19, Pittsburgh, PA Ag. Comm to 1948 Trip, California, SEN 83A-F9 (1928-1953), Committee on Interior and Insular Affairs Indian Affairs Investigating Subcommittee, RG 46, NAB.

<sup>153</sup> All-Pueblo Council Resolution Opposing H.R. 4985, Folder 26 – Indian Affairs All-Pueblo Council 1950-1960, Box 134, Dennis Chavez Papers, CSR-UNM.

Rather, as the Oglala Sioux Tribal Council asserted, competency legislation could lead to Native landlessness, which meant that “far too many [Indians] become a burden on white communities and this breeds ill-will, contempt, prejudice, and discrimination. These feelings are not good either for Indians or the communities into which they go.”<sup>154</sup> Proponents of competency legislation offered Native people no protection from racial discrimination and denial of welfare benefits once they were “freed” from wardship.

Native people feared that racialized stereotypes about Indian dependency would only grow if Indian land passed into white ownership. During the 1954 meeting of the House Subcommittee on Indian Affairs, Cheyenne River Sioux Chairman Frank Ducheneaux voiced his concerns that competency legislation would lead to increased poverty. “If I wanted to get a patent in fee for my land to get the restrictions removed,” Ducheneaux stated, “I could go out there and have the court declare me competent whether I was competent or not, and I could spend my family poor and my children poor.”<sup>155</sup> In preparation for their emergency conference in 1954, the NCAI sent surveys to tribes across the country asking for their opinions on pending legislation. The Omaha Tribe of Nebraska stated that they were opposed to H.R. 4985, because they had experienced similar legislation 35 years prior: “Some Omahas came to

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<sup>154</sup> Twobulls to Miller, 1954, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

<sup>155</sup> Unpublished Hearing, “To Provide a Decree of Competency for US Indians in Certain Cases,” House of Representatives Subcommittee on Indian Affairs; Committee on Interior and Insular Affairs, May 7, 1954, 83<sup>rd</sup> Cong., 8-9, HRG-1954-IIA-0084, <http://congressional.proquest.com/congressional/docview/t29.d30.hrg-1954-ia-0084?accountid=14524>.



Washington and told the Indian Commissioner that they were competent and could handle their own business and it wasn't long that those thought, they were issued patent free to their land holdings and even to those some didn't want it. Those sold their lands." The Omaha statement continued, "So we lost 3/4 of our good agricultural land to the white man. So we're afraid if this bill come to be a law, we'd lose the rest of our land. So therefore we are opposed to this bill."<sup>156</sup> Other tribes also expressed concern about potential land loss and increased poverty and dependence upon state programs. In their survey response, the Gila River Pima-Maricopa Indian Community of Arizona stated that H.R. 4985 would, "cause a rapid annihilation of our culture; make our people the prey of avaricious land grabbers and place thousands of our people on the charity of the State of Arizona."<sup>157</sup> Similarly, in their 1954 letter to Congressman Miller opposing H.R. 4985, the Oglala Sioux Tribal Council asserted that, "We do not want our people to be, or to become, public burdens."<sup>158</sup> Native groups did not trust that competency legislation would free them from disabilities. Rather they saw competency legislation as a path to poverty and landlessness. Additionally, their complex history with welfare benefits led them to question whether needy Native people could survive on state and local welfare programs.

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<sup>156</sup> Omaha Tribe Response to NCAI Survey, NCAI, Series 6 - Committees and Special Issues Files, Box 257, Emergency Conference 1954 – General Material; NMAI.

<sup>157</sup> Gila River Pima-Maricopa Indian Community Response to NCAI Survey, NCAI, Series 6 - Committees and Special Issues Files, Box 257, Emergency Conference 1954 – General Material; NMAI.

<sup>158</sup> Twobulls to Miller, 1954, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

### *Competency and Native Consent*

Indians opposed competency legislation because they did not consent to it. In many cases, tribal groups and organizations argued that not only had Native people not consented, but that legislators failed to even consult them about the proposed legislation. As a result, they were wary of the bills which proposed to “emancipate” them. In a 1953 edition of their monthly newsletter, the San Carlos Apache Tribal Council criticized a speech given by Assistant Secretary of the Interior Orme Lewis, which “sounded familiar and reminded us of speeches made years ago.” When, during the question and answer period Lewis was asked about H.R. 4985, “Mr. Lewis’ answers did not convince us that our interests are being safeguarded.”<sup>159</sup> In their 1954 letter to Congressman Miller, Oglala Sioux Tribal Council President Moses Twobulls plainly stated, “The Competency Bill and many others are being acted upon without our consent, and even without our knowledge or understanding in most cases.”<sup>160</sup> Pat Toya, governor of the Jemez Pueblo wrote to the NCAI in 1954 to express his council’s concerns about HR 4985. “This is just another way of trying to get our lands broken up and our people divided and our governments ruined,” Toya wrote. “The least that should be done is to change the law so that they cannot apply it to us without our consent.”<sup>161</sup> President of the NCAI Joseph Garry directly expressed how competency legislation contradicted legal agreement between Native tribes and the

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<sup>159</sup> “Old Promises Renewed,” *San Carlos Newsletter*, San Carlos Apache Tribal Council, Vol. 2, No. 8, August 1953, NCAI, Series 4 - Tribal Files, Box 94, San Carlos Apache (Arizona) 1947-1955; NMAI.

<sup>160</sup> Twobulls to Miller, 1954, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

<sup>161</sup> Toya to NCAI, 1954, NCAI, Series 4 - Tribal Files, Box 107, Jemez (New Mexico) 1948-1958; NMAI.

United States government. In his 1953 statement opposing HR 4985, Garry argued, “The only ‘freeing’ feature in this ‘Competency’ bill is to free the Indian of the trust status of his land which has been his sole protection against further exploitation of his land and property by selfish interests.” Critiquing the assumption that wardship induced dependence, Garry asserted that, “His tax freedom, which he will in time lose completely through the enactment of this ‘Competency’ bill, should not ever be and should never have been looked upon as a good-will handout to the Indian. This privilege of tax freedom for property is part of the price the US Government has given the Indian for the valuable land that was taken from him.”<sup>162</sup> Garry, and leaders from the San Carlos Apache, Oglala Sioux, and Jemez Pueblo tribes all emphasized that under the guise of “emancipation,” competency legislation would only deprive Native people of land and protections which they earned as a result of their historical relationship with the United States.

At the 1954 NCAI emergency conference, Joseph Garry asserted that, “Indians consider themselves first-class citizens; they do not want or need ‘emancipation.’”<sup>163</sup> With this statement, Garry denounced the rhetoric of full citizenship behind competency bills. “There are no ‘classes’ of citizenship in America,” resolved the Council of the Pueblo of Laguna in 1953. “Indians already are citizens and have political equality.” The Laguna Pueblos proclaimed that “emancipation” masked the

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<sup>162</sup> Joseph Garry, “What is the Competency Bill – H.R. 4985?” May 4, 1953, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

<sup>163</sup> Summary of Addresses, Evening Session, Emergency Conference of American Indians on Legislation, February 25, 1954, NCAI, Series 6 - Committees and Special Issues Files, Box 257, Emergency Conference 1954 – General Material; NMAI.

United States' abdication of legal responsibilities to Native tribes: "We ask that Congress not abandon its legal responsibilities under the guise of 'freeing' Indians from so-called 'restrictions and disabilities.'"<sup>164</sup> In a petition to the president and Congress against H.R. 1113, the AAIA asserted that "although many of the Congressmen who voted for HR 1113 thought they were voting citizenship to Indians," in fact, Native people were not "legally slaves or serfs; they are citizens and have been citizens for many years."<sup>165</sup> Similarly, Oliver La Farge of the AAIA deemed the term "emancipation" to be "deceptive," arguing in a 1949 letter to Senator Joseph O'Mahoney that "Indians do not need to be emancipated; they are all free citizens of the United States."<sup>166</sup> Native and non-Native critics of competency argued that legislators' seemingly lofty desires to enhance Native people's lives with "full" citizenship were a facade. In his 1953 statement on competency, Joseph Garry plainly explained why he perceived this type of language to be dangerous for Indians. "Why this sudden over-enthusiasm for freeing an alleged subjugated minority group, numbering only 400,000 in population, unless other motives are involved?" Garry questioned. "Who is to gain? The Indians feel it will be the exploiters and land hungry citizens who will gain by this bill at the Indians' expense."<sup>167</sup> With this strong

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<sup>164</sup> Council of Laguna Pueblo, Resolution, December 12, 1953, NCAI, Series 4 - Tribal Files, Box 111, Tribal Files Laguna (Pueblo-New Mexico) 1948-1961; NMAI.

<sup>165</sup> AAIA Petition to President and Congress Requesting Disapproval of H.R. 1113, Association on American Indian Affairs Files – Correspondence 1947-1948, Box 75, Philleo Nash White House/Association on American Indian Affairs Files, HSTL.

<sup>166</sup> LaFarge to O'Mahoney, 1949, Indian File 1946-1952 Association on American Indian Affairs, Box 24, Harry S. Truman Staff Member Office Files Philleo Nash Files, HSTL.

<sup>167</sup> Joseph Garry, "What is the Competency Bill – H.R. 4985?" May 4, 1953, NCAI, Series 6 - Committees and Special Issues Files, Box 256, Federal Indian Policy and Legislation Files, Competency Bill (HR 4985); NMAI.

response, Garry exposed the underlying motives behind competency legislation—to further deny Native people’s distinct claim to land and a legal arrangement with the US government.

## **Conclusion**

None of the eleven competency bills introduced in the House or Senate from 1944 to 1954 ever became law. However, the political conversations surrounding these bills, Native communities’ responses to them, and the way they constantly resurfaced over this ten year period reveal how racialized and gendered conceptions of Indian dependence were woven into the post-World War II political and social landscape. Competency legislation crystallized assumptions about Native peoples’ lack of “full” citizenship. However, in their efforts to “emancipate” Native people from wardship and bestow upon them so-called “first-class” citizenship rights, politicians and state agents who supported competency legislation attempted to force Native people to assimilate into the American polity. This process of assimilation was cast as the removal of “disabilities,” and the bestowal of individual rights of property and financial management. In reality, competency undermined tribal sovereignty, community, and family structures.

In addition to revealing more about how conflicting ideologies of competency, citizenship, and Indianness undergirded termination policies, the 11 competency bills proposed between 1944 and 1954 also reveal further historical challenges Native people made to the idea of “full citizenship.” In *Black is a Country*, Nikhil Pal Singh

argued that black freedom struggles have “not only been about obtaining market access, equal citizenship, or integrating black people into common national subjectivity.” Instead, Singh asserts, these struggles should be viewed as the efforts of certain political actors to “widen the circle of common humanity.”<sup>168</sup> Singh describes the ways in which black liberation politics reconceptualized racially stigmatized spaces provided a defiant counterpoint to the “reassuring teleological narrative of black uplift through citizenship.”<sup>169</sup> Native people also defied this teleological narrative, which undergirded all proposed competency bills. Competency legislators proposed to “uplift” Native people, but only if they could prove their worthiness of “full citizenship.” In their definition of citizenship, legislators institutionalized the “ideal” self-sufficient nuclear family headed by a man who provided for his spouse and children, managed his land and finances responsibly, and never relied on public assistance. This version of citizenship denied Native people recognition of their legal agreements with the United States as tribal nations, their distinct histories as members of tribal communities, and in a broader sense, their humanity.

Historiographically, competency bills provide an unexamined way to explore rationales behind termination policies. Designed as individualized, case-by-case evaluations, the process of granting competency decrees would have subjected Native applicants to judgment of their abilities to be “responsible” and “self-sufficient” citizens. Competency criteria, including Native peoples’ service to the country, ability

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<sup>168</sup> Nikhil Pal Singh, *Black is a Country: Race and the Unfinished Struggle for Democracy* (Cambridge: Harvard University Press, 2004), 44.

<sup>169</sup> *Ibid.*, 193.

to demonstrate they would not become “drains” on public resources, and willingness to obtain fee patents for their land (even if that meant partitioning jointly held property), help historians fully unpack what legislators and state agents meant when they touted the benefits of assimilation. By analyzing competency protocols, we can also understand how closely wardship was linked to ideologies of welfare dependency. Legislators believed that individual Native applicants—mainly assumed to be men—who could prove to a judge or to a high-ranking federal official that they could manage their affairs with “prudence” and “wisdom,” take ownership of their financial resources and possible future financial failures, and provide for their families were no longer “Indian” enough to continue to be wards. These procedures, if enacted, would have eroded tribal land bases and other assets, challenged tribal authority to regulate their own membership criteria, and potentially separated children from extended family by depriving them of federal recognition and resources.

To some, Indian wardship symbolized the dangers of the expansion of the welfare state in the mid-twentieth century. In many ways, competency legislation was the political response to welfare dependence. Legislators asserted that the application process for “competency” would have “weeded out” those Native people who were benefitting from wardship in ways they did not deserve or need—very similar to conservative politicians’ arguments about poor, nonwhite single mothers receiving Aid to Dependent Children in this same period.<sup>170</sup> By focusing on competency as an

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<sup>170</sup> See Mittelstadt, *From Welfare to Workfare*, 86-97; Chappell, *War on Welfare*, 70; and Tani, *States of Dependency*, 1-7. These kinds of arguments were especially like the claims made by local government agents in Newburgh, New York, and Louisiana that poor black welfare recipients were “immoral,” “freeloaders,” and “social parasites.”

individualized process, politicians tapped into the welfare policy rhetoric of the mid-1940s to mid-1960s: poverty and/or dependence was the result not of widespread economic or societal issues, but of “an individual’s inadequacy.”<sup>171</sup> If Indians—who as a group, were defined by dependence upon an overprotective and bumbling federal government—could be evaluated one-by-one, those individuals (and, by extension, their dependent family members) could be “rehabilitated” from dependence and “Indianness” and succeed as American individuals.<sup>172</sup> Only “real” Indians, incompetent by definition and in need of perpetual governmental oversight and protection would remain wards. As Native and non-Native critics in the post-WWII period argued, this definition of competency threatened existing treaties and agreements, posing especial danger to Native children who would be deprived of resources and services without their consent. Moreover, it reinforced a non-Native conceptualization of wardship which equated Indian identity with racialized dependence and special treatment, rather than recognizing and safeguarding Native sovereignty and humanity.

A portion of this chapter is being prepared for submission for publication.

Klann, Mary. “Full Citizenship for “Competent” Indians: Race and Gender in Indian Emancipation Bills, 1944-1954.” The dissertation author was the sole author of this material.

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<sup>171</sup> Mittelstadt, *From Welfare to Workfare*, 42.

<sup>172</sup> For more on “rehabilitation” see Mittelstadt, *Welfare to Workfare*, 42-45.



## Conclusion

In his 1950 letter to Ben Avery at the *Arizona Republic*, San Carlos Apache Tribal Council Chairman Clarence Wesley roundly criticized Avery's claim that Apaches and other Native groups paid no taxes, and thus were not entitled to public services from the state of Arizona. Wesley simultaneously asserted his tribe's right to welfare and defended tax exemptions on Indian land, arguing that the denial of public services represented both racial discrimination and a battle between white settlers and Native people. His contention was clear: "We Apaches understand empty bellies and old age and blindness."<sup>1</sup> These were Apaches' lived realities, circumstances which they were prepared to fight to change. "We are fighting now to end discrimination," Wesley declared. "We hope this will be the last Apache war in Arizona."<sup>2</sup>

This dissertation has argued that to combat issues of poverty, strengthen their communities, and take care of their families, Native people agitated for both welfare rights and for the United States to uphold its obligations under wardship. Non-Native politicians, state agents, members of the media, and ordinary citizens operated under racialized assumptions about wardship which prevented Native people from gaining access to benefits they needed and were entitled to as citizens. In response, Native people made use of both constructs of wardship and citizenship to fight for their survival as tribal nations and recognition of their distinct place within the American polity.

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<sup>1</sup> Wesley to Avery, 1950, National Congress of American Indian Records, Series 4 – Tribal Files, Box 94, Tribal Files San Carlos Apache (Arizona) 1947-1955; National Museum of the American Indian Archive Center, Smithsonian Institution.

<sup>2</sup> Ibid.

*Citizens with Reservations* concludes in the early 1960s, as organized agitation for welfare rights and civil rights was increasing. In a “symbolic shift in indigenous political discourse,” after 1961, Native people began to frame their struggles for rights and recognition in the explicit language of “sovereignty” and “self-determination” rather than “wardship.”<sup>3</sup> The 1960s thus represent a historical point of departure from early mid-century conceptualizations of rights and citizenship. Historians have debated the extent to which Native peoples’ increasingly public activism in this era have contributed to non-Native recognition of tribal sovereignty. Robert Porter has claimed that because social movements for Indian rights such Red Power shifted away from “the government-to-government relationship between the Indian nations and the United States,” and “shifted toward the individual rights orientation of the civil rights movement,” these movements “contributed greatly to the assimilation of Indians into American society.”<sup>4</sup> Porter maintains that continually fixating on racial discrimination against Indians in contemporary society masks the fact that many discussions about Indian “race” actually concern sovereignty and self-government.<sup>5</sup> Similarly, Vine Deloria and Clifford Lytle have asserted that the progress Native people made under new federal self-determination policies of the 1960s and 1970s “was purchased at an enormous price.” They also assert that to benefit from national welfare programs

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<sup>3</sup> Kevin Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of US-Indigenous Relations* (Minneapolis: University of Minnesota Press, 2007), 127. Bruyneel points to the 1961 American Indian Chicago Conference as this point of departure.

<sup>4</sup> Robert B. Porter, “The Demise of the *Ongwehoweh* and the Rise of the Native Americans: Redressing the Genocidal Act of Forcing American Citizenship Upon Indigenous Peoples” *Harvard BlackLetter Law Journal* 15 (1999), 145.

<sup>5</sup> *Ibid.*, 156.

which emerged in this era under the War on Poverty, “Indians had to pose as another American domestic racial minority.”<sup>6</sup> Thus, both Porter and Deloria and Lytle claim that in significant ways, the activism and political achievements of the 1960s and 1970s served to reinforce non-Native to conceive of Indians as just one of many racial minorities in the United States.

Other scholars have argued that Indian activism in the 1960s and 1970s represented more nuanced efforts to claim recognition of colonialism, and that utilizing new social welfare programs did not necessarily signal the collapse of tribal sovereignty into racial “minoritization.” Daniel Cobb writes that when Native people joined the 1968 Poor People’s Campaign, they did so “to express their concerns about poverty and hunger, employment and housing, health and education. They also went to demand that the federal government honor its obligations and respect tribal sovereignty.”<sup>7</sup> Similarly, Alyosha Goldstein argues that “American Indians forcefully asserted that their political and cultural self-determination were essential to any program for economic development.”<sup>8</sup> Goldstein asserts that Red Power activists argued that their concerns could not be addressed as if they were “another minority group,” and that they continued to press for resources and goods tribes were promised in their treaties and agreements with the United States.<sup>9</sup> Kevin Bruyneel argues that in

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<sup>6</sup> Vine Deloria Jr. and Clifford M. Lytle, *The Nations Within: The Past and Future of American Indian Sovereignty* (New York: Pantheon Books, 1984), 216.

<sup>7</sup> Daniel M. Cobb, *Native Activism in Cold War America: The Struggle for Sovereignty* (Lawrence: University Press of Kansas, 2008), 172.

<sup>8</sup> Alyosha Goldstein, *Poverty in Common: The Politics of Community Action During the American Century* (Durham: Duke University Press, 2012), 87.

<sup>9</sup> *Ibid.*, 149-150.

his 1969 book, *Custer Died For Your Sins: An Indian Manifesto*, Vine Deloria rejected the tactics of civil rights activism and articulated a political claim for indigenous power within the United States “via a tribal nationalism that pushed for self-determination.”<sup>10</sup> Thus, although Native tribes did actively participate in welfare programs under the War on Poverty and in larger social movements for racial and economic justice within the United States, they did so from a distinct vantage point, maintaining their membership in tribal nations and the obligations still owed them by the United States government.

This dissertation provides the contextual framework necessary for examining the contentious relationships between civil rights discourse, Indian self-determination, and Native participation in federal social welfare programs in the 1960s-1970s by tracing the interactions between citizenship and wardship back to the mid-twentieth century. Although Native people claimed welfare benefits as citizens, they also maintained their distinct relationship to the United States government. This tension between Native peoples’ articulation of citizenship and wardship was magnified by terminationists’ efforts to abolish the BIA. Native people applied for welfare benefits under the Social Security Act, Servicemen’s Dependents Allowance Act, and the GI Bill, and at the same time, opposed termination policies such as competency legislation. These simultaneous claims upon the federal government reveal the unique nature of Indians’ relationship with the state, and represented Natives’ challenge to the racialized definition of wardship as Indian dependency.

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<sup>10</sup> Bruyneel, *Third Space of Sovereignty*, 151; 160.

By placing Indian policies in conversation with welfare policies, this dissertation demonstrates that Native peoples' experiences of wardship transcended their interactions with the BIA. Rather, the quotidian structures of wardship manifested in Native peoples' dealings with state and local welfare boards, other federal agencies, and lending institutions. Widespread mischaracterizations of wardship meant that Native people could be shut out from the benefits of American citizenship under the expanded mid-century federal welfare state. However, Native people were persistent in their claims. As such, historians should consider wardship as part of the narrative of Native demands for tribal sovereignty. When Native peoples' agitation for acknowledgement of historical legal agreements between the US and Native nations as wards foreshadows more direct articulations of tribal sovereignty.

Under the Frequently Asked Questions section of the BIA's current website, there is a familiar question: "Are American Indians and Alaska Natives wards of the Federal Government?"<sup>11</sup> The BIA's answer is unequivocal: "No. The Federal Government is a trustee of Indian property, not a guardian of all American Indians and Alaska Natives. Although the Secretary of the Interior is authorized by law to protect, where necessary, the interests of minors and adult persons deemed incompetent to handle their affairs, *this protection does not confer a guardian-ward relationship.*"<sup>12</sup> The BIA attempts to distance itself from the charged language of wardship. However, they emphasize enduring trust restrictions on Indian property, as well as continued

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<sup>11</sup> "Frequently Asked Questions," Bureau of Indian Affairs, last modified April 26, 2017, <https://www.bia.gov/FAQs/>.

<sup>12</sup> Ibid. Emphasis added.

authorization to protect those adults “deemed incompetent.” This dissertation has demonstrated that the relationship between the federal government as trustee of Native property has been undergirded by racialized definitions of “competency.” To what extent do those assumptions linger in current policy? Is wardship truly “over”?

Today, the non-Native public retains impressions of Indian dependence upon the federal government. The contemporary articles cited in earlier portions of this dissertation demonstrate how conservative commentators still utilize the trust relationship between the federal government and tribes as a scare-tactic about the consequences of big government, and wardship has been recently deployed as an excuse for ignoring the concerns of tribal leaders about the impact of private enterprise on Native sovereignty and land rights. Thus, even though the BIA asserts emphatically that Native people are no longer wards, and there is no “guardian-ward relationship,” non-Native commentators and politicians continue to conceptualize the relationship between the federal government and Indian tribes as one of extreme oversight and dependence. This enduring mischaracterization serves to undermine the complicated historical ambiguities of wardship, and obscure the experiences of Native people who have continually asserted that the United States must fulfill its obligations to tribes under the confines of the “ward-guardian” system. Instead of continuing to employ racialized definitions of wardship to castigate Native people as perpetually impoverished and suffering, we need to rethink our understandings of wardship and recognize the ways in which Native people defined it in the mid-twentieth century. If we recognize the United States’ unfulfilled obligations and unpaid debts to Native

communities, we can change common narratives of Indian deprivation and impoverishment, and acknowledge the history of the extent to which Native men and women were able to work within the confines of a familiar system weighted with racialized and gendered assumptions about their own abilities.

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