EDUCATION: PUBLIC POLICY AND THE AMERICAN INDIAN

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INTRODUCTION

A classic contradiction confronts the American Indian in United States society, and it surrounds the subject of public education for American Indian students. To some undefined extent, Indian individuals, families, and tribes value the idea of assimilation into the broader society. Simultaneously, however, they also value the autonomy and special, separate identity derived from their "Indian-ness." The price of assimilation, it appears, is a partial loss of identity, Indian philosophy and values. The price of preserving Indian-ness, similarly, presumably is a loss of the various material gains and Americanization attributed to assmimlation. Individuals, families, and tribes respond differently to this dilemma. Naturally, therefore, a policy decision by the federal government or a state government affecting the dilemma is subject immediately to mixed reactions among the diverse groups of American Indians.

The contest between assimilation and acceptance on the one hand, and identity and autonomy on the other, clearly is a dilemma that has several troublesome characteristics: it is persistent, for it has been present since the first Europeans came to the New World; it is compelling, for it is vitally important to the people involved; it is not self-correcting, for its resolution is dependent upon people's decisions and actions outside the Indian tribes and communities; and it appears not to be susceptible to a "final" solution except as individuals choose irrevocable courses of action, or

traditional concepts of social institutions are dramatically re-shaped.

The dilemma is compounded, perhaps, because it is a matter analyzed on a private, individual level, yet it also appears to be responded to as appropriate and necessary subject of public policy. Consequently, persistent and purposeful course of policy and action on the part of the federal government, for example, easily may come to represent--or to be perceived as--an improper governmental intrusion into essentially and profoundly private affairs. Nevertheless, it also would appear to be irresponsible of the government to adopt a hands-off policy that would withdraw it entirely from the scene, because a "special relationship" long has existed between the government and the American Indians and cannot lightly be abrogated.

The subject of the education of American Indians, strongly affected by the dilemma thus outlined, is the central topic explored in this dissertation, with particular attention to governmental policy and governmental actions that affect the subject.

Federal government policy and action toward the education of American Indians is reviewed at especially great length. The evolution of corresponding state and local governmental policy and action also receives extended treatment, with special reference to one tribe and its relationships to government in one state and county: i.e., to the Lumbee Indians, a tribe whose population is concentrated in Robeson County of North Carolina.

The picture that emerges from these examinations is one of governmental uncertainty in the face of American Indians' diversity. The dilemma outlined above appears to inhibit tribal representations to government even as it appears to inhibit governmental responses to or initiatives on behalf of American Indians. Federal policy consistently espouses the "Americanization" and assimilation of American Indians, a public policy early expressed as their "civilization and Christianization." Terminology has changed, but the policy persists. Even by responding, or organizing to respond, to that policy and to government's related actions, Indians adopt some degree of Americanization and thereby discard some degree of Indian-ness.

"Assimilation" involves some degrees of integration and surrender of separate identity. "Autonomy," on the other hand, within the context of "mainstream" social institutions, involves some degrees of segregation and separateness. A Pareto-type problem of competing and, to some unknown degree, of mutually exclusive goods is therefore present: to gain greater acceptance in the general society, Indians face loss of identity as Indians; to gain or retain their special identities, however, Indians may lose acceptance, hence lose power to affect or manipulate governments to their advantage. To choose one course is to forego others.

In a segregated society, some attributes of autonomy and the retention of identity presumably are possible. To be a very small minority within a segregated society, however, presumably is to run

the risk of powerlessness. To gain and retain some degree of power in the surrounding society, on the other hand, may entail some surrender of the distinguishing characteristics of special and separate identity. Ideas of Black power, Black culture, Black identity, and so forth, during the years since the decision that schools must be desegregated are illustrative of the problem. To some extent, desegregation and the retention of minority identity and culture may be competing factors, as a segregated minority becomes an assimilating entrant into the general surrounding society.

In the historical record described at length in this dissertation, it is demonstrated that the U.S. Government's public policy stance on this matter has long been relatively clear and consistent. With regard to the American Indians, the federal government favors assimilating the Indian into the general society and has achieved uneven success regarding Eastern Indians. The same government's programs of action, however, have not been consistently harmonious with that posture. On its face, for example, to segregate and isolate the Western Indian tribes on federal reservations does not appear to be a line of action likely to achieve their assimilation, even though an Act of Congress did declare all Indians to be U.S. citizens.

During the first years of its endeavors in public education, the State of North Carolina, in marked contrast to the federal government, did pursue actions quite consistent with its own declared policies. North Carolina's policy favored the segregation of non-white minorities, and North Carolina's actions reflected that policy.

North Carolina's policy and actions were designed with the distinction between whites and non-whites in mind, most non-whites being black. The state's Indian population being also non-white, North Carolina's resident American Indians were for some time counted and treated as colored.

County governments in North Carolina, being creatures of the state, naturally followed state government's lead with respect to policy and action on such matters. American Indians were non-white, hence Indian students must be segregated from white ones. Only a few counties faced this problem, however, for the state's Indians resided within a relatively concentrated area. In Robeson County, the heart of that area, the Lumbee Indian Tribe (known earlier as the Croatan or Cherokee Indians of Robeson County) developed substantial political power. Their use of that power resulted in a three-way segregation of the county's public schools, and the county's separate but ostensibly equal facilities were divided among schools for whites, blacks, and Indians, respectively.

The county government's behavior was consistent with its parent state government's policy, of course, in that whites did not receive schooling with blacks. County action simply carried the idea of segregation a step further.

That county action did proceed to the "step further" appears to have been a consequence of community organization and ensuing political action by the Lumbee Indians of Robeson County. As this case demonstrates, the ostensible "powerlessness" of a small and

segregated minority may be a long way removed from "hopelessness." Through political organization and effort, the Lumbees overcame powerlessness in major respects. They established a tribal identity. They obtained state and federal acceptance of that identity. They achieved the creation of separately-recognized schools specifically for Indian children. They caused local and state governments to support schools for Indian students at elementary, secondary, and higher levels of education. In one major sense, Lumbee separateness flourished precisely during the period in which segregated schooling was a matter of policy and practice in North Carolina. Lumbee separateness now may face new difficulties during the subsequent period of desegregation of the public educational facilities of the United States.

The subject in this dissertation is the American Indian population of the United States. After two centuries of contact with European explorers and colonists, and after two further centuries of life under the U.S. Government, that population must be regarded as the United States' "most disadvantaged people" and most unfortunate minority. In the United States, Indian people have the highest rates of infant mortality, suicide, illiteracy, and unemployment known to exist. They have the poorest health and greatest nutrition problems. They have the lowest average annual family incomes. They live in some of the most isolated and underdeveloped urban ghettos, rural towns, communities, and reservations in the nation.

More particularly, the subject is the education of the American Indian population. Illiteracy is higher among that

population than among any other. Rates of school attendance, school completion, entry into higher education, and membership in the learned professions are lower than for any other group of American citizens.

Still more particularly, the subject of this dissertation is the relationship between the American Indian population, on the one hand, and the public policies and public actions of the federal, state, local and tribal governments, on the other.

A thesis is advanced in this dissertation.

Indian Powerlessness

It is held that the American Indian population, very small among the nation's minorities, experiences even more than other minorities a condition of powerlessness, and that it experiences even more than those other minorities an inability to use governmental processes and resources in its own behalf.

Federal Policy Inconsistent and Erratic

Further, it is held that public policy regarding the American Indian in the United States has been and remains both inconsistent and erratically expressed in governmental action. The central purpose of federal government policy has been to bring about the assimilation of the American Indian population into the general population. That purpose is accepted as valid for purposes of this dissertation. Its achievement has been frustrated, however, in at

least these two fundamental ways: (a) federal action, including the maintenance of reservations, has not consistently been so chosen as to advance assimilation, and (b) the policies and actions of state governments, as well as of local governments which are their "creatures," have in some cases--North Carolina is utilized here as a case in point--pursued different purposes, including at times the diametrically opposed purpose of causing the segregation of the American Indian, not his assimilation.

It is held that the present unsatisfactory condition of the American Indian population in the United States, accordingly, is a consequence of this combination: Indian powerlessness, inconstant and inconsistent public policy, and actions by government not consistent with policy.

Chapter 1

GOVERNMENT UNCERTAINTY AND TRIBAL DIVERSITY

From the settlement of the earliest American colonies until today, public policy for educating American Indians has been a concern of both the federal and state governments. The continuing public policies regarding the public education of American Indians appear on the surface to be an enigma. However, if one reviews the various public educational policies of the federal government from a chronological and historical perspective, they appear to be intertwined with broader political policies and fluctuating relationships between federal and state governments.

The recipient subjects and objects of these policies--the American Indians--have been subjected to various legal definitions included in federal and state laws, some of which define "Indian" broadly for particular educational programs while others narrowly define Indians for particular educational services. The very issue of defining who is an Indian has itself been a recurring question for federal and state public educational policy development.

Policies Towards "Federally-Recognized Indians"

Public policies and public education in the United States have been directed primarily towards American Indians living under the trusteeship of the federal government. These are known commonly

as "federally-recognized Indians" and historically have derived educational services from the federal government as a result of treaties, executive orders, and statutes. Some 500,000 Indians, living on 150 reservations, receive special services from the Bureau of Indian Affairs within the U. S. Department of the Interior, as a result of the trusteeship of the federal government. Public educational policies for "federally-recognized Indians" have changed in emphasis from time to time, but basically have been of four types: (1) organization and operation of private schools by missionary societies with approval and minimal financing from the federal government; (2) direct operation of boarding schools by the federal government's Bureau of Indian Affairs; (3) attendance at nearby public schools receiving special financing from the federal government; and (4) establishment of tribally-controlled schools operated by local tribal organizations through contracts and grants from federal agencies and private foundations.

Policies Towards "Non-Federally-Recognized Indians"

In recent years, educational policies directed specifically towards the "disadvantaged" and minorities have identified large numbers of American Indians living in rural and urban areas. These Indians number approximately 700,000. They live in fifteen major cities throughout the United States, along the eastern seaboard, and in particular areas of Arizona, Washington, Montana, and Nevada (U. S. Bureau of the Census Subject Reports, American Indians, 1973,

p. 1). Many of the Indians living in urban areas were relocated from reservations by the federal government in the 1950's for training and better employment opportunities.

The remaining Indians, who live in the rural areas, are known commonly as "non-federally recognized Indians." These Indians do not have any known treaties or executive orders with the federal government. However, some of these groups are subject to special laws in which the federal government recognizes them as Indians as well as laws which make them eligible for particular Indian programs. The "non-federally recognized Indians" historically have derived their legal definition as Indians from the various states in which they live. For example, the State of North Carolina passed laws designating the identity of various Indian groups; North Carolina also set up separate racial classifications, separate schools, and separate marriage laws relating to Indians residing there.

Federal educational policies initially benefited these Indians through the financing of compensatory education programs under Title I of the Elementary and Secondary Education Act of 1964 and through the Civil Rights Acts in 1968 and 1972. A major policy breakthrough occurred for "urban and non-federally recognized Indians" in 1972 with the passage of the Indian Education Act, incorporated as Title IV in the Educational Amendments of 1972. This law mandated that the federal government, through the U. S. Office of Education, finance special educational needs of all Indian children through local

educational agencies, state departments of education, Indian organizations, colleges and universities.

While the direct federal policy effort on behalf of "non-federally recognized Indians" is of recent origin, public educational policy for them traditionally has been linked to state departments of education and local educational agencies, since shortly after the Civil War. These policies can be classified along four lines: (1) no public education for non-whites (Indians and Blacks) from the founding of the United States through the Civil War period; (2) segregated public education for "people of color" (Indians and blacks) from the Civil War through the late 1960's; (3) integrated public schools from the late 1960's through the present time as a result of Supreme Court decisions and Congressional Acts; and (4) since 1972, educational programs to meet special needs of all Indian children who are attending the public schools.

Present Enrollment of Indian Children

The 1970 U. S. Census lists American Indians as numbering 763,594 (in states with 10,000 or more Indians) and indicates their school enrollment at 256,559, for Indians three to thirty-four years old (U. S. Bureau of the Census Subject Reports, American Indians, 1973, p. 18). This is the first census to ask Indians, i.e., those who designated themselves as such by race, to also indicate their tribes. However, it is difficult to reconcile the school enrollment count in the U. S. Census with recent counts of the two federal

agencies, the Bureau of Indian Affairs (BIA) and the U. S. Office of Education (USOE), that administer the primary federal programs for educating Indians. In 1978, the Bureau of Indian Affairs declared it was educating 49,000 Indian students in school operated by the agency and had contracts for educational services to 220,000 others, e.g., with private missionary groups for educating 18,000 Indian students living on reservations, and for 4,000 Indian students attending tribally controlled schools (American Indian Policy Review Commission, Task Force Number Five, Indian Education, Final Report, 1976, p. 8). USOE records indicate that its Office of Indian Education is assisting 325,000 Indian children attending public schools (Jacobson, 1979) and this USOE figure alone substantially exceeds the Census count. Except for the special "set-aside" to the Bureau of Indian Affairs schools in the Elementary and Secondary Education Acts and the Impact Aid money for operation and school construction to local educational agencies serving reservation Indian students, the U. S. Office of Education has no record of whether the Indians served by the USOE money are "federally or non-federally recognized Indians."

Any study of public policy and action concerning the public education of American Indians must deal with a number of complex and increasingly unclear areas, including the following: varying types of federal, state, and local jurisdictional policies in public education; the changing legal definition of who is an Indian for purposes of public education attention by the federal, state, and local

jurisdictions, respectively; and the changing roles of the federal and state governments in the public education of American Indians who live on federal reservations as well as in other areas, rural and urban.

Policy of Civilizing and Christianizing

Since the early colonization of America, there is evidence of a desire "to civilize and Christianize" the American Indian (Tyler, 1973, p. 45). This concern "for civilizing and Christianizing" was expressed by educating Indians. This was done by various mission societies, first with the blessing of the European Powers, then through agreement of the colonies, and finally, under formal agreement with the new nation pursuant to various treaties, laws, and appropriations. To the founders of the new nation, apparently it seemed evident that one had to Christianize the native peoples before they could be civilized and made into a "model like" the new Americans (Adams, 1946, p. 15).

The U. S. Constitution gave the federal government the right to "regulate commerce with Indian tribes," but was silent on the question of citizenship and its attendant rights (U. S. Constitution, Article 1, Section 8). However, the Tenth Amendment to the Constitution, which "reserved powers" to the states, has been viewed by many constitutional authorities as the major allocation to the states of authority regarding education (U. S. Constitution, Article 10). This Amendment contains no reference to education or to the

education of Indians. Arguments have been advanced by certain states that the education of reservation Indians is a federal responsibility.

EVOLUTION OF FEDERAL EDUCATIONAL POLICY

As the nation developed politically, an educational policy towards American Indians began to evolve. This policy, developed from the antecedents of European and colonial policies, called for "civilizing and Christianizing" American Indians and recognized that education was the key instrument to be used in carrying out such a policy. The underlying federal public education policy for American Indians always has been to encourage their civilization or assimilation into at least economic participation in American Society (Tyler, 1973, p. 88).

The implementation of this policy took many forms. Initially the federal government encouraged and partially financed the education of Indians, with services provided by individual missionaries or missionary societies. Then, as treaties were negotiated between various tribes and the government, money to be used for education was provided in the treaties and supplied to particular tribes by the government (Kappler, 1903).

Specific laws which underscored the policy of civilization through education were passed by the Congress and supporting appropriations were made over the past two hundred years (American Indian Policy Review Commission, Task Force Number Five, Indian

Education, Final Report, 1976, pp. 314-334). These laws sought to hasten the civilization of American Indians through various forms of education. The federal government encouraged individuals, missionary societies, states, and local school districts by providing financial assistance for such education. Where the government was not successful in getting these groups to provide education for Indians, it organized and operated a federal system of day and boarding schools for Indians living under its specific jurisdiction on reservations.

Interestingly enough, the early colonial records indicate that the colonies, and later, the new nation encouraged education for Indian tribes along the eastern seaboard (Berry, 1968, p. 7). However, after the Removal Act of 1830, the government began negotiating treaties only with tribes west of the Mississippi River. Many of those treaties specifically provided for educational services to a particular tribe. Later general education legislation was passed for special types of schools for "federally-recognized Indians" and for special provision for them to attend public schools. As the new nation expanded westward, the government negotiated with various Indian tribes to settle on "federally-reserved" lands. These areas became commonly known as Indian reservations.

For "federally-recognized Indians," the federal government began actively operating federal boarding schools and encouraging, through general funds and tuition plans, states and local school districts to enroll Indian children. The first federal boarding schools for Indians were authorized in 1870 and had as their primary

curriculum industrial and vocational training. The majority of these schools were located off the reservation near urban areas. These schools reached their peak in 1910 when over forty were in operation (American Indian Policy Review Commission, Task Force Number Five, Indian Education, Final Report, 1976, pp. 241-55, 52-59). Today, fifteen of these schools continue to serve Indian children from isolated areas or Indian children with "severe social adjustment" problems (Merrick, 1978). A tuition plan for Indian students attending public schools began in 1890; it served as a way for local education agencies to obtain from Congress a direct line item appropriation to their schools for educating Indian students. These line item appropriations were the predecessor of a system of contracts between the federal government and states for the education of Indians which became law in 1934.

Thus, the federal government consistently supported its policy of civilization and assimilation for reservation Indians. It pursued the goal by encouraging the education of Indian children, through the financing of such education with the state and local school districts or with private missionary groups and by maintaining a separate federally-operated system of schools. Throughout this period, congressional debate and executive agency reports are replete with debates on the best way to civilize and assimilate Indians. A review of these documents indicates that Indians were not asked what kind of education they wanted for their people. The federal policy-makers and bureaucrats acted as though Indian peoples were completely

without languages, customs, mores, culture, and education and could not possibly have insights into how best to adjust to the new nation and its policies.

Principal Federal Agencies

Two federal agencies share basic responsibility for educating American Indians. These are the Bureau of Indian Affairs (BIA) and the Department of the Interior and the U. S. Office of Education (USOE) in the Department of Health, Education, and Welfare. The Bureau of Indian Affairs serves Indian children who are living on lands held in trust by the federal government and who are members of a tribe recognized by the Secretary of the Interior. Although Indians legally must be of one-fourth degree Indian blood to receive services from the BIA, a review of tribal constitutions indicates that many "federally-recognized Indians" have great variance in their membership requirements. BIA provides educational services to some "federally-recognized Indians" by paying the states or local educational agencies to enroll Indian children in nearby public schools. In addition, BIA operates federal schools for Indian children who are too isolated from public schools or who have "severe social adjustment problems." Vocational training programs, adult education services, college scholarships, a special higher educational facility including a four-year college, a school for the fine arts, an advanced technical institute, and six Indian community colleges are

among the educational services provided by BIA to "federally-recognized Indians."

The U. S. Office of Education serves Indians both directly and as members of its general target population, e.g., via higher education student financial aid, and through general and categorical grants to states for elementary, secondary, and higher education programs. Since 1965, schools operated by the Bureau of Indian Affairs have received specific "set-asides" from the Elementary and Secondary Education Acts. A portion of Impact Aid funds also have been set aside to finance the operation and construction of public schools serving "federally-recognized Indians." The USOE administered compensatory education programs have served to benefit the largest number of Indian children in both public and BIA schools. Special emergency funds, provided in 1968, to create racially balanced school districts, particularly in the southeastern United States, also have benefited Indians in public schools under desegregation mandates. The Indian Education Act in 1972 directed the U. S. Office of Education to establish a separate operating division for Indian education, through which (a) to grant money to local education agencies that serve Indian students, in support of programs to meet special educational needs of such children, and (b) to grant money to Indian organizations, colleges, universities, and state departments of education that operate other special educational programs for Indian people. USOE has mixed its policies on the substance of educating American Indians. It gives supplemental money to the Bureau of

Indian Affairs for support of cultural enrichment and compensatory education programs for "federally-recognized Indian" students in the BIA school system, while also subsidizing operational, construction and special education needs by providing money to public schools that educate such Indian children. "Non-federally-recognized Indians" may participate in USOE's compensatory education efforts. They also may participate in other special education efforts to assist public schools and tribal organizations. In addition, this agency undertakes to serve the educational needs of American Indians under its general program rubric of equal educational opportunity.

The federal policy for the public education of American Indians has been and continues to be one of using education as the tool for civilizing or assimilating American Indians into the dominant society. The federal government has expressed this policy by providing supplemental financial incentives to states and local school districts for the education of "federally-recognized Indians" and, more recently, for "non-federally recognized Indians." It appears that this policy has been encouraged in the context of an unwritten assumption that the state and local education agencies have the primary responsibility for educating all citizens, including American Indians. On the other hand, some state and local governments only reluctantly have assumed responsibilities for conducting the public education of American Indians. Financial incentives supplied by the federal government and petitions for public education from Indian tribes and communities have been employed to cause states and local governments

to act on those responsibilities. Neither the federal or state governments have been willing to assume full responsibility for the public education of American Indians, it would appear; these governments have been reluctant partners.

The Recurring Questions

Throughout the inquiry into federal public policy regarding education of the American Indians, a number of critical questions continuously recurred. As the inquiry was extended to public policy of a state government, essentially the same critical questions again recurred.

These questions revolve around certain recurring issues.

(1) Should Indians be integrated into the larger society or supported in one or another segregated condition?

(2) Should education for Indian children and youth be an integral part of public education for all children and youth in the several states or supported in one or another special or segregated condition?

(3) If the latter, who should decide which individuals or groups shall be considered to be Indians for these purposes: Government, Tribes, Individuals? What criteria should be applied in making these determinations?

(4) Should the traditional federal role in the public education of Indians be extended to all Indians, regardless of status or location, or should the federal government relinquish its involvement to state government or tribal governance?

The answers to these questions inevitably shape the public policies regarding public education for Indians. They determine the type and amount of education (public or private) particular Indians received, as well as the rationale underlying policies and policy outcomes. Key policy-makers decide these questions at one level, e.g., federal or state legislators outline the general policy guidelines. Federal education bureaucrats or state and local school boards and superintendents implement and elaborate those guidelines. The same people decide the nature of public support for educating Indians--e.g., whether through direct funding to agencies, through limited purpose supplement or operational money, etc.

Interestingly enough, although these questions revolved around who is an Indian and how Indians should be educated, the public records indicate that Indian people themselves seldom have been asked the answers to these questions. The debates--eg., as to who is an Indian and how Indians would be educated for today and the future--took place completely in the political arenas of Washington, D.C., on the floors of Congress, and in the various federal agencies, or in a state legislative chamber, a state department of public education, and a local school board meeting. As various policies are described throughout this document, it will be noted that the four recurring questions that shape public education policy for American Indians are not yet firmly resolved. These policy-related questions remain valid today.

STATE'S ROLE IN EDUCATING INDIANS

The Tenth Amendment of the U. S. Constitution reserves certain powers to the states. Historically, the power of the state to govern and provide for education of its citizens is derived from this Amendment. However, the decade of the 1960's has resulted in an expanded role in education for the federal government, through federal supplemental financing of various programs traditionally operated by the states and through other measures taken to promote equal educational opportunities for all students, particularly minority students.

The educational policy and role of the state government in the public education of American Indians can be described as ambiguous. There was minimal public education in the United States for the general citizenry until after the Civil War (Cremin, 1964). In the southern states much rebuilding and normalizing of political activities occurred after the Civil War. This period accelerated the development of the common school. In some areas, however, the result became primarily a public school system for whites only (Knight, 1949, Vols. 1-3). Minority public education for Indians and blacks often was either non-existent or extremely limited to segregated schools operated several months a year with only a few elementary grades taught (Knight, 1949, Vols. 1-3). Not all states could see their role as one of providing public education to minorities like the Indians and blacks, many or even most of whom reportedly did not own property or pay taxes.

Even the citizenship status of Indians varied from state to state, thereby complicating the problem. In some states, particularly along the eastern seaboard, Indians had been citizens since the time of founding of the republic, but they were treated from 1820 forward "as people of color." Many Indians were landowners and paid property taxes, particularly in the Eastern states. However, not all "federally-recognized Indians" had gained their citizenship (established in various ways from 1887 on) until 1924, when under a special act of Congress, all Indians were declared citizens of the United States (43 Stat. 253). Even today, Indians living on lands held in trust by the federal government do not pay property taxes on this land.

Since Indians were wards of federal government, reasoned several of the states, education of the Indians should be provided by the federal government. Otherwise, the state should be subsidized for educating these Indians. Thus the major policy thrust of various states for "federally-recognized Indians" was to permit their attendance at the nearby public schools, provided the federal government contracted and paid for educational services provided to them. Records by race were kept on Indians living on reservations to verify school enrollment and attendance data for reimbursement purposes (National Indian Education Association, 1976, pp. 22-80).

The majority of "non-federally recognized Indians" lived in isolated rural areas along the Eastern Seaboard until the influx of American Indians to the cities during and following the Second

World War. The Indians along the Eastern Seaboard were viewed as minorities or people of color. The states in these areas either did not provide them with schools or provided inferior segregated schools. Thus, state public educational policy was carried out under the general guise of minority education policy for these Indian groups.

As the federal government expanded its policies of supplemental aid for the economically and culturally disadvantaged and the promotion of equal educational opportunities (e.g., through the Civil Rights Acts), states began to count their Indian students. These students usually would qualify for supplemental federal aid because they were "disadvantaged" students as well as for special supplemental money because they were Indian students.

Traditionally, states have had no specific policy for educating either "federally or non-federally-recognized Indians" as Indians. Rather, the various states have subsumed Indians living on federal reservations under their general public education policies, even though they might insist upon special federal payments to local education agencies enrolling such students. "Non-federally-recognized Indians" have been subsumed under the states' general public or minority education policies. The history of the role and policy of the various states towards both "federally-recognized" and "Non-federally-recognized Indians" remains unclear. Recently some states appear to have assumed the initiative in regarding the public education of Indians. For example, California, Maine, Michigan, Montana, New York, New Mexico, North Carolina and South Dakota have created

Indian education units in the State Department of Public Instruction. These units assist local education agencies educating Indian students. All states have received considerable encouragement or even prodding from the federal government in the forms of exhortation and special financial incentives. It is difficult to articulate a particular role and policy of each state because these efforts are of recent origin, little research has been conducted regarding them, and there is no ready source of codified data.

SUMMARY OF CONCERNS

During the 1970's, two-thirds of the American Indian children are attending public schools (Boyer, 1979). Because of the different legal definitions of "Indians," the varying types of educational financing and services for Indians, and the unclear census keeping on Indian students by the federal and state governments, it is difficult to identify, analyze, and define an explicit public policy regarding their education.

Historically, all educational systems and curricula for educating American Indians were modeled after the public school system, usually with strong elements of vocational training emphasized in the curriculum. Despite the two Executive Messages on the American Indians by Presidents Lyndon B. Johnson and Richard M. Nixon, and the passage of Indian Self-Determination and Educational Assistance Act of 1975, calling for Indians to determine and plan their own destiny and development, the tacit policy still appears to be that of moving

Indians, particularly those attending Bureau of Indian Affairs schools, into the public schools as soon as possible (Gerrard, 1979). Indian tribes are being encouraged by statutes, court decisions, and federal executive regulations to assert tribal authority for the general welfare of their people by establishing and operating locally controlled social services, including public education.

A recent legislative commission, authorized by the U. S. Congress to review and recommend future Indian policy, has suggested that a procedure be established by the federal government to recognize Indian groups heretofore known as "non-federally-recognized Indians." If recognized, such Indians would be entitled to the benefits and services of the Bureau of Indian Affairs. This legislative commission also recommended the creation of a "super Indian agency" for consolidating and administering all Indian services and programs including education (American Indian Policy Review Commission, Final Report, 1977, Vol. 1).

The majority of available federal data has been developed for Indians living on reservations. In the field of education, data concerning Indian students relate primarily to the activities of the federal government and its policies concerning Indians residing on reservations. Studies to date have not compared the general federal educational policies with the overall or particular policies for educating Indians residing on reservations. The role of the federal government in educating Indians, similarly, has not yet been reviewed and compared to the roles of state and local governments, tribes, and

private organizations. Federal programs for non-federally-recognized Indians" have been in existence since 1968. Specific educational programs for these Indians were authorized in 1972, and educational data counting Indians in the public schools was collected by the states in 1973 (Ottina, 1973).

Although states have been viewed traditionally as having responsibility for education, their power and roles related to educating Indians remain ambiguous. Very little analysis of all the states or a specific state has been undertaken concerning the policy role of states vis a vis the public education of Indians.

Although the majority of Indian children are in the public schools, the current trends appear to be moving the remaining Indian children into the jurisdiction of those schools. Federal, state and tribal policy-making thus remains difficult and confused. Furthermore, the flow of money follows the movement of Indian students. Major federal educational initiatives in the 1960's directed supplemental aid for the disadvantaged to state and local educational agencies. The money thus supplied directly benefited Indian students from reservation and non-reservation communities. By 1974, with the implementation of the Indian Education Act, the presence of Indian students in the classroom also brought supplemental funds to the state and local educational agencies.

Current education debates in the federal and state legislatures, as well as in the general public forum, point to a movement toward a reduction in the federal role and expenditures, as well as

maximizing of state and local governmental authority and resources. However, views have not yet been obtained from Indian tribes and communities on this possible policy shift and its anticipated affects. Before that occurs a number of questions and answers presumably need to be reviewed and understood by the affected parties. The four most critical questions which need to be answered are as follows:

(1) Based on past public educational policies, what can American Indians--reservation and non-reservation--expect from the various states?

(2) What has been the public policy and role of the federal government in educating reservation and non-reservation Indians?

(3) What can Indians realistically expect as public policy from the federal and state governments?

(4) What are the sociological/cultural issues to be resolved by these legal and administrative questions?

Until these questions are answered, it is difficult to assess either current or prospective policies and their effectiveness.

PURPOSE OF THE STUDY

The overriding purpose of this study was to review and articulate as clearly as possible, the public policy of the federal and state governments concerning the public education of all American Indians. Subsumed under this general purpose are a number of secondary concerns analyzed as part of a review of federal and state policies.

These concerns are as follows:

(1) the impact of particular federal policies on state educational policies towards Indians;

(2) the illustration of any public policy differences or similarities between federal and state governments in the public education of "federally and non-federally-recognized Indians."

Findings based on this inquiry will be used by the writer to suggest what types of public policies American Indians might realistically anticipate from federal and state governments.

SIGNIFICANCE OF STUDY

Historically, public education in the United States is an outgrowth of powers reserved to the states. Because of the various legal definitions of "who is an Indian?" policies concerning the public education of American Indians appear to be ambiguous. Although the majority of Indian children have been attending public schools since the 1950's, there are no studies of specific public policies of federal and state governments concerning public education of Indians. These policies have not been identified nor has their impact on state and local education agencies been evaluated in terms of the similarities or differences among Indian students.

The significance of this study lies in its identification of a methodology for reviewing and articulating federal and state public education policies and for considering whether they have impacted

upon or ignored each other in state and local education agencies and Indian communities.

RESEARCH DESIGN AND STRATEGY

Original Design of Study

This inquiry is an analysis of federal and state policies concerning the public education of American Indians. Historical research methodologies were employed throughout the study. The writer conducted an extensive literative search of general bibliographic materials relating to the public policy of the federal government and the education of American Indians. This search relied upon general and specialized reference bibliographies under the entries of Indian Affairs, Indians of North America, and the Education of American Indians. Periodical and selected newspaper indexes were combed for educational references about American Indians. The writer's working knowledge of Indian affairs and the history of Indian education made the use of legislative and executive documents and congressional debates an integral part of the search.

The materials identified during this search were reviewed. A general outline of federal policies concerning the public education of American Indians was organized. Regarding each policy, this outline contains key dates, the role of the U. S. Congress in making policy, the intent of the policy, and how the various federal agencies implemented the policy in federal, state, local, and tribal areas.

In addition, the general mood of the country, the attitudes of the Indians, and the special interests promoting each policy were noted.

Four states were to be selected for deeper policy analysis based on the following criteria:

(1) a member state of the United States prior to 1910;

(2) evidence of historical state relationship with both "federally and non-federally recognized Indians;"

(3) evidence of statewide public education policies by 1910;

(4) archives and case study areas fairly accessible; and

(5) acquaintance with tribal leaders, tribal people, and tribal histories.

Archival research plus interviews with state and local educational administrators, legislators, scholars, and Indian leaders were to be conducted in each state. Archival research would concern general public education state policies as well as specific policies for educating American Indians. Instruments were designed to guide the interviews with each group of people noted above. A special open-ended interview guide also was developed for use in obtaining oral educational histories from the older Indian people in the various tribal communities.

After receiving faculty committee agreement, the writer conducted on-site research in the most accessible state. The purpose of this visit was to use and refine the historical outline of federal educational policies identified, to examine how these policies impacted upon or paralleled state public education policies, and to

test the applicability of the various instruments designed for conducting interviews. In addition, state archives were to be used and assessed along the following lines:

(1) how public education policies and Indian education policies were categorized,

(2) what kinds of policies were reflected through state legislative and administrative decisions, and

(3) how these various policies were implemented in the state and local educational agencies.

Interviews were conducted with two individuals from each of the following categories: state legislators, state education officials, education scholars, local school administrators, and tribal leaders and Indian elders who attended Indian schools.

After this visit, the writer was to review the methodology used, pinpoint particular problems with the historical outline and data-gathering instruments, review these findings with the faculty committee, and make any necessary changes. After subsequent review and approval, the research was to be undertaken in the remaining three states.

The original state visit turned up complex and unanticipated problems. To illustrate: for example, there were no entry headings under Indians, general educational policies, or education in the Finders' Guide at the state archives. To find general or specific public policy records, the entire collection of Superintendent of Public Instruction documents would have to be combed from 1854 through

1964. A review of the inventory to this collection indicated several Indian schools--in the Division of Negro Education under the Superintendent of Public Instruction's office. No state records were available on North Carolina Indian tribes residing on a reservation. All those records were at the Bureau of Indian Affairs Agency in that community or in Washington, D.C.

A visit to two of the state's six Indian communities found limited knowledge among the local school administrators about public policies for educating Indians. The rapid turnover of administrators and the dearth of printed policy materials appeared to be responsible for the limited information. However, references to early Indian schools were uncovered in the morgues of local newspapers as well as through the vivid oral histories recited by Indian leaders and early school teachers and elders in the communities.

After this initial visit, the writer reviewed tentative findings based on the original outline of federal and state policies. The applicability and appropriateness of the various interview guides also were evaluated in terms of the evidence they produced relating to previous educational history verified by the research. An amended study design was drafted which outlined key federal public education policies regarding American Indians, and what appeared to be the impacts of such policies on the state and local educational agencies. The faculty committee recommended a systematic review, in depth, of public education policies in one state by using state and local

records as well as written and oral tribal histories, cast in the context of selected federal policies.

Amended Design of the Study

In the original review of the literature, varied sources were used to determine the policies of the federal and state governments concerning the public education of American Indians. Federal legislation, Congressional debates, executive communications, administrative reports, special reports, educational studies, and federal case law were reviewed and evaluated as they related to federal and state public education policies for American Indians. In addition, special bibliographic references and periodical, newspaper, and education indexes were reviewed under the subjects of both Indians and public education. The Library of Congress' main card catalogue also was used to locate general books, special bulletins, histories of state and public education, tribal histories, current journal and law review articles, as well as congressional investigations and hearings on the subjects under review. All of these sources were used prior to outlining the basic federal and state policies concerning the public education of American Indians. In addition, a chronological table with descriptions of federal laws affecting the public education of Indians was organized as a frame of reference for conducting state, local, and tribal research.

North Carolina was selected for policy analysis, in depth, and for field work at the state and local educational agencies and various Indian communities. This state was selected because the writer had

personal but limited knowledge of the Indian communities, their keen interest in public education, and familiarity with Indian people in each community.

Initially, a reconnaissance of statewide policy materials was undertaken concerning the history of public education in North Carolina and its provisions for educating American Indians. The following sources of data were examined in the state archives:

(1) minutes and official actions of the state board of education;

(2) correspondence, speeches, and reports of the Superintendent of Public Instruction and his staff in the Division of Negro Education and Elementary, Secondary, and Higher Education Certification;

(3) biennial reports of the Superintendent of Public Instruction;

(4) Special Legislative and Executive Study Commission Reports on Public Schools in North Carolina;

(5) North Carolina session laws and general statutes relating to Indians and to their education;

(6) case law and attorney general opinions;

(7) books, periodicals, bulletins, and general state agency documents on North Carolina Indians;

(8) dissertations on minority education in North Carolina; and

(9) special reports and articles from state and local newspapers.

The Special Carolina Collection also was perused at the University of North Carolina, Chapel Hill, to examine early historical reports on North Carolina Indians, tribal legends and histories, and a cross-section of statewide reports and chronological newspaper stores on important events relating to North Carolina Indians. The Lumbee Room at Pembroke State University and the Lumbee Regional Development Association's Native American Library was used to review early records on a state-supported Normal School for Indians and special books and newspaper articles on the Lumbee Indians.

Research materials were reviewed and the chronology of federal laws with dates and descriptions was updated to include state laws affecting the education of Indians. In addition, a tentative outline of federal and state policies affecting the public education of Indians was drafted to guide the research in the local education agency and the Indian community. The interview instruments were reviewed to assure their conformity to policy issues and dates identified in the federal and state research findings.

On-site research was conducted at the local education agencies in seven counties educating North Carolina's five Indian groups. The following data were examined.

(1) county Board of Education minutes and policy directives;

(2) Indian school quarterly and annual reports to the state department of public instruction;

(3) any special reports, newspaper articles, and photographs on Indian schools and the education of Indians.

Interviews with the school superintendent, the federal programs coordinator, and the school records clerk were conducted. Advice was solicited about other people in the community with extensive knowledge of public education policies and the education of local Indians.

After the research and interviews were finished at the local education agencies, county libraries and newspapers were visited to review what materials were available about local Indians and their public education.

Next, local Indian communities in each county were visited. The starting point was with local Indian leaders. They were interviewed and asked to recall the history of Indian education in the community and the various Indian teachers, principals, and non-Indians who had been active in obtaining education for the Indians. These local leaders identified other community members who should be interviewed and provided an insight for locating them, and soliciting the necessary oral histories from them. In many instances, photographs, letters, old books, and articles were given to the writer to review and make notes. A community member worked with the author and was helpful in clarifying bits of oral history. Where possible, verification of key dates and policies highlighted from the archives research findings on the federal, state, and local matters was noted.

Research Strategy

Based on the historical research methodology used in reviewing federal and state public policies for educating Indians, a statement on the initial, continuing, and current policies can be articulated.

By cross-checking these historical policies in state and local educational agencies, it became apparent where ambiguity in policies arose. Then, Indian oral and written education histories were cross-checked back with the federal, state, and local policy findings. This analysis provided the author with a basis on which to project what policies Indians could anticipate in the future from federal and state governments, as well as strategies to utilize in seeking particular options and safeguards.

OVERVIEW OF DISSERTATION

The remaining portion of this dissertation is divided into four chapters. Each develops a significant part of the Thesis statement set forth in this first chpater. The remaining chapters are as follows:

Chapter 2 - FEDERAL GOVERNMENT: The Evolution of Policy Towards the American Indian and Education.

Chapter 3 - NORTH CAROLINA: The Evolution of State and Local Policy Towards Indians and Their Education.

Chapter 4 - The Public Education of the Lumbee Indians: Tribal Representations and Governmental Responses.

Chapter 5 - After 250 Years, The Dilemma Remains.

Certain research information important to further study of policy in this area of concern is compiled for reference use in five appendixes. These are as follows:

Appendix A - References, Bibliography, and Interviews.

Appendix B - List of Important Federal Actions Affecting the Public Education of Indians: 1800-1979.

Appendix C - Laws Affecting Public Education of Indians with Specific Provisions for Federal Reservation Indians.

Appendix D - Laws Affecting Public Education Which Benefit Indians not Living on Federal Indian Reservations.

Appendix E - North Carolina Laws Affecting Public Education of Non-Reservation Indians.

Appendix F - List of Significant Actions Regarding Lumbee Indians.

Chapter 2

FEDERAL GOVERNMENT: THE EVOLUTION OF POLICY TOWARD THE AMERICAN INDIAN AND EDUCATION

From the time of the early discovery of America, to the settling of the colonies, the establishment of the United States, the natives named Indians, were viewed as objects of curiosity to be conquered and civilized by the newcomers. A constant theme in the dealings between the natives and the newcomers was assimilation.

As the American colonies and later the new nation established its political philosophy, "civilization and Christianization" became the reason for the services extended toward American Indians. The basic thrust of this nation's policy toward American Indians has always been assimilation or bringing Indians into the mainstream of American life.

Initially the European powers dealt directly with the Indians as nations. Then the English colonies began dealing with various individual Indian groups as tribes and finally the new American government began dealing with Indians as individuals, and later as tribes. Thus, early on, the Indian tribes were dealt with directly by the governing powers. In such dealings, the government used as its agents the soldiers and missionaries. For the policy of assimilation, the practice of "civilizing and Christianizing" used education as its key instrument.

Historically the policy of assimilating Indians has been exercised in the following ways:

1. White settlement among Indians.

2. Segregating Indians into separate villages and communities.

3. Removal of Indians who were in the paths of white settlement into special "Indian Territory" and later on reservations and assuming that Indians left behind were absorbed into the general body politic.

From the beginning the federal government sought to get someone else to educate the Indians. The government saw its role as supplementing on-going efforts. First they supplemented the educational activities of the missionaries and the tribes, then they organized federal schools where no one else would and finally they began supplementing the general assistance needed by the state and local educational agencies. In each instance, the emphasis was on educating the young Indians--away from their families, tribes, and cultures, in the model of white America, with an emphasis on domestic skills and vocational education.

This chapter traces the public education practices of the United States toward American Indians. These practices are reviewed from three eras--from the founding of the country to the Civil War (1776-1861); from the Civil War to the Brown vs. the Board of Education, Topeka, Kansas, Supreme Court opinion (1862-1954); and from the Brown decision until the present time (1954-1978).

The initial schooling for Indians of course was along the Eastern Seaboard. These educational services were opened to all

Indians and were operated by various Catholic and Protestant mission societies. Later a few tribal schools were organized and paid for by the Five Civilized tribes (Cherokees, Creeks, Choctaws, Seminoles, and Chickasaws).

In 1820, the federal government officially began removing Indians along the Eastern Seaboard to "Indian Territory," the present state of Oklahoma. Those Indians remaining in this area were presumed to be absorbed into the general population. From the removal period until the Civil War, Indians continued to receive education in scattered segregated pockets of the Southeast under the direction of the missionaries and patterned after white private school programs.

After the Civil War, the United States expanded and increased its activities of moving Indians onto federal reservations. Educational facilities were expanded and took the form of large off-reservation boarding schools whose curriculum emphasized vocational and domestic service education. These schools were subsidized primarily by the federal government and sought to enroll only Indian students living on federal reservations. They continued the practice of segregated facilities for Indian students. This era also saw the beginning of public school enrollment for Indian students under financial assistance from the Bureau of Indian Affairs to the local educational agencies. As a result of this incentive, the education of Indians in the public schools began on a path of steady and continuous expansion.

Shortly after the Second World War, the federal government began an aggressive program of removing Indians from the reservations into urban areas ostensibly to give them increased job opportunities. This program continued for a decade and as a result of its activities, the presence of reservation Indian children became a reality for the first time in many urban areas. Their presence caused the schools and social service agencies in those cities to become aware of acute cultural adjustment needs of those Indian people and their children.

In 1954, in the Brown v. Board of Education decision, the Supreme Court ruled separate and equal educational facilities unconstitutional. This decision gave new impetus to the civil rights movement for equal educational, employment, and social opportunities for Black Americans. As this movement gained momentum, so did the legislative activities to assure such equality.

The decade of the 1960's saw new federal initiatives in civil rights; financial assistance to states and local governments in education and in socio-economic programs to benefit the "economic and culturally disadvantaged." American Indians became recipients of many of these services almost by chance. Prior to this time, the Bureau of Indian Affairs had been the sole federal agency responsible for Indian activities. There was a universal assumption in the federal government that all Indians lived on reservations under the auspices of the Bureau of Indian Affairs except the recent emigrant Indians to the cities.

As the federal initiatives for the "economic and culturally disadvantaged" moved to the state and local levels for identification and verification, a number of Indians began appearing in the statistics who were not under the jurisdiction of the Bureau of Indian Affairs but who met the criteria of the law. As the Indians became a "valued asset," state and local educational agencies moved to identify them and seek funds to meet their needs.

Today there are 325,000 Indian school age children attending the Bureau of Indian Affairs boarding, day, mission and public schools. In the case of the Bureau of Indian Affairs and mission schools, Indian children are attending segregated facilities and in the case of public schools these children are attending integrated facilities.

The policy of the United States toward American Indians always has been one of assimilation. This has meant assimilating Indians to the American way of life in terms of culture, economics, education and religion. Peculiarly enough, this assimilation pursued contradictory practices of both segregating and partially integrating Indians. Throughout this history, a nagging question has been--who is an Indian for purposes of receiving federal services or extending services to Indian people. The Bureau of Indian Affairs has set one criteria for services and the Department of Health, Education, and Welfare have set several different criteria for services.

A recent pronouncement from the federal government has called for Indian self-determination in services and activities. When the

projects and services related to this concept is shreeded out, it appears that this is a convenient phrase for letting "Indians self-determine" their own methods and ways for assimilation.

This chapter traces the federal practices and initiatives which have underpinned the policy of assimilation. It illustrates the federal uncertainty in dealing with the tribal diversity even though the policy has been consistent. Actions and practices to carry out that policy have been inconsistent and, in many instances, conflicting. Initially, Indians along the Eastern Seaboard were a part of that policy but as the nation moved westward, the federal educational practices dealt primarily with reservation Indians. The era of the 1960's and 1970's has seen a more comprehensive approach in federal initiatives in terms of dealing with education for all Indian people and children.

One thing is clear throughout this chapter, there has never been a practice of supporting the education of Indians as Indians in a manner relevant to their cultures and history. The policy of assimilation has been consistent, although its practices have been inconsistent, contradictory, and inconsistent!

As the new nation developed its organic documents, the Articles of Confederation and the U.S. Constitution, one of the many questions to be resolved was how to deal with the Indians. The language in the U.S. Constitution created broad discretion. The sentence read, "The Congress shall have the power . . . to regulate commerce with foreign nations and among the several states and with

Indian tribes." Much of the Indian legislation flows from this authority.

After the first Congress convened, four pieces of legislation were passed outlining the framework for relations with Indian tribes. The War Department was established and authorized to handle matters assigned to it by the president . . . relative to Indian affairs (1 Stat. 49). Later a law, the Northwest Ordinance, pledged the good faith of the government and stressed that the nation would seek to find ways "for preserving peace and friendship" with the Indians (1 Stat. 50). Money was appropriated next to appoint Commissioners and pay the expenses for "negotiating and treating with Indian tribes" (1 Stat. 137). As a result of these laws, Commissioners began negotiating with Indian tribes to open settlement of more lands.

TREATIES AND STATUTES USE EDUCATION TO "CIVILIZE AND CHRISTIANIZE" THE INDIANS

The first Indian treaty was recorded in 1794 with the Oneidas, Tuscarora, and Stockbridge Indians. It spelled out relationships between the tribe and the federal government in areas of land concessions and annuities, trading privileges, and protection from encroaching settlers. With respect to education, it also contained general provisions to allow the employment "of 1 or 2 persons for 3 years to instruct in the arts of the Miller and Sawyer." This was followed in 1803 by a treaty with the Kaskaskia Indians which provided an annual contribution for seven years for a Roman Catholic priest to instruct

in literature as well as perform the duties of his office (Kappler, 1903, 1972, pp. 37, 67). For the next fifteen years, the treaties negotiated did not mention education. They dealt with land cessions and ending the various hostilities along the frontiers between the Indians and the settlers. Yet these first two treaties, by providing for educational matters as well as tribal annuities, set a basic pattern which evolved in later treaties.

However, these provisions concerning instruction and training soon became more specific, related to a particular type of school; the building of a school; a certain number of teachers and children; and later, particular kinds of instruction such as blacksmith, animal husbandry, agriculture or mechanical arts (American Indian Policy Review Commission, Task Force Number Five, Indian Education, Final Report, 1976, p. 314). By 1868, there were 124 treaties with these types of provisions.

As the early treaties were being negotiated, the Congress moved to regulate the various trade and intercourse laws with Indian tribes. These laws were consolidated in the permanent Trade and Intercourse Act of 1802 which addressed the problems arising out of trade and trespassing on Indian lands. In addition, this law contained the following section:

> . . . in order to promote civilization among the friendly Indian tribes, and to secure the continuance of their friendship, it shall be lawful for the President of the United States . . . to appoint such persons, from time to time as temporary agents, to reside among the Indians, as he shall think fit. (2 Stat. 139, p. 143)

An appropriation of $15,000 was provided by this law and a minimal amount of it was used to pay teacher salaries and student tuition.

As the new nation set about stabilizing its government and expanding its boundaries, there was little time to organize an Indian policy except as it related to protecting the citizenry. The battles in the northwest between the United States and Tecumseh, who was aided by the British and the southeast between the United States and the Creeks, kept the new nation busy negotiating for peace along its various frontiers.

Legislation Enacted to Assure Civilization of Indians

However, by 1818, the House Committee on Indian Affairs recommended a course of action concerning American Indians. It reported:

> We are induced to believe that nothing which it is in the power of Government to do would have a more direct tendency to produce this desirable object (civilization) than the establishment of schools at convenient and safe places amongst those tribes friendly to us. The committee are aware that many plausible objections may be raised against the proposed measure; but we believe that all difficulties on this subject may be surmounted and that the great object may be carried into practical effect. In the present state of our country one of two things seem to be necessary. Either that those sons of the forest should be moralized or exterminated. Humanity would rejoice at the former, but shrink with horror from the latter. Put into the hands of their children the primer and the hoe, and they will naturally, in time, take hold of the plow, and as their minds become enlightened and expand, the Bible will be their book, and they will grow up in habits of morality and industry, leave the chase to those

> whose minds are less cultivated, and become useful members of the society. The committee believe that increasing the number of trading posts, and establishing schools on or near our frontiers for the education of Indian children, would be attended with beneficial effects both to the United States and the Indian tribes. (American State Papers, Indian Affairs, Vol. II, p. 151)

Early the next year, 1819, Congress passed a law commonly referred to as the Civilization Act. This law states:

> For the purpose of providing against the future decline and final extinction of the Indian tribes adjoining the frontier settlements . . . and for introducing among them the habits of civilization, the President . . . is hereby authorized, in every case where he shall judge improvements in the habits and conditions of such Indians practicable, and that the means of instruction can be introduced . . . to employ capable persons of good moral character to instruct them in . . . agriculture . . . and for teaching their children in reading, writing, and arithmetic, and performing such other duties as may be enjoyed . . . . (25 U.S.C. 271)

An appropriation of $10,000 was provided with the stipulation that an annual report be filed with the Congress on the progress and the implementation of the plan. This sum was the first direct appropriation of the Congress specifically for the education and civilization of American Indians. By 1819, the Indian Office in the Department of War, had both explicit legislation, with supporting appropriated sums, and treaties which authorized education and civilization of American Indians.

The following year, Secretary of War, John C. Calhoun, reported to the Congress that none of the money in the civilization fund had been expended. He further noted that President James Monroe felt the money would be more effectively spent by using individuals and

societies who were involved in the civilization of Indians. A circular was sent to the various individuals and societies asking them for information and inviting them to unite their efforts with the government's proposal (American State Papers, Indian Affairs, Vol. II, p. 201).

Government Solicits Groups to Civilize the Indians

The circular invited these individuals and groups interested in such cooperation to write to the War Department. It also described the plan of education to be taught. It stated that the plan "in addition to reading, writing, and arithmetic, should, in the instruction of boys, extend to the practical knowledge of the mode of agriculture, and of such of the mechanic arts as are suited to the conditions of the Indians; and in that of the girls, to spinning, weaving, and sewing" (American State Papers, Indian Affairs, Vol. II, p. 201).

Additional regulations were issued by the Indian Office in the Department of War, which included approval for any construction costs, a schedule for payment, tuition payments based on the actual number of pupils attending the school, and reporting requirements concerning the use of the funds.

This circular and the subsequent regulations were used by the government for describing the pattern of education for Indians as well as the procedures for expenditures.

During this same year, Secretary Calhoun commissioned the Reverend Jedediah Morse, an outstanding Protestant minister, to visit

the various tribes and assess their general condition, and organize a plan with recommendations for their civilization. He had presented such an idea for the civilization of American Indians to former President, John Q. Adams, but was not employed to develop it. Reverend Morse travelled throughout the eastern seaboard, the Great Lakes area, and to the Northwest Territories. By 1822, he reported that there were families associated with the various missions and religious denominations. He stressed that these should be "the great instrument for educating and civilizing the Indians." His report identified fourteen schools enrolling 508 students and stated that all tribes he visited, except the Creeks, were interested in educating their children (Morse, 1822, p. 22).

Various Groups Contract To Educate Indians

By the end of 1823, twenty-one schools were reported to be receiving government aid. All the schools reported were operated either by a church, mission society, or Catholic Bishop, and all but six of the schools received the government aid as an annual tuition allowance to supplement their on-going school budgets. For example, the Brainerd School, Cherokee Nation, Tennessee was established in 1817 and had an operating budget of $7,632. This school received $1,200 from the federal government. The Seneca Nation School in New York was established in 1819. Its annual budget was $2,451 of which $450 came as tuition from the federal government. In total, 959 students were attending the various schools which received aid from

the federal government in 1823 (Morse, 1822, p. 459). However, the majority of these schools were among Cherokees, Creeks, Choctaws, and Chickasaws in the Southeastern United States; in New York State among the Iroquois; or scattered in several states in the Great Lakes region.

All of the schools used a simple contract between the sponsoring agency (i.e., the individual, mission, religious denominations, etc.) and the Indian Office in the Department of War. The contract merely stipulated how many students would be educated and for what cost.

By 1825, thirty-eight schools were receiving government aid. These schools were located among fourteen tribes, with twenty-three such schools among the Cherokees, Choctaws, Chickasaws, and the Creeks. The remaining fifteen schools were in the northeast or Great Lakes areas.

Summary of Financing for Education of Indians

A report to the Congress in 1825, summarized the amount of funds paid by the federal government to the various mission societies and noted the amount received by them in property, stock, etc., from other sources for the support of schools for the Indians. The support was as follows:

Sources From Which Paid or Received	1824	1825
Government	$ 12,708.48	$ 13,620.41
Indian annuities from treaty provisions	8,750.00	11.750.00
Private contributions (money, property, stock, etc., including housing and other improvements on site of various institutions	$170,147.52	$176,700.00
TOTAL	$191,606.00	$202,070.41

Clearly, the government's direct contribution to the schooling of Indians was far outweighed by the contributions from private sources (Fletcher, 1888, p. 165). In reality, it was becoming increasingly clear that the various missionary societies were the prime educators of Indians.

Missionaries Lead Expansion of Educational Facilities

As the relationship between the federal government and the missionary societies was beginning to expand, there was increasing sentiment in Congress which questioned the wisdom of the civilization program. The House Committee on Indian Affairs reported:

> The civilization of the Indian has been viewed as a work of great national importance, by many whose talents, and public service have rendered illustrious the annuals of our country. This was the object of great solicitude with Washington, and all who have succeeded him . . . . More money was expended in protecting the exposed parts of our country, from Indian depredations, during the late war, than would be required, if judiciously applied, to secure the great plan of Indian civilization . . . . The Indians are not now, what they once were . . . they must be civilized or exterminated; no other alternative exists. (U.S. House of Representatives, Committee on Indian Affairs, 1824, p. 106)

Obviously, the availability of the civilization fund had encouraged some of the missionary societies to expand their efforts, for by the next year, the Indian Office was calling on Congress to increase the fund. The annual report of the Commissioner stated in 1826 that "hundreds of Indian children had to be turned away . . . . Numerous applications for assistance, and from the most reputable societies, are now on file in the office, to which it has not been possible to return any other answer than the fund appropriated by Congress is exhausted" (Annual Report, Commissioner of Indian Affairs, 1826, p. 35).

Appropriations and Annuities Used to Educate Indians

The Congress kept its annual appropriation of $10,000 for the civilization fund until 1873 when it was repealed. However, between 1820 and 1868, there were signed between the federal government and various Indian tribes 124 treaties which contained educational provisions. These treaties also contained annuities which the government paid to the tribes for the taking of Indian lands

For example, the treaty with the Osage tribe of June 2, 1825 provided in Article 6:

> And also fifty-four other tracts of a mile square each, to be laid off under the direction of the President . . . and sold, for the purpose of raising a fund to be applied to the support of schools, for the education of the Osage children, in such manner as the President may deem most advisable to the attainment of that end. (Kappler, 1972, p. 219)

Thus the treaty was used to reserve a section of land to be sold specifically for generating a school fund. This money was either invested with interest being used for educational purposes or placed in the U.S. Treasury Department to be used for the educational benefit of the tribe.

Sometimes educational annuities would be designated for a particular purpose as in the Treaty of Dancing Rabbit with the Creek Tribe, of September 27, 1830. Article 20 of the treaty provided:

> The United States agree and stipulate as follows . . . fifty thousand dollars (orig.) twenty-five hundred dollars annually shall be given for the support of three teachers of schools for twenty years. (7 Stat. 333)

Thus were payment of teachers' salaries stipulated in some of the treaties. The annuities were used for general education by the tribes. As interest in schools increased, mission societies began to receive monies from tribal annuities, the civilization fund, and their own private church resources.

Mission Schools

The mission establishment was a self-sustaining community. It provided clothing, supplies, room and board when necessary, as well as religious and general instruction in the "habits of civilized life" to the surrounding Indian community. As part of their overall program, mission schools not only provided religious instruction, but also taught reading and writing in the English language and elementary arithmetic. Based on the guidelines from the Bureau of Indian Affairs for use of the civilization funds, these schools incorporated a type

of manual training into their plans of education. Farms were attached to the schools. Half a day was usually given to classroom instruction in reading, writing, and arithmetic with history, geography, and some sciences. The remainder of the day, the students were responsible for performing duties such as farming, plowing, cleaning, cooking, sewing, laundering, caring for the stock, and any other duties related to operating the schools. These schools became increasingly popular as a means of encouraging Indians to learn the useful skills for an agricultural and settled life (Fletcher, 1888, p. 166).

Beginning of the Removal of Eastern Indians

During the 1830's, the federal government began relocating Indian tribes west of the Mississippi and into Indian Territory. The Cherokees, Creeks, Choctaws, Chickasaws and Seminoles--members of the Five Civilized Tribes--had the largest number of mission schools in operation. In their treaties of removal, the federal government stipulated that these schools would be rebuilt and that money would be given to the missionary societies to relocate their principals, teachers, and various belongings, as well as finance their new educational undertakings (Debo, 1972).

Bureau of Indian Affairs Begins Encouraging Education

Congress also reorganized the Bureau of Indian Affairs in 1834 under a system of superintendents, agents, and sub-agents responsible through a Commissioner of Indian Affairs to the Secretary of War (4

Stat. 735). After this structure was established a number of the Commissioners of Indian Affairs became directly involved in encouraging specific types of schools for educating Indians.

Indian Office Encourages Manual Labor Schools

Commissioner Harley Crawford began, in 1838, to formally encourage the manual labor school concept being used by some of the missionary societies. Commissioner Crawford remained in office for seven years from 1838 through 1845, and during this time he used the civilization fund contracts to get all the missionary schools using the manual labor concept. He also encouraged the establishment of manual labor boarding schools away from the Indian settlements. In his annual report, Commissioner Crawford noted:

> The subject of Indian education has been much thought of from a thorough conviction that all attempts at general civilization, as any hope of impressing many with proper views of a Providence over all, without the efficient aid of schools will be vain . . . the greatest prospect of ultimate success is held out by small schools with farms attached, in the most compact Indian settlements. The teacher mingles familiarly with his scholars, and frequently meets and converses with the parents, who see their offspring from time to time engaged at their books and on the little farm, become familiarized with the process, and observe (which even they must do) the change that is gradually but surely wrought upon the tempers, habits, and conduct of their children. A moral influence surrounds and fills the cabin; the heads of families, or adult brothers and sisters, may not learn to read or write, but they will feel what they cannot explain. (U.S. Senate Doc. 354, 26th Cong., 1839, pp. 343-44)

These schools were to operate as primary schools among the tribes and later as secondary schools outside the communities. The

Commissioner also urged that Indian women be given an education. He said, "if the women are made good and industrious housewives, and taught what benefits their condition, their husbands and sons will find comfortable homes and social environments, which in any state of society, are essential to morality and thrift" (U.S. Senate Doc. 354, 26th Cong., 1839, p. 344). By the end of the next year, schools were reporting attendance for both boys and girls.

The next two decades saw the growth of manual labor schools which served primary grades in the Indian settlement and boarding schools which served as secondary schools outside of the Indian areas.

Tribal Schools Among The Five Civilized Tribes

By 1840, the Five Civilized Tribes had settled in Indian Territory and had organized a system of tribal schools. Initially, these schools were supported by contracts between the tribe and the original missionary societies to build and operate a private system of schools similar to the mission schools in operation before removal.

These new schools were organized first as academies with separate ones for males and females. The curriculum was a liberal arts program. It included reading, writing, mathematics, history, geography, the sciences, debate, and drama. For the young men going on to further their education in another state, classical languages--Latin and Greek--were taught. These schools were based on early college curriculum. The female academies offered a curriculum of reading, writing, mathematics, geography, and history. In addition, courses in

speech, drama, fine arts, Greek and Latin languages were offered. Domestic training in cooking, sewing, lacemaking, and crocheting were taught as leisure time activities for ladies.

As towns and settlements grew, the Five Civilized Tribes each organized and eventually operated their own particular school system from the elementary to the secondary and the academy levels. These systems were established in 1835 and continued to expand until the outbreak of the Civil War in 1861. The schools disbanded during the Civil War but were re-established during the Reconstruction era. Legally, the schools were organized as a contract between a particular tribe and mission society. The tribe and the mission society provided the operating budget from annuities, tribal funds, and private monies. The school principal usually served as a minister to the Indian community and school administrator, while his wife usually taught the domestic and leisure activities to the females. The majority of the teaching staff was female and came primarily from Mount Holyoke or other northeastern colleges (Debo, 1940, pp. 7-11).

As the tribes established their own system of schools, they hired a superintendent of schools, usually a white minister to supervise the instruction, staff, and payment of funds to both primary, secondary, and academy schools. In the primary schools, the curriculum was basic English, reading, arithmetic, and writing with basic manual labor concept described earlier for the boys and girls. Many of the schools at this level were bilingual using both the tribal language and English. Various individuals who were tribal members were hired

to assist the teacher in training students to speak English by using their tribal language. Secondary schools taught the basic subjects of reading, writing, arithmetic, geography, history, and science and followed the manual labor concept of teaching agriculture and mechanical arts for the boys and domestic arts for the girls. Only the most talented students went from these schools to the academies and then on to schools in the states. Staff in these schools was white, except for the tribal language instructor until 1870. Then a large number of the tribal students who had finished their education in the schools in the states returned to teach in the tribal schools (Debo, 1940, pp. 100-225).

Indian Affairs Transferred to Interior

The Department of the Interior was created in 1849, and the offices of census, general land, and Indian affairs were transferred there. This Department has been the permanent office for Indian Affairs since that time.

After the settlement in Indian Territory of the Five Civilized Tribes, the federal government continued to move other tribes into that area, as well as negotiate treaties with tribes in the Great Lakes, Plains, and Far Western section of the United States. These treaties set the outline of what was soon to be the major Indian reservations west of the Mississippi River.

By 1850, western reservation settlement began in earnest and continued until it reached its peak by 1970. The final major

reservation settlement was for the various Sioux bands which was completed in 1890.

During this period, the annual reports of the Commissioner of Indian Affairs described an increasing number of schools serving Indian students throughout the United States. The report of 1850 described 113 schools in operation with an enrollment of 3,682 Indian male and female students (Annual Report, Commissioner of Indian Affairs, 1849-50, pp. 21-22).

During this time, there was growing concern over the status of the Indians and the techniques to be used for their civilization. In 1851 Commissioner Luke Lea reported as follows:

> On the general subject of the civilization of the Indians, many and diversified opinions have been put forth; but, unfortunately, like the race to which they relate, they are too wild to be of much utility. The great question, how shall the Indians be civilized? Yet remains without a satisfactory answer . . . ! I therefore leave the subject for the present remarking, only, that any plan . . . will . . . be fatally defective, if it does not provide, . . . first, for their concentration; secondly, for their domestication; and thirdly, for their ultimate incorporation into the great body of our citizen population. (Annual Report, Commissioner of Indian Affairs, 1851, pp. 12-13)

His recommendation on domestication was the present practice of the Bureau of Indian Affairs and his idea for concentration of the Indians was being accomplished by renegotiated treaties and agreements which would soon be cutting down the size of the reservations. However, the recommendation concerning incorporating Indians into the general body politic was a new departure from practice of removal and segregation.

The idea of selling off tribal lands and restricting the size of the reservation lands was encouraged by the next several Commissioners. Commissioner George Manypenny stated:

> . . . many tribes have expressed their willingness to sell, but on the condition that they could retain tribal reservations on their present tracts of land . . . If they dispose of their lands, no reservations should, if it can be avoided, be granted or allowed. There are some Indians in various tribes who are occupying farms, comfortably situated, and who are in such an advanced state of civilization, that if they desire to remain, the privilege might well be, and ought perhaps to be granted, and their farms in each case reserved for their homes. Such Indians would be qualified to enjoy the privileges of citizenship. But to make reservations for an entire tribe on the tract which it now owns, would, it is believed, be injurious to the future peace, prosperity, and advancement of these people. (Annual Report, Commissioner of Indian Affairs, 1853, pp. 261-262)

By 1854, Commissioner Manypenny saw the impending crisis with removal and urged that those activities be abandoned and the Indians placed in fixed permanent settlements. He said of the tribes who had been removed, "They can go no further; on the ground they occupy the crisis must be met, and their future determined" (Annual Report, Commissioner of Indian Affairs, 1853, p. 10).

Although the question continued to be debated, as migration continued into the western territories of Oregon and Washington, no arrangements were made concerning Indian lands.

By 1859, Secretary of the Interior Thompson, noted:

> . . . removing the Indians . . . as the necessities of our frontier population demand a cession of territory, . . . for which was a large money annuity . . . (that) had a deleterious effect upon their morals, and confirmed them in their roving, idle habits . . . at present, . . . the government

> gather(s) the Indians upon small tribal reservations, within the well-defined exterior boundaries of which small tracts of land are assigned, in severalty, to the individual members of the tribe, with all the rights incident to an estate in fee-simple except the power of alienation. This system . . . has worked well . . . and it has affected . . . the character and habits of those tribes . . . brought under its operation. (Annual Report of the Secretary of the Interior, 1859, pp. 4-5)

His report underscored the shift taking place from removal to settlement on reservations. As the migration to California increased and its prospect of statehood appeared imminent, the federal government decided to abandon the idea of setting up reservations.

Southern Indians Join the Confederacy

As the Civil War erupted, Indians were settled in Indian Territory or on reservations in the Plains.

A number of Southern Indian tribes joined the cause of the Confederacy and negotiated treaties to that effect. At the end of the War, this action encouraged the United States to review the status of those Southern Indian tribes.

Commissioner William P. Dole stayed in office throughout the Civil War. He acknowledged that Indians were capable of "attaining a high degree of civilization" and declared the time would come when "in justice to themselves and to ourselves, their relations to the general government should be identical with those of the citizens of the various states" (Annual Report of the Commissioner of Indian Affairs, 1862, p. 12). Commissioner Dole also stressed the importance

of education for the Indians. He stated, "no schools seem to prosper, among the Indians, unless provision is made to board and clothe the pupils at the institution and, in that case, their efficiency is greatly enhanced by the adoption of the manual labor school" (Annual Report of the Commissioner of Indian Affairs, 1861, p. 13).

New agreements and treaties were negotiated between the federal government and the Indian tribes who had sided with the Confederate Government (Annual Report of the Secretary of the Interior, 1865, p. 3). These treaties brought the tribes back under the jurisdiction of the federal government, reduced the size of their reservations, and made their surplus lands available for use by other tribes which the United States soon would be removing to Indian territory.

As the task of Reconstruction began for the nation, there was an overwhelming concern for educating the freedmen. Thus, little was heard about the Indian question until 1868, when the federal officials lamented that "many of the tribes have no schools and are without any religious instruction whatever . . ." (Annual Report of the Secretary of the Interior, 1868, p. 2). The Commissioner of Indian Affairs noted that the government should invite the "cooperation of all Christian societies and individuals . . . to take part in the work, and . . . assist in the maintenance of schools and mission establishments" (Annual Report of the Secretary of the Interior, 1868, p. 2).

Grant's Indian Peace Policy

The next year, President Grant launched his "Peace Policy" as the new method for the federal government to work with the Indians.

The President pledged to clean up the corruption in the Bureau of Indian Affairs, which a number of newspapers had described just after the Civil War. His plan was to invite the various missionary societies to submit a list of names of persons with high Christian ideals and integrity to serve as Indian agents to assist the government in the great task of educating and civilizing the Indians.

However, a review of his appointments indicate that President Grant filled most of these posts with military officers, until Congress passed a law forbidding them to hold civil office. After this, the President extended appointments to individuals recommended by the religious denominations. An interesting arrangement developed between the military and the Christian agent. The military offices were to bring the Indians to the reservation, keep them there, and maintain the peace. The Christian agents and teachers were to "Christianize and civilize the Indians and help the move towards assimilating the white man's culture" (Lawrence E. Schmeckebier, The Office of Indian Affairs, pp. 81-82). The Christian agents were to set an example of the type of life Indians were being prepared for. The teachers were to use the schools to teach the rudiments of civilization, usually meaning the three R's, to the Indian children.

Board of Indian Commissioners Appointed to Oversee Indian Appropriations

In 1869, President Grant appointed a Board of Indian Commissioners to "exercise joint control with the Secretary of the Interior over the disbursement of the appropriations" (16 Stat. 40). This board

was composed of ten persons selected for their "intelligence and philanthropy," who served without compensation. The board stayed in existence until 1933. Its members took an active part in overseeing the expenditures and maintaining the accountability of money appropriated for Indians as well as inspecting the various Indian agencies and schools. This board became strong advocates for reform in Indian Affairs, and were collectively influential with the President, the Congress, other Indian interest groups, and the public at large.

During this same period the transcontinental railroad was completed. The increasing westward movement of settlers and railroad men brought about the end of the buffalo. This animal had been a major source of food and clothing for the Plains Indians who became increasingly hostile and more dependent on the federal government. Numerous Peace Commissions were organized and sent to negotiate with these Indians to give up part of their reservation for railroad rights-of-way and white settlement. By 1870, a number of such treaties and agreements had been reached and were submitted to the Senate for confirmation. The House of Representatives, feeling ignored in this process, objected to this procedure and added a rider on the 1871 Appropriations Bill ending treaty-making as a method for dealing with the Indians.

Appropriations Expand Indian Schools

While this was occurring, the Congress appropriated $100,000 for the support of industrial and other schools among the Indian tribes not otherwise provided for (16 Stat. 359). This appropriation saw the

beginning of day schools on the reservations and the development of the industrial schools as boarding schools off the reservation, in the "civilized" communities. The government officials began to take a more direct part in the education of Indian children. The day schools were located in the Indian settlements and were basically one-room, one-teacher ungraded schools. Basic skills were emphasized with these schools: reading, writing, arithmetic, and spoken English. Many teachers complained about how difficult it was to teach "Indian children the English language when they spend twenty-hours out of the twenty-four in the wigwam, using only their native tongue" (Annual Report, Commissioner of Indian Affairs, 1873, pp. 8-9).

The boarding schools on the reservation also were expanded as a result of the 1870 appropriation. This school followed the pattern of the manual-labor school. Half of the day was devoted to a learning program of reading, writing, arithmetic, science and history. The remaining part of the day was spent by the boys, in working on farm related chores or mechanical arts (blacksmith, wagonmaster, etc.), while the girls did cooking, sewing, and washing. Two hundred and eighty-six manual labor schools enrolling 6,061 students were reported in 1870 by the federal government (U.S. House of Representatives, Executive Document 1, 1871, p. 40).

Later, industrial training schools were built outside of Indian country in rural and urban settings, and operated by the government or a religious organization. At those schools established by the government, all expenses for transporting, maintaining, and instructing the

pupils were paid from a special government appropriation. The superintendent of each school was appointed by the Secretary of Interior and the employees of each school were appointed by the Commissioner of Indian Affairs based on recommendations from the superintendent. In the industrial training schools operated by religious denominations, an appropriation based on the cost of maintaining and educating a specific number of Indian pupils was received. The government did not pay the entire cost of maintaining and educating these pupils, but assisted the school by contributing a small part of the cost of supporting and instructing the Indian pupils placed in these schools.

Industrial School Programs

Curriculum of the industrial schools was described as the most effective "civilizing instruments used among the Indian," and their specific programs taught Indians as follows:

> . . . strip from the unwashed person of the Indian boy the unwashed blanket, . . . after instructing him . . . in the mysteries of personal cleanliness, clothe him with the clean garments of civilized men and teach him how to wear them . . . give him information concerning a bed and teach him how to use it; teach him how to sit on a chair, how to use a knife and fork, how to eat at a table, and what to eat. While he is learning these things he is also learning to read and write, and, at the same time, is being taught how to work, how to 'earn a living.' . . . there should be connected with each of these schools, a farm, and with some of them cattle ranges, so that the boy pupils may become skillful in the use of agricultural implements and the care of stock--may be taught how to plant, how to cultivate crops, and how to gather and garner harvests. While farming and grazing, as being the two great industries which the Indian of the future must follow, should be taught to all boy pupils, some of them should be taught how to build houses, how to make

> clothing and boots and shoes, how to butcher cattle--should be taught all the trades that the farmer and the herdsman patronize.
>
> The girls should be taught what and how to cook, how to cut garments and sew, how to use the broom and the wash-board, how to 'make a bed,' how to nurse the sick, how to do all kinds of general housework. (Annual Report of the Superintendent of Indian Schools, 1885, p. 112)

These schools were soon to become a major force in the education of Indian students both inside and outside the Indian reservations and communities.

The 1871 appropriation of $100,000 for Industrial training schools was not spent in that year, and so it was reappropriated through 1873 to be used at the Secretary of Interior's discretion. This appropriation was set in 1876 as an annual fund for these schools.

By 1876, an annual appropriation for general education initiated provisions "for support of industrial training schools and other educational purposes for Indian tribes (19 Stat. L. 176). This provision appeared every year after that date, with several modifications and provisions until 1950.

Compulsory Education Recommended for Indians

Commissioner Ezra Hayt made specific recommendations for new activities in the Bureau of Indian Affairs in 1875. Several of these related to education and the continued settlement of the tribes. He called for establishing a system of compulsory common schools including industrial schools; the promotion of agriculture and the division of land into convenient size farms with the title vested in the individual

and held inalienable for twenty years; and the continued concentration of smaller bands of Indians onto the various reservations (Annual Report, Commissioner of Indian Affairs, 1877, pp. 1-2).

None of his recommendations were accepted but both the issues--of compulsory schools and division of tribal lands--continued to be in the forefront of the debates on Indian matters. Congress was urged to increase the appropriations for education by the Board of Indian Commissioners and the various religious denominations active in the business of educating Indian students. By 1878, the Commissioner reported that:

> . . . opposition or indifference to education on the part of the parents decreases yearly, so . . . the question of Indian education resolves itself mainly into a question of school facilities. (Annual Report, Commissioner of Indian Affairs, 1878, p. 26)

Off-Reservation Boarding Schools and Office of Indian School Superintendent Established

During the year, the churches responded by establishing Hampton Institute for the education of Negroes and Indians. Lieutenant R. H. Pratt brought fifteen hostile Indians to Hampton the first year and observed their progress in this industrial training school. The next year with contributions from various churches and the U.S. Congress, he established Carlisle Industrial Training School in Pennsylvania. Both Hampton Institute and Carlisle Industrial Training School were to have profound effects on the education of Indian boys and girls for the next thirty years. These schools became models for the curriculum

and school activities of all the off-reservation industrial training schools.

By 1882, the administration of education had become important enough for the Congress to create the "Office of the Indian School Superintendent" to be appointed by the Secretary of Interior and confirmed by the Senate. This position authorized the Superintendent to inspect all Indian schools and develop two plans with estimated costs for: education of Indians whose tribes had such treaty stipulations and for educating all Indian youth with no treaty school provisions. He was to report also on what money might be saved by his plan (22 Stat. 181).

Money Appropriated to States to Educate Indians

This same year Congress authorized and appropriated money for supporting and educating one hundred students at any schools operated by the states. The appropriation was for $17,000 and the cost per pupil was not to exceed $167 a year per child. Based on this appropriation, the Commissioner of Indian Affairs wrote to the forty-three agricultural and mechanical schools, endowed by national land grants, seeking their cooperation in training Indian youths. Only one school indicated interest and willingness to take the student at the agreed per capita allocation. However, that school could only instruct the student in farming and carpentry (Fletcher, 1888, p. 169).

Indian Boarding Schools
Use Army Barracks

This same year, Congress authorized the Secretary of Interior "to set aside, for use in the establishment of normal and industrial training, schools for Indian youth from the nomadic tribes . . . any vacant posts or barracks . . . not . . . required for military occupation . . . and money appropriated . . . for general purposes of education . . . may be expended . . . at such posts" (U. S. Statutes, Vol. 22, p. 181). With this authorization, four abandoned army posts were immediately set up as industrial training schools (Genoa, Nebraska; Chemawa, Oregon; Fort Whapeton; and Chilocco, Indian Territory.

However, the Commissioner of Indian Affairs, Hiram Price, began questioning the cost and value of boarding and industrial training schools. He stated:

> . . . It is . . . common belief that the boarding school should supersede the day school as it is that training schools remote from the Indian country ought to be substituted for those located in the midst of the Indians. But I trust that the time is not far distant when a system of district schools will be established in Indian settlements, which will serve not only as centers of enlightenment for those neighborhoods, but will give suitable employment to returned students, especially the young women, for whom it is especially difficult to provide. (Annual Report, Commissioner of Indian Affairs, 1882, p. 35)

By 1884, this concern for day schools had been echoed by the Board of Indian Commissioners, by religious denominations, and by a number of private groups interested in Indian welfare. Congress included in the Appropriations Act of 1884, authorization to expend money for day

schools, and required the agent to submit a census of Indians at his agency. These were to show school age children, adults, number of schools in operation, student attendance, and teacher names and salaries (23 Stat. 76).

Indian School Superintendent Reports Used to Improve Schools

The Indian School Superintendent filed a major report to the Secretary of Interior and the Congress in 1885. (Note: The first Superintendent had been in office for three years when he died. His reports are available and comprise descriptions of schools visited, along with staff interviewed and academic program.) The 1885 report traces the development of the office, describes various types of schools in existence, includes a number of statistical tables on all the various schools, and makes general recommendations for improving the education of Indians along with administration. The Indian School Superintendent made a number of observations and recommendations. He noted that the school system was "not thoughtfully prepared by wise statesmanship . . . it evolved . . . (it is) not only imperfect when considered as a whole, but also defective in its parts" (Annual Report of the Superintendent of Indian Schools, 1885, p. 120). He suggests a new method for appointing school employees, by having them file with the Commissioner proof of their qualifications; an independent bonded superintendent for the boarding schools, who would show proof of his qualifications and character; textbooks prepared and printed by the government which are adaptable to Indians, an improved

method of obtaining students; a blacklist of Indian runaway students; management of all government schools by government employees rather than religious denominations; uniform school buildings; a position for an Assistant Superintendent, and a law clarifying the role of the Indian School Superintendent (Annual Report of Superintendent of Indian Schools, 1885, pp. 120-127).

Summary of Indian Education in 1886

By 1886, there were 214 schools in operation, with 9,630 students in attendance. The majority of these students--7,187--attended boarding or day schools under agency supervision, with the remaining number, 1,582, in the training schools and 861 attending schools in the states (Fletcher, 1888, p. 171). The Commissioner's Annual Report noted that four Indians were attending institutions of higher education. Three boys were enrolled at Wyland Seminary, Howard University, and the Medical Department, University of Pennsylvania; and the girl was attending Women's Medical College of Pennsylvania (Annual Report, Commissioner of Indian Affairs, 1886, p. 84).

Thus, the pattern of Indian education had been set by 1886. Indian students comprised members of Indian tribes who had treaties with the government as well as tribes not otherwise provided for. These students were identified for school purposes by the Indian agent or tribal leaders. Students were to be educated in day and boarding schools on the reservation, under the management of government,

educational, or missionary organizations; or through an individual tuition plan with the states.

The administrators and teachers were either government employees hired by the local Indian agent, or employees with the contractor operating their school, or a government owned school. School employee qualifications had not been agreed upon or adhered to by the government. Curriculum consisted of the three R's, science and history, along with farm work and trades. There were no uniform courses or textbooks. Financing for the school enterprise was a combination of private funds or treaty and general education money provided by the Congress.

This pattern of curriculum, staffing, financing, and types of schools was set by 1886 and would vary only slightly in the coming years, except for admission of Indians to the public schools.

MOVEMENT FOR INDIAN CITIZENSHIP

On February 8, 1887, the General Allotment Act was signed into law. This law had been debated in the Congress since December 8, 1885. However, on the day it passed the U.S. House of Representatives and Senate, there was virtually no debate or roll call vote on the bill. The law adopted and expanded earlier allotment activities of the Indian service and formalized a procedure for individual allotments which had and continues to have profound affects on Indians living on reservations.

Substantive debate had occurred on this bill in December 1885 and throughout its consideration in 1886. In the last floor debate

in 1886, Congressman Perkins from Kansas described the rationale and support for the bill as follows:

> . . . (it) is in keeping with the sentiment of the country. Almost every community in the land is asking for such legislation. In the judgment of the great masses of the American people, the time has come when the policy of keeping the Indians together in their tribal organizations and restraining and controlling them by bayonets and shotguns must be abandoned and a new era inaugurated--an era of the allotment of lands to the Indians in severality, an era of education, an era in which they shall be enabled and required to qualify themselves for the duties of American citizenship, and to support themselves by industry and toil. That is the spirit and object of this bill . . . it meets the warm approval of all the government officers whose duties bring them in close contact with the Indians, and it has the endorsement of the Indian rights association throughout the country, and of the best sentiment of the land. (Congressional Record, 1886, Vol. 18, p. 191)

Although Congressman Perkins noted the Dawes' Act expressed "the sentiment of the country," two months earlier, the Senate had rejected the section which would have made citizens of Indians who took their land in severality. It also was the scene of intense debate on what allotment would do in terms of keeping Indians segregated.

Dawes Debate Highlights of Question of Civilization

In the Senate, Henry Teller of Colorado was violently opposed to the bill. He had served earlier as Secretary of Interior, under President James A. Garfield. He believed it was time to abandon the policy of civilizing and Christianizing the Indian in isolation. He proposed by an amendment that the Secretary of the Interior should be

given discretion to allot lands on reservations to white men so that whites and Indians could be brought into daily contact. Senator Teller summed up his views as follows:

> Isolate them as we have done, and they will continue as they are, although you may establish schools and churches and give them the missionary effort, and it will take ages under the present system to civilize and Christianize them. But if you can put them in the midst of an intelligent community you will have them civilized in a few years. With the white settlers on every alternate section of Indian lands, there will be a school house built, with Indian children and white children together; there will be churches at which there will be attendance of Indians and of white people. (Congressional Record, 1886, Vol. 17, p. 1763)

Senator Dawes was manager of the Senate debate on the allotment bill. He assured Senator Teller, he would be happy to have his amendment apply to executive order reservations but not to reservations created by treaty or statute. However, Senator Teller was quite insistent that it apply to all reservations or none. Before voting on the amendment, Senator Dawes remarked:

> . . . all this is an experiment, I am not one of those who believe that we have at anytime invented a new and perfect way that will solve this question. This only gives promise, and I think an earnest and well-assured promise of working out the problems. It may not work it out as well as we hope it may. It will, I am confident, go a great way in that direction. (Congressional Record, 1886, Vol. 18, p. 19)

Behind the optimism of Dawes and the pessimism of Teller, lay the dilemma of the United States' governmental policy towards American Indians. The question of how to civilize the American Indians--through segregation or desegregation--was the crux of the debate on the General Allotment Act. The Teller Amendment was rejected, and the policy of

segregation was to remain in force. The General Allotment Act with its procedure for alloting tribal lands into individual Indian allotments soon became the law of the land.

Allotment of Land Used to Aid Civilizing Indians

What had happened in the United States to bring the issue of allotment to the forefront? After the Civil War, the majority of the country was preoccupied with the questions of reconstruction and how to aid the freedmen in their adjustment to freedom and citizenship. As the adjustment got underway, a number of eastern newspapers and reformers turned their attention to the plight of the American Indian.

In the east, both the New York Herald Tribune and the Nation viewed the Indian problem as a "disgrace to American Civilization." A number of abolitionists leaders like Wendell Phillips, Lucretia Mott, Harriet Beecher Stowe, and John Greenleaf Whittier began to speak out about the injustices toward the Indians.

By 1869, the first transcontinental railroad had been completed and thousands of pioneers were streaming across Indian country as they moved from the east to the far west. A Board of Indian Commissioners was appointed that year, by President Grant to clean up graft and corruption in the Indian Bureau. Each of the board members were influential individuals in their own right. Individually and collectively, they became powerful advocates for the cause of the American Indian. Their work created greater interest in the problems of American Indians by use of the media, newspapers, and annual reports. One of

the Commissioners on the board used his summer place at Lake Mohank for four years to bring together the board members and forty other people with influence and interest in American Indians. The Mohank Conferences, as these meetings were called, brought together key Senators and Congressmen of the Indian Affairs Committees, the Secretary of Interior and the Commissioner of Indian Affairs, the Commissioner of Education, influential churchmen and women, various national Indian interest groups, agents and teachers in the field. The sessions reviewed what happened in Indian Affairs annually and projected plans for increasing the drive towards civilization and citizenship of the American Indian.

The major Indian wars on the Plains were over by 1870. The Minnesota Sioux uprisings (1862), the Sand Creek Massacre (1864) were finished and the joint Congressional Peace Commission under Senator James R. Doolittle had filed its report in 1867. The report noted the "effects of disease, intemperance, wars, white emigration, and the irrepressible conflict between a superior and inferior race when brought in contact were rapidly decimating the Indians" (Murdock, 1971, p. 20). A number of Congressmen began to call for change but to no avail. The construction of a number of military forts across Sioux lands caused more open warfare between the Sioux and the military. In one such incident, the "Fetterman Massacre," all the army patrols were ambushed and there were no survivors. As a result of this, another Peace Commission was formed in 1867, known as the Sanborn-Sully Commission. Their mission was to establish peace with the hostile

tribes, remove possible causes of war, assure safety of the frontier settlements, and inaugurate a plan for civilizing the Indians. The Commission published its report in 1868. They asserted that "civilization of the Indians and the protection of the Indians' rights to tribal land from encroachment by white people could abolish frontier warfare." The report noted that up to this time, people bringing civilization to the Indians had done so with "the ten commandments in one hand and the sword in the other to carry out a policy of extermination" (Murdock, 1971, p. 31). The Commission objected to the means by which civilization was advancing, not the ends to be achieved.

Private Groups Organize to Protect the Indian

By spring of 1868, Peter Cooper, the founder of Cooper's Union, organized the U.S. Indian Commission. Its main purpose was to "protect and elevate the Indians and to cooperate with the U. S. Government in its efforts to end the frontier warfare." Through this organization a number of western tribal leaders were brought to Washington to speak to the President about their concerns and then sponsored by the U.S. Indian Commission to speak in Philadelphia, New York, and Boston before large groups of liberal-minded reformers. By 1870, individuals in Boston had formed the Massachusetts Indian Commission to work for the civilization of Indians. This same year, the U.S. Senate Committee on the Judiciary issued a report which stated that the 14th Amendment to the U. S. Constitution had "no effect whatever upon the status of the

Indian tribes" (U. S. Senate Judiciary Committee Report 268, 1870-71, p. 115).

The next several years, the majority of the liberal-minded reformers had accepted President Grant's Peace Policy as their own. However, the increasing fraud exposed in the Indian Bureau for several years brought renewed calls for reform, with a number of the groups proposing their own plan for change. The Homestead Act of 1875 gave Indians an opportunity to leave their tribes and homestead on the public domain. Very few Indians took advantage of this proposal.

Sioux Battle to Protect Their Homeland

The Sioux movement and marauding of villages during 1875 caused the Army to send out a number of companies to settle the remaining Sioux on the reservations. Several skirmishes occurred, and, by June 25, 1876, the Sioux had met and defeated the Army in what is commonly called "Custer's Last Stand." This battle caused widespread reaction against the Indians. After this, the East and West agreed the Indians had to be controlled. With the election of President R. B. Hayes, Carl Schurz became the Secretary of Interior. Schurz moved to clean up the corruption of the Indian Bureau and end the participation of the religious denominations in the selection of agents and the direct operations of the school system. He also moved to concentrate the Plains Indians on two reservations; and he advocated placing land in severality for the heads of households for a number

of years, and opening up reservation lands for settlement (Annual Report of the Secretary of the Interior, 1879, p. 5).

Two incidents under Secretary Schurz's administration spurred the development of organizations to assist the Indians and crystallize public sentiment concerning the necessity for civilization and citizenship for American Indians. One related to the Ute Indians of Colorado and the other related to the Ponca Tribe in Nebraska.

Colorado Ute Tribe Agrees to Accept Allotted Land

Gold had been discovered in the Ute area of Colorado in 1875. This brought thousands of miners onto the Ute lands. In addition, an Indian agent named Scudder Meeker had moved to the Ute agency, and was determined to make farmers out of the Utes. Increasing tension between the Utes, the miners, the agent, and a nine-month delay in receiving their rations, caused an uprising. The agent was murdered and his family was kidnapped. One of the old chiefs, Ouray, managed to end the warfare, based on an agreement with the government that the trial would be held outside of Colorado. The settlers in Colorado were demanding that the Utes be entirely removed from that state. At the end of the trial, a Congressional Committee investigated the case and organized an agreement with the Utes. In this agreement, the Utes ceded approximately twelve million acres of land to the government in exchange for $60,000 and 160 acre allotments to individual family heads in the tribe. Senator Coke, Chairman of the Senate Indian

Affairs Committee, made the following statement upon ratification of the agreement:

> This bill simply recognizes the logic of events which shows that it is impossible to preserve peace between the Indians and the whites with these immense bodies of land and attempted to remedy that fact by giving the Indians allotments of land . . . where they shall be made husbandmen and taught the arts of agriculture and thereby, be led in the direction of citizenship eventually. (Congressional Record, 1880, p. 2059).

This agreement became the model for allotment legislation.

Senator Henry L. Dawes, in a speech on the Ute Agreement, chastised the Congress for always granting large amounts of money to the Indians, setting up allotments, and selling off surplus lands. He felt this was unwise legislation and would never be successful until tied into an educational program.

Chief Standing Bear Pleas for Citizenship

During this same period, the Ponca tribe of Dakota Territory were removed to Indian Territory in 1877. The Poncas did not like their new reservation and many of their members died due to intense climate change and exposure. After pleading to be returned home many times, the tribe led by Chief Standing Bear escaped from Indian Territory and headed back to Dakota Territory. They took up residence in Nebraska with the Omaha Indians. General Crooke, commander of the military department of the Platte River area, was ordered to arrest Standing Bear and his followers. T. H. Tibbles, an Omaha neswman, took out a writ of habeus corpus for Standing Bear against General

Crooke, and the case was heard in a federal district court. The principal issue in the case was that Standing Bear and his followers had renounced their membership in the Ponca Tribe for the purpose of making an independent living and adopting civilization. The Court's decision was as follows:

> . . . It can make but little difference . . . whether we accord to the Indian tribes a national character or not, as in either case, I think the individual possesses the clear and God-given right to withdraw from his tribe and forever live away from it. (United States ex rel., Standing Bear vs. Crooke, 1879)

To the liberal-minded reformers, Standing Bear's case emphasized the need for more quickly providing a means for educating Indians for the duties and obligations relating to citizenship.

Private Groups Organize to Push for Indian Citizenship

This same year saw the beginning of a number of Indian organizations. One of the first was the Boston Indian Citizenship Association which was organized in 1879. The purpose of the association was to promote the Indians' equality in the courts and their rights of citizenship. The major leaders of the association were Governor John Lang and Senator Henry L. Dawes, of Massachusetts, and Helen Hunt Jackson, who was later to become a famous muckraker of the government's Indian programs. A second organization, founded the same year, was the Women's National Indian Association of Philadelphia, Pennsylvania. This group saw its primary goals as promoting education, civil rights, citizenship, and land in severalty for the Indians. They also launched

a campaign to inform the public about Indians, sent thousands of petitions and memorials to Congress, and raised money to send workers to the reservations to assist Indians in homebuilding, teaching schools, and building hospitals.

A third organization was established in 1882--the Indian Rights Association (IRA) of Philadelphia, Pennsylvania. The IRA was basically a Quaker organization, and they saw the government as the great instrument for civilizing the Indian. They organized their work in Philadelphia and Washington, D.C. The general operations and legal affairs of the organization were handled out of Philadelphia, with the Washington Office overseeing, reporting, and organizing pressure for legislation.

All three of the organizations worked together and participated with other people interested in Indian welfare through the Lake Mohank Conferences from 1869 to 1873. All of the groups agreed that citizenship, education, and severalty were critical reforms needed in Indian Affairs.

The Women's National Indian Association forwarded a petition to the Congress of 100,000 signatures as "an earnest plea for a righteous, speedy, and permanent settlement of the Indian question," in 1882. The petition asked for the following four items:

1. maintain all treaties with the Indians;
2. provision for a number of common schools sufficient for the education of every child on their reservation and the establishment of industrial schools;

3. title in fee sample of at least 160 acres to any Indian within the reservation who wishes his land in severalty. The same to be inalienable for 20 years; and

4. recognition of Indian personality and rights under the law and giving them protection of U.S. laws for persons and property. (Dawes Papers, 1882, pp. 2, 5)

In 1884, the need for citizenship for Indians was highlighted in a Supreme Court opinion rendered in the case of Elk vs. Wilkins (1884). In this case, Elk, an Indian who had adopted habits of civilized life, took up residence in Omaha, Nebraska and sought to vote. He was refused, so he sued the registrat (Wilkins), saying he was born in the United States and entitled to citizenship under the Fourteenth Amendment. The court held that an Indian

> . . . who had not been naturalized, or taxed, or recognized as a citizen, either by the United States or by the State, is not a citizen of the United States within the meaning of the first section of the fourteenth amendment of the Constitution.

Thus, Indians could only become citizens by naturalization, treaty, or statute. In the eastern press there was a hue and cry for congressional action to make the Indians citizens.

Origins of Dawes Bill

Congress had considered twenty-five bills concerning allotment and citizenship by 1884. By 1885, the western pressure for land was so intense that the military generals were recommending allotment in severalty to Indians and selling of surplus lands to settlers. In this same year, President Cleveland in his Message to Congress urged

the appointment of a Commission to study the Indian question with a view to concentrating more Indians in Indian Territory; the allotment of lands in severalty; purchase of surplus land for settlement, and granting them citizenship (Richardson, 1908, Vol. 8, pp. 355-357). Congress did not appoint the requested Commission. However, on December 8, 1885, Senator Henry L. Dawes introduced a general land in severalty bill, which eventually became law on February 8, 1886. [Interestingly, Senator Coke, who had devised the Ute agreement, had introduced a general land in severalty bill in the 46th, 47th, and 48th Congresses. Each time the Senate passed the bill but the House did not.] In the 49th Congress, Senator Coke reintroduced a similar bill to the Dawes bill. According to Samuel Taylor's study on the Dawes bill, the Indian Committee of which Dawes was chairman, reported out the Dawes bill, "as it was better worded" (Taylor, 1886, p. 54).

In his original bill, Senator Dawes proposed three items: allotment of land in severalty; government purchase of surplus land for sale to settlers; and a citizenship provision for those who took out an allotment in severalty, or lived apart from the tribe and adopted the habits of civilized life. The eastern politicians strongly urged citizenship for the Indians so they could protect their allotment. However, the western politicians believed Indians were not equal to whites and should not be made citizens until educated for such. In the committee work, the citizenship section could not be carried and so it was dropped. The major work on the bill took one year. The Senate passed the comprised Dawes bill on February 2, 1886, but the

House did not vote on the bill that session. By December 16, 1886, the House passed the Dawes bill with minor amendments to be ironed out in Conference Committee. The Conference report was approved by the House on January 21, 1887, and by the Senate on January 25, 1887. It was signed into law by the President, February 8, 1887.

Provisions of Dawes Act

The General Allotment or Dawes Act did the following nine things:

1. Authorized the President to allot, at his discretion, land in severalty to Indians of any reservation whose land was fit for agriculture or grazing.

2. Allotted 160 acres to family heads. Persons over 18 years old or orphans below that age are to receive 80 acre allotments. Other members of the tribe are to receive 40 acre allotments.

3. Exempted from this law are Five Civilized Tribes, Osage, Miamies, Peoria, Sac and Fox in Indian Territory and Senacas of New York.

4. Declared land in severalty on a reservation so individual Indians can choose their own allotments. Indians not on reservations are authorized to choose public domain allotments free of charge.

5. Authorized Secretary of Interior to hold patents issued for 25 years. Lands were not to be taxed or voided during this time.

6. Unallotted lands are to be sold to settlers who had to homestead before receiving titles. Money from land sales was to be held in trust for the Indians for their education and civilization.

7. Subjected Indians to laws of states or territories once patent was received.

8. Declared that Indians who took allotments under this law, treaty, or other statute on voluntary residence separate and apart from their tribe and adopted habits of civilized life are citizens of the United States and are entitled to all the rights, privileges, and immunities.

9. Authorized Secretary to confirm up to 160 acres to religious or educational organizations doing work among Indians presently occupying public lands affected by this law. (U.S. Statutes at Large, Vol 24, pp. 388-391)

The Dawes Act was acclaimed by private groups and government officials as the most important piece of legislation enacted affecting Indians. Two schools of thought prevailed with the passage of this Act. One felt that it was important that Indians get something as individuals which they could protect through allotments (Annual Report, Indian Rights Association, 1887, p. 209). The other felt that within a few years Indians who received allotments would be paupers and gypsies on the face of the land (Congressional Record, 1886, p. 1763). By the end of the year, twenty-seven reservations had been allotted (Annual Report of the Secretary of the Interior, 1887, p. 7).

EDUCATION FOR CITIZENSHIP

During the next several years, the major philanthropic organizations began debating how education could be used hand in hand with allotment to speed up the process of citizenship. Benjamin Harrison became President in 1889 and made General Thomas J. Morgan Commissioner of Indian Affairs. In his confirmation hearings before the Senate Commissioner Morgan had pledged to carry out the allotment provisions

of the Dawes Act. He also indicated that he intended to strengthen the education system of the Indian Bureau and to use the schools to promote American citizenship. In December of 1889, the Commissioner spoke to the Lake Mohank Conference in New York. He said three things were possible with Indians: "Either the Indians must be exterminated, or they must become a band of wandering gypsies, vagabonds, paupers, or they must be laid hold of as we have laid hold of other races, and assimilated into national life" (Morgan, Education, 1889, pp. 246-254). Morgan planned to choose the latter option and to use education as the basis for his plan for assimilation. He defined the objectives for educating Indians as follows:

> When we speak of the education of the Indians, we mean a comprehensive system of training and instruction which will convert them into American citizens, put within their reach the blessings which the rest of us enjoy, and enable them to compete successfully with the white man on his ground and with his own method. (Morgan, Education, 1889, p. 8)

Much had been accomplished already in the movement for educating American Indians. As described earlier, the day and boarding schools had been established as primary schools on the reservations; the large industrial training schools were established as secondary schools off the reservation. An increasing number of students were being educated in the states through tuition grants. All this had occurred during the 1870s. As the General Allotment Act was taking shape, a good part of public and private debate centered on how the passage of this bill would need to educate Indians for citizenship. By the 1880s, there were two dominant schools of thought about how education and allotment

should accompany each other. Lieutenant Richard H. Pratt, superintendent of Carlisle Training School, felt all reservation lands should be allotted immediately. He emphasized character building and industrial training. Pratt felt education would come to the Indian because of allotment and coming in contact with the white settlers. John Eaton, U.S. Commissioner of Education, stressed the need to make universal education a proposition for the entire family of the Indian.

Morgan Patterns Indian Education Plan After The States

When Thomas Morgan became Commissioner, he expressed a strong interest in education and indicated he would be making a special report on his subject to the Secretary of the Interior. In this report, he presented a system for the education of American Indians and called for immediate attention to the task of educating the 40,000 Indian school age children. He included thirteen recommendations, as follows:

- provide accommodations for all Indian school age children for universal education;
- compulsory education to assure the attendance of all such children;
- systematize the work of Indian education from the camp, boarding, and industrial training schools;
- organize a course of study, similar methods of instruction, textbooks, etc.;
- organize system to conform to common school system of the states;

- place stress on industrial training to fit the Indians for various occupations and only use English in the classroom;

- provide opportunity for higher education for Indians endowed with such ambition;

- instruct Indians in rights, duties, citizenship, and American patriotism;

- educated students in the industrial boarding schools should be encouraged to choose their vocations and seek opportunities where they are most favorable;

- begin education of Indians when they are young and continue until they have habits of industry and love of learning;

- bring together in large boarding schools many tribes for training and where possible Indian students should be enrolled in public schools;

- use coeducation to improve status of Indian women;

- expand outing system which places students with rural families to learn routine of housekeeping and farming;

- supplement work of government in education and civilization by work of missionary with the homes, Sabbath School, church, and religious institutions of learning. (Annual Report, Commissioner of Indian Affairs, 1889, pp. 85-97)

The Commissioner stated that "if the friends of the Indian civilization" would unite on this plan, the "so called Indian problem can be quickly and successfully solved" (Morgan, Education, 1889, p. 250). The major Indian organizations and the Lake Mohank Conference all endorsed Morgan's plan. They urged Congress and the administration to support his plan with appropriations and action.

Morgan Moves to Implement Education Plan

Commissioner Morgan set about to implement his plan. First, he asked Congress to authorize bringing the Indian Office under the Civil Service system and then to approve a reorganization of Indian education under a Superintendent and four supervisors of education. Each one was to report on conditions and needs of the schools, including buildings, equipment, attendance, pupil achievement and personnel (Annual Report, Commissioner of Indian Affairs, 1890, p. 8). Then he issued a code of "Rules for Indian Schools" that included a schedule of courses to be taught in the schools, a list of textbooks to be used, a dress and behavior code, a list of holidays to be celebrated, statements concerning trips to and from the home, schedules for classroom and work experience at the school, and general qualifications for teachers in the schools. This was the first manual of instructions issued for rules of the Indian school system. The introduction to the manual stressed that the government schools for Indians were intended to be a temporary provision until students could attend public schools (Annual Report, Commissioner of Indian Affairs, 1890, pp. 146-160).

Indian Schools to be Modeled After Public Schools

This same year, the Commissioner sent a letter to the superintendents of public education throughout the United States stating his desire to bring the Indian schools into relation with the public schools in states and territories where Indian reservations are located. He indicated that he was modeling the Indian schools after

the public schools. Commissioner Morgan noted that he had informed local school districts of the interest of the Indian Office to contract for tuition of Indian students for $10 per quarter. He asked for the Superintendents' cooperation in this manner. There is no record of any response from the Superintendents. However, by 1893, local school districts had begun to apply directly to the Indian Bureau for a line item appropriation for educating Indian children.

A number of other significant activities occurred during Commissioner Morgan's tenure. Congress made school attendance compulsory and authorized the Commissioner to withhold rations and supplies from Indian families who would not send their children to school. The latter practice served as a forceful method for increasing school attendance (26 Stat. 989; 27 Stat. 612).

Schools to be Brought Under Civil Service

In four years, Commissioner Morgan had launched an organized system of government schools educating Indians, had established a procedure for contracting with states and local school districts on a tuition basis educating Indian students, and had negotiated the appropriations for Indian education to over one million dollars by 1893. He also brought the educational staff under the Civil Service Commission and began the process of moving education personnel into merit hiring, and clearly indicated that the government schools were a temporary provision to serve Indian students until all of them could be placed in the public schools. Commissioner Morgan's

philosophies of educating Indians for American patriotic citizenship; his courses of study in the government schools based on the courses in the public schools plus work experience; his provision for tuition-based state education programs for Indian students; and his attempts to diminish the role of the sectarian schools; all became the forerunner of the present-day Indian Bureau school system.

At this point in time, all Indian children living on reservations or on individual allotments were required to attend one of the government supported options for education. Local Indian agents were responsible for seeing that compulsory education was enforced in their area. The Indian students were attending government day, boarding, or industrial training schools; sectarian, and public schools. Although a majority of the teaching and administrative staff were not Indian, a small number of Indians were beginning to appear as teachers. Curriculum followed the course outlines recommended by the states. As Commissioner Morgan's term ended, the Indian School Superintendent described the work of education as follows:

> . . . the main aim of my work must be to render the specific Indian school unnecessary as speedily as possible, and to substitute for it the American public school . . . . It is in full accord with the desire of the nation to do away with the Indian problem by assimilating the Indians in the body politic of the United States. (Annual Report, Superintendent of Indian Schools, 1894, p. 4)

Over the next decade, the philosophy and program focus launched by Commissioner Morgan was continued, with increasing emphasis on industrial/domestic training in the off-reservation boarding schools

and contracts with states. By 1899, as the allotment pressure continued, the sum of $2,638,390 was set aside for the support of schools in the BIA's budget. Some thirty-six public school districts in eleven states had contracted with the Indian Service to educate 359 students. The majority of the students attending public schools lived in Nebraska and Oklahoma (Annual Report, Commissioner of Indian Affairs, 1899, p. 16). This same report indicated that there was an aggregate of 25,202 students attending 296 various schools for American Indians. The report concluded by predicting that "there will be a large increase in the loyal, truly American born, educated citizens of Indian parentage, ready and willing to accept to the uttermost the privileges and all the grave responsibilities of American citizenship" (Annual Report, Commissioner of Indian Affairs, 1899, p. 16). These educational efforts continued to expand until 1904, when Francis E. Luepp became the Commissioner of Indian Affairs.

Community Day Schools Launched

Commissioner Luepp viewed the large off-reservation boarding schools as "educational alms-houses." He felt that the facilities, course work, and work experience of these schools were not representative of what Indian students were faced with on the reservations. He continued the work of the off-reservation boarding, contract, and public schools, but intensified the efforts of the community day schools. The Commissioner stressed the importance of planting "schools among the Indians . . . to bring the older members of the

race within the sphere of the influence of which every school is the center. This certainly must be the basis of any practical effort to uplift a whole people" (Luepp, 1910, p. 129). However, his description of these schools sounded like the concept of the manual-labor school. Commissioner Luepp said the community day school would do the following:

> . . . teach them to read and write English and to cipher a little; the boys learn also how to raise vegetables and perhaps, to harness a horse and milk a cow, to build and mend a fence, and the likes; the girls learn sewing, cooking, washing and ironing, how to set a table and make a bed, and in some cases, the care of poultry and the rudiments of dairy work. This variety of instruction presupposes the presence of sexes; so provision is always made at such schools for a man and a wife, one acting as teacher and the other as housekeeper or farmer as the case may be. (Luepp, 1910, p. 128)

In addition to strengthening and expanding the community day schools, Commissioner Luepp insisted that the local agents push individuals to select allotments. Congress began modifying the Dawes Act in 1906, with the passage of the Burke Act, which retained the federal jurisdiction over individual Indians until such time as the patent in fee was issued. During this period, the Commissioners' annual reports indicate that a number of Indians were interested in receiving allotments to protect their lands against the ever-increasing settlers. The next decade saw more amendments to the Dawes Act to sell the land of incompetent Indians, to protect the forest and mineral resources found on Indian reservations, and to extend leasing arrangements for allotted lands.

Increased Movement of Indians Into Public Schools

The bureau's education division continued to manage the various schools educating Indians, but the emphasis remained on placing Indian students in public schools. In 1909, Congress authorized the federal government to transfer federal facilities to various states for use in the education of Indian and white children. In any such transfer, this proviso was to be included:

> . . . that Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils. (U.S. Statutes at Large, Vol. 35, p. 781)

Statistics indicated the next year that some 3,000 Indians were enrolled in public schools. Commissioner of Indian Affairs Robert Valentine mandated that all government schools adopt the public school curriculum of the state where they were located. He also pressed his local agents to continue expanding the contracts with local school districts. Commissioner Valentine declared that the Indian Office was

> . . . willing to pay a per capita tuition equal to the amount apportioned by the state or county per pupil for all Indian pupils enrolled in the public schools whose parents are not taxpayers.
>
> As the districts in which Indian reservations are situated become more thickly settled, the distribution of public schools is going to be much more extensive, and the opportunities for the Indians to attend public schools will be greatly increased. (Annual Report, Commissioner of Indian Affairs, 1910, p. 15)

By 1912 the number of Indian children attending public schools exceeded the number attending federal schools.

Congress Requires Indians to be Quarter Bloods for BIA Services

This same year, Congress stipulated in the appropriations act that the general education fund was to be spent only for children who have at least one-fourth degree Indian blood. This quarter blood requirement appeared in each appropriation between 1912 and 1917, until it was made into a permanent provision in 1918. Appropriation laws also began earmarking a certain amount of money for public school tuition and education of the deaf and dumb in 1915. Both of these items appeared annually in the appropriation acts until 1950.

As soon as the one-quarter blood requirement appeared as a permanent provision in the appropriation act of 1918, Commissioner Cato Sells declared all adult Indians of one-half or less to be competent. He then gave them their allotment and citizenship under the Burke Act. Commissioner Sells organized competency commissions to determine whether Indians were competent to manage their affairs, sell their lands, or receive a patent in fee. He also sought to eliminate from government schools Indian children who had public schools near their home. Sells declared all high school graduates competent to manage their own affairs, and presented them a certificate of competency with their diploma (Annual Report, Commissioner of Indian Affairs, 1910, pp. 3-4).

Congress Declares All Indians American Citizens

After the World War, the question of Indian citizenship gained prominent discussion in Congress. Sells filed a favorable report on a bill pending in Congress, which would make Indians citizens but retain federal control over the lands of incompetent Indians (U.S. Senate Judiciary Committee, Hearing on Indian Citizenship, 1920, p. 18). However, the Commissioner recommended that

> . . . the citizenship of Indians should not be based upon their ownership of lands, tribal or in severalty, in trust or fee, but upon the fact that they are real Americans . . . . (U.S. Senate Judiciary Committee, Hearing on Indian Citizenship, 1920, p. 8)

This bill was later to work its way through Congress and become the Indian Citizenship Act of 1924 (43 Stat. 253). It basically granted citizenship to all non-citizen Indians born in territorial limits of the United States. It also provided that such citizenship would not affect the right of any Indian to tribal or other property (Rice, 1934, p. 86).

The administration under Commissioner Sells had seen a very liberal policy of granting allotments, citizenship, sale of Indian land, and unrestricted distribution of individual Indian moneys to individual Indians.

Services to Encourage Assimilation Continued

Charles Burke became the new Commissioner of Indian Affairs in 1921. He immediately discontinued the issuing of competency

certificates to quarter-blood Indians; reinstituted proof of qualifications for competency, renewed supervision of individual Indian money accounts and renewed the activities to make education available to Indian children. The Commissioner noted in one of his speeches to the Lake Mohank Conference that

> . . . it should be realized that the child who is allowed to grow up in this country without being taught English and manual skill in some useful occupation is always in danger of becoming a liability. It is false economy to neglect the education of any children. (Commissioner Burke Speech, Mohank Conference, 1922, p. 27)

Commissioner Burke also launched an industrial survey of all the reservations to assess conditions, needs, and resources so that each reservation could be put on the basis of self-sufficiency within a certain period of time (Annual Report, Commissioner of Indian Affairs, 1922, p. 11). Using these findings, Burke organized a number of cooperative programs in health, housing, sanitation, and social welfare.

During this period the U.S. Congress authorized the functions of the Bureau of Indian Affairs under the Snyder Act of 1921. This law authorized the BIA to seek funds for civilizing the Indians in various ways--education, health, and general welfare.

Secretary of Interior, Hubert Work, called a Committee of 100 together in 1924, to advise Commissioner Burke and himself on ways to improve the Indian Service. The Committee members came to Washington and organized their advice in a report. A major part of the report discussed Indian lands and education. It highlighted the large amount

of Indian lands which had left Indian hands since 1900, and noted the extensive leasing of agricultural, grazing, and mineral lands which left many Indians paupers. They recommended stronger overseeing by the Indian bureau officials and programs for Indians so they might manage their own lands. In the area of education, the Committee urged: an overhaul of the system with junior and senior high courses to be added to the various schools; hiring of competent staff; recognition and adequate pay for the student/labor programs; scholarships for high school and college students; newer and more adequate facilities; and increased enrollment of Indian students in the public schools (Committee of One Hundred, 1924). The tone throughout the report was one of moving the Indians toward assimilation of American life. Commissioner Burke paid particular attention to the education section of the report and moved to improve the school program by adding junior and senior grades as well as new personnel.

Meriam Report Declares BIA's Work Should Be Educational

However, in 1926, Secretary Work asked the Brookings Institute to conduct a two-year review of pervious federal policies in Indian Affairs and draft recommendations for change. This report was filed in 1928, and basically served notice that the majority of previous programs for Indians had failed. The report cited the extreme poverty of Indians, the poor level of health, the inadequate housing and education, and the lack of economic development on the reservations. Concerning allotment, the report noted that without adequate training

on use of the property, there had been much land loss and a tremendous amount of administrative work which developed from the program (Meriam, 1928).

A major recommendation of the Meriam Report was directed to the work of the Indian Service itself. It stated:

> . . . the task of the Indian Service [should] be recognized as primarily educational, in the broadest sense of that word, and that it be made an efficient educational agency, devoting its main energies to the social and economic advancement of the Indians so that they may be absorbed into the prevailing civilization or be fitted to live in the presence of that civilization at least in accordance with a minimum standard of health and decency. (Meriam, 1928, p. 21)

The recommendations there noted the importance of a "comprehensive, well-rounded educational program adequately supported, . . . for the promotion of health, advancement of productive efficiency, the acquisition of reasonable ability in the utilization of income and property, guarding against exploitation, and the maintenance of reasonably high standards of family and community life." The recommendations stressed the importance of including adults as well as children and the concept of family and community in all the programs of the Indian Service. It also called for instructing Indians about the various services provided by public and private agencies to citizens and stressed the importance of educating whites and Indians about each other. Finally the recommendations ended as follows:

> By actively seeking cooperation with state and local governments, and by making a fair contribution in payment for services rendered by them to untaxed Indians, the national government can expedite the

> transition and hasten the day when there will no longer be a distinctive Indian problem and when the necessary governmental services are rendered alike to white and Indians by the same organizations without discrimination. (Meriam, 1928, pp. 21-22)

A special section of the Meriam Report was devoted to the school system. The report called for a "change in the point of view" in Indian education. It stressed that this educational enterprise needed to be "more understanding of human beings instead of conventional schooling." The report condemned the boarding schools in terms of their machinery of routinization which scheduled every moment of the child's time as well as the standardized curriculum, textbooks, and examinations imposed by Washington. The diet, general health, overcrowding, and heavy productive work of these schools was also condemned in terms of effects on the students and lack of educational relevance. The report commended the program for placing students in public schools but stressed the importance of having the Indian Service supplement these programs in the areas of health, industrial and social training. It also noted that the Indian Service should maintain supervision over the public school students to assure they are getting all the advantages of the public schools. Finally, the report commented on the importance of improving the day schools and utilizing them also as community centers to reach the adults.

The release of this report with its findings and recommendations is credited with stirring enough public indignation and Congressional interest for a thoroughgoing reform of the Indian Service and its programs.

The findings and publication of the Meriam Report and the election of President Herbert Hoover in the autumn of 1928 is credited with leading to many changes in Indian education programs. President Hoover appointed Ray Lyman Wilbur as the Secretary of the Interior and Charles Rhoades to the position of Commissioner of Indian Affairs. With the appointment of Commissioner Rhoades, the President pledged that he would back the Commissioner in implementing the recommendations of the Meriam Report, particularly in health care, education and reorganization of the Bureau of Indian Affairs. In his first annual message to the Congress and his reorganization plan for the Bureau of Indian Affairs, both released on the same day, President Hoover requested an additional $3,000,000 for health and educational work. He noted, "The broad problem is to better train the Indian youth to take care of themselves and their property. It is the only course by which we can ultimately discharge this problem from the Nation, and blend them as a self-supporting people into the nation as a whole" (Wilbur and Hyde, 1937, pp. 87-88).

Educational Office and Staff Upgraded

J. Carson Ryan, a noted educator who had worked on the Meriam Survey, became the Director of Education for the Bureau of Indian Affairs in 1929. He emphasized five activities in his administration: (1) upgrading the educational staff in all the Bureau of Indian Affairs schools and the Division of Education; (2) improving total academic

and work programs of the off-reservation boarding schools, including the health and diet of the students attending these schools, and cutting back as many of these schools as possible; (3) expanding the number and programs of the community day schools for both students and adults; (4) adding a number of educational specialists to the office in areas of vocational education, economics, agriculture, and educational personnel recruitment; and (5) improving the federal/state relationships relating to the education of American Indians.

Congressional Investigations Yield National Advisory Committee on Education

Both Congressional Committees on Indian Affairs and a number of liberal reformers did not feel that Commissioner Rhoades was moving quickly enough to reform Indian Affairs. John Collier, a liberal reformer and executive director of the Indian Defense Association, travelled with the Senate Committee, exposing the poverty and illiteracy among the Indians of the Southwest, as well as the poor management of the Indian Service personnel. As a result of these investigations, Secretary Wilbur called together a National Advisory Committee on Education to review federal relations and the education of American Indians and other indigenous peoples. This committee filed its report October, 1931, and highlighted the importance of the school by noting:

> The Indian service needs a fully responsible school center organization. The school will teach all that can be best taught in a school; and it will also stimulate, correlate, coordinate, and supervise activities 'outside the school' when that is the only place where needed training can be obtained. (National Advisory Committee on Education, 1931, p. 53)

The report described the lack of developmental approach in the federal educational programs for American Indians and noted instead, an overwhelming administrative concern with fiscal matters.

In 1929-30 there were 90,908 Indian children of school age. Approximately 68,220 of that number were in school. The majority of the Indian children--34,775--were attending public schools; 10,571 attended government boarding schools on the reservations; 9,621 attended off-reservation boarding schools; 4,205 attended government day schools; and 7,456 attended mission and private schools. For the 1930 fiscal year, the federal government paid $400,000 in tuition to public schools for Indian students (National Advisory Committee on Education, 1931, pp. 276-277). In a memorandum issued by Dr. W. Carson Ryan to the Committee, he noted:

> The federal government had tuition arrangements for Indian children with 861 local Boards of Education in the various states in 1930-31. Preliminary steps have been taken to make these arrangements directly between the federal government and the state public school authorities, but at present no direct payments are made to the states as such. In one or two states where the Indian population is sufficiently large, arrangements have been made to designate a state supervisor of Indian education to work with the State Department of Public Instruction. (Ryan Memorandum, 1931, p. 5)

Dr. Ryan stated that the tuition payments for students were justified because Indian trust lands and allotment are exempt from state and local taxation. He also informed the Committee that, for the first time, education had been taken out from under administration and made into a separate division. He stated that this reorganization would make it possible to give professional educational direction to the various schools in the Indian Service program.

Although the United States was in the throes of depression, and President Hoover and his administration was becoming increasingly unpopular, Dr. W. Carson Ryan had quietly laid the administrative groundwork for an educational division, instituted a number of important curricular changes in the boarding schools by changing the Uniform Course of Study to a more localized curriculum with academic and vocational emphasis, expanded the community day school, and initiated a process of federal/state arrangements for educating Indian students. During his two and one-half year tenure, he had set in motion the activities which were to be expanded under the next Commissioner and later his new Director of Education for the Indian Service.

New Deal for American Indians

By late 1932, the country had elected Franklin D. Roosevelt as its next President. According to much of the press coverage of this election, the mood of the country was desperately calling for a man who had a sense of direction and a plan of action (New York Times, 1932). President Roosevelt called his program the "New Deal" and within less

than two months, he had chosen Harold Ickes as the new Secretary of the Interior and John Collier as the Commissioner of Indian Affairs. Both men had been active in the American Indian Defense Association and had written extensively about the problems of Indian Affairs and the ineptness of the Indian Service. At the time of his appointment, Collier had been working with the House and Senate Committee members who were investigating the conditions on various Indian reservations and in various Indian boarding schools throughout the country. When he became Commissioner a large number of the liberal journals and press stated that the Indians would finally get justice (The Nation, 1934; New York Tribune, 1934)!

COLLIER PLEDGES GOVERNMENTAL REFORM AND RESPECT FOR INDIAN CULTURES

Early in his administration, Commissioner Collier outlined his major concerns as follows:

- Economic rehabilitation of the Indians, principally on the land.
- Organization of the Indian tribes for managing their own affairs.
- Civil and cultural freedom and opportunity for the Indian. (Collier, 1963, p. 173)

In less than ten months, after becoming Commissioner, these objectives had been translated into a proposed piece of legislation which was introduced February, 1934, in the U.S. Congress.

The Indian Reorganization Act Creates Tribal Governments

These bills (S. 2755 and H.R. 7902), which were introduced in Congress in 1934, were to become known as the "Wheeler-Howard' or "Indian Reorganization Act." Commissioner Collier described the bills' intention of striking "a double blow at the two fatal weaknesses of Indian administration across a whole century: first the dissipation of the Indian estate and the progressive pauperization of the Indians, and second, the suppression of Indian tribal and social religious instructions and the steadfast failure of the Government to organize any effective plan of collective action by which the Indians could advance in citizenship and protect their rights" (Literary Digest, 1934, Vol. 117, p. 21).

Provisions of the Bill

The bill contained four major sections, all directed toward establishing Indian self-government and independence. These were as follows: (1) organization for self-government and economic enterprise so that "civil liberty, political responsibility, and economic interdependence shall be achieved;" (2) promotion of "the study of Indian civilization, including Indian arts, crafts, skills, and traditions;" (3) abolition of the allotment system and transferral of these allotments back to the tribes, including those tribal lands known as surplus which were not sold; purchase of land for the landless Indians, and giving assistance to Indian lands where fertility of soil has been depleted; (4) creation of a special court of Indian Affairs which

would observe Indian customs and traditions and hear all cases arising in the Indian tribes and communities.

Congress was asked to appropriate $2,000,000 annually to purchase new land and to create a revolving credit fund of $5,000,000 to stimulate economic development; and to make education loans for Indians interested in attending trade, vocational, and high schools as well as colleges and universities (Congressional Record, 1934, Vol. 78).

Pros and Cons of the Bill

This original bill was subjected to widespread opposition from Indians, members of Congress, and the various religious denominations. Individual Indians objected to returning their allotment back to the tribal council, so this section was eliminated. On the question of self-government, each tribe was given the right to accept or reject the proposed government through a referendum. The title concerning the preservation of Indian culture and civilization was deleted from the original bill because of well-organized religious opposition which declared that this bill "casts a halo of glory around Indian traditions." In addition, the opposition asked a number of well-educated Indians to speak out against this section. For example, Dr. Arthur C. Parker, renowned Indian anthropologist and director of the Rochester Museum of Arts and Sciences, had this to say, " . . . I should be very happy to see the tribes brought back to their former glory but as a citizen interested in human welfare and the true advancement of humanity and enlightenment, the Collier scheme appears not only

preposterous but a tragedy" (Congressional Record, 1934, Vol. 8, p. 11733). This section on the Court of Indian Affairs was rejected by the Congress for the reasons outlined in the two sections discussed above. Finally, the section on the powers of tribal governments and business councils were both severely modified. Thus, the bill which became law on June 18, 1934, contained some of the original sections as proposed, but basically it was a newly modified and rewritten bill.

Indians Meet to Review the Bill

Commissioner Collier had called six regional Congresses throughout the country in March, 1934, to discuss the overall goal, philosophy, and sections of the proposed bill. He reported to the Congress that 164,287 Indians had voted in favor of the bill, while 22,586 voted against the bill (Congressional Record, 1934, Vol. 8, p. 11742). However, as the new bill, which was reported out of Committee, reached the House and Senate floor for debate, members had to be reassured that the proposal being voted on was a substantially new measure which met the previous objections of the churches, the Congressmen, and the Indians.

Public Debate on the Bill

The only Indian serving in Congress during this period was Congressman Will Hastings, a Cherokee tribal member from Oklahoma. Congressman Hastings opposed the majority of the sections in the Indian Reorganization Act. He particularly disliked Title I dealing

with encouraging Indian societies, cultures and self-government. He declared during the debate,

> I have not heard any argument to justify Title I of the proposed . . . bill. It, in effect, turns the hands of Indian civilization back for a century.
>
> Twenty-two pages of the . . . bill looks to chartering Indian communities, to regrant to them certain powers of local self-government abolished almost a half century ago. What good would this accomplish? How would it advance the Indians?
>
> We are trying to encourage every Indian to participate in local affairs. This bill would have the effect of segregating the Indians off into chartered communities and will result in their nonparticipation further in their local and state governments . . . . When you set up a separate form of government, state government, and federal government is not adequate, and you prejudice the Indian against the government which he should patriotically and wholeheartedly support. (Congressional Record, 1932, Vol. 8, pp. 9267-68)

However, another view was expressed by Oliver LaFarge, President of the Association on Indian Affairs in New York, who also spoke for the General Federation of Women's Clubs, the American Indian Defense Association, and the American Civil Liberties Union. He stated that the above groups supported the bill because it

> . . . provided a method by which the Indians can acquire the technique and habits of responsibility and knowledge of administration of their own affairs, which will form a transition for their eventual entrance into the full stream of our national life without the limitation and safeguards that they now need. There is no transitional method under our present system. (Hearings on S. 2755 and S. 3645, 1934, Part 2, p. 174)

The floor debate on the Wheeler-Howard Act reviewed all the past eras of Congressional legislation and the various attempts to solve the

Indian problems. A great deal of attention was spent on discussing the General Allotment Act and all the problems of poverty, ignorance, and land frauds which occurred as a result of this law.

The U.S. House of Representatives floor manager for the bill was Congressman William Howard from Nebraska. In his remarks he predicted that the Indian Reorganization Act would

> . . . pave the way for a real assimilation of the Indians into the American community on the level of economic independence and political self-respect. The so called 'assimilation' of the past has been largely the federal abandonment of pauperized and landless Indians to make their own way, as best they might, in the white community. The Indians are now segregated far more through poverty and inferiority feeling than through any possible geographical segregation. The program of self-support and of business and civic experience in the management of their own affairs, combined with the program of education, will permit increasing numbers of Indians to enter the white world on a footing of equal competition. (Hearings on S. 2755 and S. 3645, 1934, Part 2, p. 11732)

It would appear that the bill which became law was a compromise between Commissioner Collier's effort to create Indian self-governments and revitalize Indian cultures and the traditional goals of assimilation and economic self-sufficiency!

Enacted Provisions of the Law

As enacted, the Indian Reorganization Act established the following as public policy:

1. The allotting of tribal lands to individual Indians was discontinued.

2. Existing periods of trust placed upon any Indian lands, and any restriction on alienation of land, were extended and continued until otherwise directed by Congress.

3. The Secretary of the Interior was authorized to restore to tribal ownership any lands that had been declared surplus and opened for sale or other form of disposal.

4. The sale or other transfer of restricted Indian lands or shares in the assets of any Indian tribe or corporation was forbidden except to the tribes concerned or to heirs of members.

5. The Secretary of the Interior was authorized to purchase, or otherwise acquire land, water rights, and surface rights for the purpose of providing land for Indians. $2,000,000 in any one fiscal year was authorized to be appropriated for this purpose.

6. The Secretary of the Interior was directed to make rules and regulations for the operation and management of Indian forestry units on the principle of sustained-yield management and to restrict the number of livestock grazed on Indian range units so as to protect the range from deterioration and to prevent soil erosion.

7. The Secretary of the Interior is authorized to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by the Act, or to add such lands to existing reservations. These are only to be designated for the use of Indians entitled by enrollment or tribal membership to residence at such reservations.

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

9. A sum, not to exceed $250,000 in any one year, was authorized to be appropriated to defray the expenses of organizing Indian chartered corporations or other organizations.

10. The sum of $10,000,000 was authorized to be appropriated for the establishment of a revolving fund from which the Secretary of the Interior could make loans to Indian chartered corporations for the purpose of promoting the economic development of tribes and their members.

11. A sum, not to exceed $250,000 annually, was authorized to be appropriated for loans to Indians for the payment of tuition and other expenses in recognized vocational and trade schools.

12. The Secretary of the Interior was directed to establish standards of abilities and qualifications of Indians for positions in the Indian Service without regard to civil-service laws, and to give qualified Indians preference in employment.

13. Any Indian tribe or tribes, residing on the same reservation, received the right to organize for their common welfare and to adopt an appropriate constitution and by-laws.

    In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by a tribe gave the tribe or its tribal council the following rights and powers: to employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the federal, state, and local governments. The Secretary of the Interior was also directed to advise such tribes or tribal councils of all appropriation estimates on federal projects for the benefit of the tribe, prior to the submission of such estimates to the Bureau of the Budget and the Congress.

14. The Secretary of the Interior was authorized, upon petition, to issue a charter of incorporation to organized tribes. Such charter could convey to the incorporated tribe the

power to purchase, take by gift or bequest, or otherwise, own, hold, manage, operate, and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law; but no authority was granted to sell, mortgage, or lease for a period exceeding ten years any of the land included in the limits of the reservation. Any charter so issued could not be revoked or surrendered except by an Act of Congress.

15. This Act (as amended, June 15, 1935) shall not apply to any reservation wherein a majority of the adult Indians actually voting at a special election duly called by the Secretary of the Interior, shall vote against its application, provided that the total vote cast shall not be less than 30 per centum of those entitled to vote.

16. The term Indian is defined to include all persons of Indian descent who are members of any recognized tribe now under federal jurisdiction, and all persons of one-half or more Indian blood. For purposes of this Act, Eskimos and other aboriginal people of Alaska shall be considered Indians.

17. The term tribe shall refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation. (Indian Reorganization Act, 1934)

This new law broke decisively with the past by abolishing the allotment system and authorizing new land purchases. In all its other sections, except the one concerning scholarships, the law came under immediate attack. The Christian Century published a heated exchange between Elaine Goodale Eastman and Commissioner of Indian Affairs, John Collier, about whether the new administration was "fostering paganism," in its dealings with Indian people by insisting on "the

fullest constitutional liberty, in all matters affecting religion, conscience and culture . . . for all Indians" (Christian Century, 1934, Vol. 51, pp. 1016-20). At the heart of this battle was Commissioner Collier's belief that Indian culture must be respected and encouraged, as opposed to the traditional belief that Indians had to be Americanized at all costs.

Federal Resources Outside of the Bureau of Indian Affairs Organized to Benefit Indians

Despite the compromise nature of the Indian Reorganization Act and its ensuing limitations, Commissioner Collier soon began using the multiple recovery agency programs for the country under the New Deal to benefit reservation Indians. Through the Public Works Administration and the Resettlement Administration, which later became the Farm Security Administration, funds were obtained to purchase and rehabilitate Indian lands. From the various relief agencies like Civilian Conservation Corps and the Works Progress Administration, Collier's administration obtained jobs for Indians on soil conservation, irrigation, and road building. From the beginning of Collier's administration until 1942, the appropriations for the Bureau of Indian Affairs from all sources was $45,000,000 anually. The physical and material aspects of reservation Indian life were markedly improved (Indians at Work Series, 1934-1942). However, Commissioner Collier's efforts to encourage the development of tribal governments, the revival of Indian culture, and the growth of tribal economic enterprise were

met by increasing Congressional hostility and decreasing appropriations for implementing the Indian Reorganization Act.

As early as 1939, the Senate Indian Affairs Committee recommended repealing the Indian Reorganization Act, and in 1943, this committee introduced another bill to strip the Bureau of Indian Affairs of all its functions. Both these bills went nowhere in the House of Representatives. The following year, Commissioner Collier sought a new investigation of Indian Affairs by the House of Representatives concerning his administration. The House Committee on Indian Affairs conducted such an inquiry. Their report was critical of the extensive bureaucracy created to administer the Indian Reorganization Act. The Committee opposed the continued purchase of non-taxable Indian lands and insisted that the federal programs be redirected to bring individual Indians into full equal participation in American life (U.S. House of Representatives, Report 2091, 1944, pp. 335-349).

In 1953, Dr. William H. Kelly sponsored a symposium on "Indian Affairs and the Indian Reorganization Act--The Twenty Year Record." At this meeting, Clarence Wesley, Chairman of the San Carlos Apaches, noted that although the law was twenty years old, his tribe had only participated under it for seven years. He strongly acknowledged that the cooperation of the Indian superintendent, understanding of the Indian leaders and their people, and the necessary appropriations were all critical elements needed for a workable program (Kelly, 1953, pp. 26-28).

Although much of the emphasis of this period was on restoring Indian lands and communities, John Collier's administration also instituted some needed changes in the schooling of Indian people.

Legislation Passed to Contract Education With States

W. Carson Ryan remained as the education director under Commissioner Collier for a year and a half until the summer of 1935. During that time he encouraged formalizing the procedure for contracting between the Secretary of the Interior and various states and territories for, among other things, the education of American Indians. This was accomplished in the law commonly known as the Johnson-O'Malley Act, which was enacted on April 16, 1934, after more than eight years of debate about the concept it entailed. The law was amended by an Act of June 4, 1936, and remained in essentially the same form until it was amended by the Indian Self-Determination and Education Assistance Act of 1975.

In the original Johnson-O'Malley Act, the Secretary of the Interior is authorized at his discretion

> . . . to enter into a contract or contracts with any state or territory having legal authority so to do, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such state or territory, and to expend under such contract or contracts moneys appropriated by Congress for the education, medical attention, agricultural assistance and social welfare, including relief of distress, of Indians in such state. (48 Stat. 596)

Section two of this act authorized the Secretary of the Interior to permit contracting states to use existing federal school buildings and other appropriate facilities, including all connected equipment and property, under terms agreed upon for purposes of the Act. The Secretary was authorized by section three to make the necessary rules and regulations, providing that the minimum standards of service were not less than the highest maintained by the contracting state. The next section required annual reports to the Congress, and the final section exempted the Oklahoma Indians from the law. No money was authorized directly in the Johnson-O'Malley Act. Rather, the funds were appropriated under the general authorizing act for the Bureau of Indian Affairs, which was the Snyder Act of 1921 (42 Stat. 208).

The 1936 amendments changed the law in several important ways. It dropped the phrase in the second section "having legal authority so to do" which related to the state's power to contract, since as sovereign states they possessed this power. The amendments also included authorizing more parties to contract. It added that the Secretary of Interior could contract with

> . . . any State or Territory, or political subdivision thereof, or with any State University, College, or school, or with any appropriate State or private corporation, agency, or institution, for the education . . . of Indians in such State or Territory, through the agencies of the State or Territory of corporations and organizations herein before named . . . . (49 Stat., 1458, 25 USC 452)

Original Johnson-O'Malley
Act Ambiguous

These amendments also repealed section five which exempted Oklahoma. Thus, Johnson-O'Malley Act was left broad and ambiguous, subject only to the changes in administration through the regulations issued by the Bureau of Indian Affairs.

Initial legislative history on the Johnson-O'Malley bill is minimal. On February 2, 1934, Senator Hiram Johnson of California introduced S. 2571 which was to become the Johnson-O'Malley Act. It was referred to the Committee on Indian Affairs chaired by Senator Burton K. Wheeler. No printed hearings are available on the bill, but the Committee reported the bill out favorably to the floor of the Senate on March 20, 1934 (Congressional Record, 1934, p. 4878).

The four page committee report, Senate Report 511, explained the intent as follows:

> . . . to make it possible that the Department of Interior should arrange for the handling of certain Indian problems with those states in which the Indians are to a considerable extent mixed with the general population.
>
> In many sections the education of the Indians is found to develop into a similar situation. The Indians in these sections are largely mixed with the white population, and it becomes advisable to fit them into general public-school scheme rather than to provide separate schools to them. The Indian Service has already established the precedent of arranging with many local communities to take children into the public schools, but it has lacked authority to transfer such function on the broader basis to the States. It has held to the theory, however, that the Indian child in the public schools, side by side with the white children, makes more progress toward adjusting itself to a modern

> world than when it attends schools maintained for Indians only. (U.S. Senate Report Number 511, 1934, pp. 1-2)

The report was careful to state that the bill did not make transfer of these programs mandatory but only possible, if deemed advisable by the Secretary or his agent. It further stated that the contracts would be regarded as "experimental" (U.S. Senate Report Number 511, 1934, p. 2).

This report also contained letters of support from Secretary of the Interior, Harold Ickes, and Commissioner of Indian Affairs, John Collier. These letters underlined that the principle of inter-governmental cooperation had been a long-accepted practice of those interested in Indian welfare. The letters both said it was "neither necessary nor wise" to deal with the Indians mixed into the general population on a segregated basis, and it was highly desirable for governments to cooperate to serve rural Indians. In addition, the letters noted that this cooperation would not develop "to any extent where solid groups of Indians reside, such as in the Southwest, unless Indians themselves seek this kind of cooperation." Senate floor debate allowed the inclusion of Alaska in the bill, whereas the House debate again excluded Oklahoma. On April 16, 1934, President Roosevelt signed the bill into law.

Predecessor Bills

Although the legislative history on the Johnson-O'Malley Act is scant, there were predecessor bills introduced in the Congress beginning with the 69th Congress in 1926, and each Congress thereafter until

the 73rd, with the passage of a bill in 1934. These bills were introduced as individual bills for contracting with a particular state--California, Wisconsin, Montana, North Dakota, and Oklahoma. Over these four Congresses, individual state contracting bills got voted out by one chamber of Congress but not the other. By 1930, Commissioner of Indian Affairs, Charles J. Rhoades said,

> The principle underlying this proposed legislation is in accord with the belief that the time has arrived when States directly interested in the civilization and advancement of Indians should begin to assume a greater degree of responsibility in connection with Indian affairs, and especially in matters relating to education, medical care, and relief of indigents. (U.S. Senate Report Number 449, 1930, p. 2)

The Commissioner also concluded that

> It should be borne in mind that this legislation provides an initial step in cooperative endeavor between the Federal Government and the several states and before a definite future may be outlined it will be necessary to have some experience in this sort of endeavor. (U.S. Senate Report Number 449, 1930, p. 2)

Thus, the leadership in the Bureau of Indian Affairs supported enactment of this kind of legislation throughout this period.

Commissioner Collier Says Funds to States Are For Scattered Indians

Although John Collier was not yet Commissioner, he wrote an exclusive letter to the New York Times explaining the administrative implications of these proposed contracting bills. Since Collier was the first Commissioner to implement the Johnson-O'Malley Act, his earlier comments are instructive.

> The policy and the bill incorporating it does not curtail Federal guardianship; does not shift financial obligation to the States or diminish the Federal appropriations; does not affect Indian property in any way, does not alter the status of the Indians as citizens or subject them to the State laws or State courts or to taxation.
>
> It is designed to re-establish Federal aid for the great number of Indians scattered among the white population of the Pacific Coast and Northern States, who, while technically wards of the Federal Government are practically out of reach of the government, while the local agencies are without responsibility or authority to look after them. The denial of Federal aid to these Indians is cruel and indeed is nothing less than murderous. They are the Indians most tragically situated, most deeply wronged of all our Indian wards. To deny them Federal aid by the only means the Federal aid can be given them--that is, through cooperative arrangements with the State and county agencies--is an act of persecution. And it is besides inexcusable, because these Indians can be helped without hurting the tribal Indians, who are not at present concerned with this administration policy at all or affected by it even inferentially or indirectly. (New York Times, 1930)

Over the next four years, the various concerns expressed by Commissioner Rhoades for a more formal relationship for federal and state contracting and John Collier for a way to improve Indian welfare were to be repeated by many individuals inside and outside the administration and the Congress before the Johnson-O'Malley bill became law, in 1934. From 1934 until 1975, Johnson-O'Malley money continued to be an increasing source of funds which the various states and local districts could reply upon, in extending their educational facilities for the education of American Indians.

A review of Interior Appropriations for this period indicates that prior to the passage of the Johnson-O'Malley Act, federal funds

were used to pay for items like current operations and maintaining standards in teacher preparation, equipment, and other matters. Other matters included providing clothes and noon-day lunch for children who had been in boarding schools.

However, with the passage of the Johnson-O'Malley Act, the Indian office testified in its F.Y. 1936 appropriations hearings:

> . . . if we can, by the method of paying tuition for Indian children, demand and secure desirable educational activities that would otherwise not be forthcoming, there would seem to be no justification for taking the step in the interest of both the Indian and the white children. (Hearings on Interior Appropriations, 1935, p. 866)

Dr. Carson Ryan, Director of Education for the Bureau of Indian Affairs, testified that federal money would be more economically used if combined with state resources. The hearing testimony of the Bureau of Indian Affairs also touched on a number of other critical reasons for the Johnson-O'Malley funds.

> These contracts provide for education of the Indian children; and where required and to the extent to which funds are available under contracts, for their transportation to and from school, for noon-day lunches, text books, school supplies, school medical and dental service; also, as far as practicable, for special courses desirable for Indian children.
>
> . . . when arrangements can be made with the public school district to provide them, the special services (food, clothing, school supplies, vocational training, etc.) are furnished by the school district . . . . We are from time to time requiring the states and districts where this can be arranged to assume the greater part of the strictly educational costs thus providing that an increased proportion of tuition paid shall be expended for special services.

> There are some states where there is no equalization law and the districts are still largely dependent on local taxation. Here the Indian Service must continue to assist with the actual cost of maintaining the schools as well as providing funds for the special services required for Indian children. (Hearings on Interior Appropriations, 1935, p. 949)

These statements illustrate a gradual shift of moving J.O.M. funds from basic support to special services for Indian children.

The F.Y. 1938 hearings also described the Bureau's view on segregation of Indian children in various schools as well as the cultural integration and assimilation of other Indian children. Their testimony was as follows:

> . . . where Indians are interspersed more or less with the whites we feel that it is best to have the two on an equal basis and to have a segregated Indian school under such circumstances would be most unfortunate and . . . the two should be together in the public schools. (Hearings on Interior Appropriations, 1938, p. 1165)

Later in the same hearing, their testimony stated

> On the other hand, where you have a rather compact tribe or group largely full-bloods . . . where they own land, which would make them largely self-supported if they used it, you have the problem of proper training and development of Indian culture, and under such circumstances it is much wiser to have them educated in their own area than in the public schools where the two would be mixed. (Hearings on Interior Appropriations, 1938, p. 1165)

Within the Bureau of Indian Affairs, there were several themes concerning the use of J.O.M. funds. Some of these were both complementary and contradictory, as illustrated above.

J.O.M. Regulations Define Contracts With States

The Johnson-O'Malley regulations were not enacted until May 27, 1937--more than three years after the law was passed. Presumably the old tuition payment regulations served as guidelines until the new regulations took effect.

The first J.O.M. regulations stated that the Secretary could contract when he believed it was for the benefit of the Indians. Indian welfare was theoretically the primary focus of the program. In predominantly Indian schools, the regulations required approval of personnel by the Bureau of Indian Affairs.

These 1937 regulations did not define Indian in any way; thus the effects of blood-quantum, taxable property, tribal affiliation and place of residence--reservation, city, or rural areas--were not mentioned. The substantive content of J.O.M. education programs was not described in any way. As a result, the early contracts with Minnesota and California gave a more accurate description of the programs than the regulations. However, the regulations did imply that whites could share with Indians the benefit of the J.O.M. fund in the school districts (Federal Register, 1937, pp. 1033-34).

Criteria Restricted to Reservation Indians

These regulations were revised in 1951 and again in 1956. A Senate report accompanying the general appropriations bill commented on the rationale of the Bureau of Indian Affairs J.O.M. funding. The report noted the following:

> The Committee commends the position taken by the Indian Bureau that Indian children by virtue of their citizenship in a state and residence in state and district, are entitled to the same free public education as rendered to any other citizen children, without any legal obligation resting on the Federal Government to pay tuition for this service. However, the committee also recognizes that the presence of large blocks of non-taxable Indian property within a local district, or unusually large numbers of Indian children, may create a situation which local funds are inadequate to meet. The committee therefore endorses the present policy of the Indian Bureau of recommending Federal financial assistance to these districts, based on evidence that the district is taxing itself to the maximum, and is still in need of supplementary funds in order to maintain an adequate school. (U.S. Senate Report Number 1941, 1951, pp. 135-136)

The Bureau of Indian Affairs Manual added the following criterion for J.O.M. funds eligibility:

> . . . the unmet financial needs of school districts related to the presence of large bloc's [sic] of nontaxable, Indian-owned property in the district and relatively large numbers of Indian children which local funds are inadequate to meet. (25 Code of Federal Regulations, 1957)

The 1956 revised regulations added the above criterion as well as seven other traditional areas. These were as follows:

- permitting state employees to enter Indian lands to inspect educational conditions or enforce compulsory attendance laws;
- public school education for Indians on the same terms and under the same conditions that apply to all other citizens of the state;
- uniform application of state law so that schools receiving J.O.M. funds also received all other appropriate aid;
- adequate educational standards for schools with Indians, equal to those of the state;

- federal inspection of schools attended by Indians;
- inspection of school records by the Bureau of Indian Affairs; and
- public school use of federal school property. (25 Code of Federal Regulations, 1957, Secs. 33.3-33.6)

The language of the 1951 eligibility criterion and the 1956 J.O.M. regulations did not specifically require that large numbers of Indians live on reservations in order to be the beneficiaries of funding. However, beginning in 1957, the Bureau of Indian Affairs began administering this regulation in a manner that cut off non-reservation Indians from J.O.M. funds. No justification was given at that time for this action.

Thus, the initial work of Dr. Carson Ryan under the Collier administration successfully launched the Johnson-O'Malley Act which was to become the fastest growing educational program in the Bureau of Indian Affairs. When Dr. Ryan left the Indian Service in the summer of 1935, he was succeeded by Dr. Williard Beatty, who had a reputation as an outstanding progressive national and international educator.

Community Schools Continued

Dr. Beatty moved into a newly reorganized Indian Education Office which had been given division status and a number of education program staff specialist positions. He also inherited an expanding community day school program, and mandates from Commissioner Collier to cut back the large off-reservation boarding schools, and revitalize

the academic and work experience programs of those schools. In addition, Dr. Beatty recognized the importance of recruiting highly qualified teachers and administrators for the Bureau schools and where possible the placement of Indian students in local public schools.

Between 1928 and 1933 twelve off-reservation boarding schools had been closed. These schools had been publicly exposed earlier for their harsh student discipline and unfair labor practices. Dr. Beatty moved to revise the curriculum of these schools with basic education courses, some vocational training for the males and general training for the girls. In addition, he moved to instill some elements of Indian culture and history into the schools. All of the academic programs were decentralized and the teachers were given an opportunity to attend special cross-cultural institutes to receive orientation concerning Indian people and their cultures from a select number of anthropologists. Based on the work of these institutes and the assistance of the specialized staff in linguistics and cultural anthropology in the Bureau, the teachers were encouraged to begin developing curriculum concerning various Indian tribes and cultures.

The number of community day schools grew from 132 to 226 between 1933 and 1940. These schools offered academic training for the youngsters and adult and practical education for their parents. Willard Beatty described these schools as follows:

> The Indian community day school represents a new kind of educational institution in the United States. This new school is built, first of all, on a clear recognition of the facts that the

> wealth and natural resources of most Indians are inadequate and that many of the accustomed necessities of white life are foreign to the Indian and, in some cases, impossible of achievement in the Indian home. Thus the new day school has undertaken, in many instances, to supply resources, to be shared by the entire community, which would be largely absent without cooperation of the day school. (The Elementary School Journal, Vol. 41, pp. 185-194)

The schools were staffed by one qualified teacher for each thirty students. The basic educational program included reading, writing, mathematics, English and bilingual instruction. In addition to the academic program, the school supplied drinking water, water for irrigation, bathing and laundry facilities, serving rooms, kitchens for food and canning preparation, and vocational shops. In the shops, boys and men were taught home repair, wagon and harness repair, tool usage, etc. Most schools had gardens and raised poultry, cows, and cattle. The children were taught to raise animals as well as how to grow food. Eventually the schools added a health clinic with a travelling nurse and doctor. The schools became not just a place for children but an active place for community activities. The schools were concentrated on the Dakota, Arizona, and New Mexico reservations and, although isolation was extreme, they served as a viable way to reach both children and adults.

Reservation High School
Organized

During this same period, the reservation boarding schools were reorganized into reservation high schools, some of which continued on a boarding basis. These high schools were to have a strictly

vocational and agricultural emphasis. Students were instructed in land use, plant and animal improvements, farm mechanics, dry farming, subsistence gardening, and native handicrafts. In some of the schools, students were paid for their work and money was accumulated for them and given to them at graduation time. Skilled trades were taught at some of the vocational schools so that students interested in living in urban areas could be placed in employment there. According to the Annual Reports of the Commissioner, the "mixed-blood" Indians were the ones most interested in skilled trades.

As noted earlier in this section, twelve large off-reservation boarding schools were closed early in the Collier Administration. With the increased emphasis of placing Indian young people in day or public schools, the type of students attending the large off-reservation boarding schools changed. The new students were to be

> . . . special classes--orphans without homes, children with a definitely bad home environment, children without local school facilities, and high school pupils desiring special vocational training not offered by local schools. (Nation, 1934, Vol. 138, p. 34)

By fiscal year 1940, the school enrollment was as follows:

Federal Government Schools	Number of Students
Community Day	13,797
Non-Reservation Boarding	5,412
Reservation Boarding	4,769
Sanatarium	433
Mission, Private Schools	6,975
Public Schools	33,780
TOTAL	65,066

(Advisory Committee on Education, 1939, p. 49)

The figures above indicate that approximately 37 percent of the Indian children were enrolled in schools operated by the federal government, 52 percent were attending public schools, and the remaining number were in mission schools.

Indian Scholarships Approved

During this period, the Bureau of Indian Affairs also began encouraging Indian students to pursue post-secondary education. Congress began appropriating money for scholarships to encourage young Indian people to pursue nursing, home economics, forestry, and other professional subjects in colleges, universities, or other institutions. By 1939, Congressional appropriations peaked for tuition for higher education at $15,000,000 and remained at that level until 1950 (American Indian Policy Review Commission, Task Force Number Five, Indian Education, 1976, pp. 319-320). In 1939 the appropriation was amended to include tuition for Indian students of "organized and unorganized" tribes and to include vocational along with higher education institutions (American Indian Policy Review Commission, Task Force Number Five, Indian Education, 1976, pp. 319-320).

Analysis of Educational Institutions

This analysis reveals that the types of educational institutions remained basically the same as those identified in 1870 as the forerunners of the system. That is, public, mission, boarding and day federal schools were the types of schools available to Indian students. Although the community day schools were said to be a major

innovation of Collier-Beatty program, these schools actually combined concepts of manual labor and industrial training schools started earlier by the Bureau of Indian Affairs. Their new features, however, were location in the Indian settlement, and opening up the schools to the parents. The Johnson-O'Malley Act also served to aid the Bureau of Indian Affairs efforts to move Indians into the public schools by making it possible to contract with states and other public institutions instead of the hundreds of local school districts.

Although both the appropriations statutes and the Indian Reorganization Act contained provisions limiting their programs to federally recognized Indians of quarter Indian blood, no evidence is found in the literature to suggest that these provisions were enforced. The Johnson-O'Malley Act was specifically enacted for the aid of the scattered Indians living among the whites. The program regulations did not define Indians to be served. The inference was that local Indian tribes and communities have defined who their members were and that the federal government had accepted this arrangement. Education for Indians was primarily in public schools, then in federal day and boarding schools, and finally in the mission schools. Staff in these schools continued to be primarily non-Indian. Although Dr. Beatty reported, in 1940, that the Indian Bureau was recruiting Indians for various positions, no statistics were given on those actually employed. Financial support for educating Indians reflected a growth in direct federal aid through the Bureau of Indian Affairs and a number of the emergency domestic programs as well as continued support from tribal

funds and various private religious denominations. A close review of this period reveals that in education the changes were more cosmetic than significant or different from earlier activities.

Movement to Set Indians Free

As the Second World War occupied the attention of the President and the Congress, Commissioner Collier's program continued in a more limited manner and his activities through the Indian Reorganization Act came under increasing attack. In 1944, the Bureau's appropriation dropped to approximately $29,000,000 and the headquarters office was moved to Chicago. The following year, Commissioner Collier resigned. Many Indians had left their communities to join the armed services or to work in the war-related industries. As the war ended, the reported 22,000 Indians who served in the armed services and the 45,000 Indians who worked in the war-related industries began to return to their reservations. Members of the Congress, who had been surveying the conditions of American Indians since 1929 through investigations, and a number of influential journalists saw an opportunity to expose and repeal the philosophy and organization of the Indian Reorganization Act developed by the Collier administration.

A series of articles in the Readers Digest called on the Congress and the American public to "Set the American Indians Free!" O. K. Armstrong, author of the series, traveled throughout Indian country talking with the people and describing the conditions he saw.

His articles stressed that there were two pressing tasks confronting Congress and the Indian Bureau. These two tasks are as follows:

> . . . provide legislation that will remove restrictions from--and thus emancipate--every Indian who is able to manage his affairs.
>
> . . . chart a new course for the office of Indian Affairs whereby its efforts, during the time it remains in existence, are directed toward assisting all Indians to be self supporting. (Readers Digest, 1945, Vol. 47, p. 52)

Over the next several years, agitation for reform of Indian Affairs continued in both the halls of Congress and the media.

Marshall Plan for Navajo/Hopi Indians

A severe drought in the Southwestern United States the summer of 1946-47, followed by an intensively frigid winter, brought the near starvation plight of the Navajo and Hopi Indians to national attention. These incidents occurred during Congressional consideration of the Marshall Plan. The press in the country ran many editorials and news stories questioning why America should be feeding its enemies in Europe and starving its Indians, many of whom were veterans, recently returned from fighting to save the country (New York Daily News, New York Herald Tribune, Washington Star, February-July, 1947). Congress appropriated $2,000,000 in emergency relief for those tribes in the summer of 1947 and authorized a long-range study for their economic rehabilitation. In 1950, this latter study resulted in a ten-year authorization of federal expenditures of $88,000,000 for rehabilitation

of these tribes. A major portion of this money was to be used to improve education on these reservations.

Several years prior to the passage of this law, the Bureau had launched a special Navajo education program to reach Navajos between twelve and eighteen years old who had never been to school. The program sought to condense twelve years of schooling into five. It emphasized English language learning and academic instruction in the first three years of the program and the development of job skills the last two years of the program. In the final two years, habits and knowledge of English were stressed as they related to the individual's chosen job. This program was expanded from one to eleven schools and was located primarily in the off-reservation boarding schools. Over the twelve years of this program from 1946-1958, some 50,000 Navajos attended and completed the program. These students were placed in jobs both on the reservation and in urban areas. By the end of this program, a system of reservation high schools were developed on the Navajo reservations (Coombs, 1962; Thompson, 1975, pp. 88-110).

As a result of the special Navajo Program, the Bureau of Indian Affairs opened placement services in a number of western cities in 1948. Within two years, this service was offered to other Indians and soon became a major endeavor of the Bureau of Indian Affairs.

GOVERNMENT BEGINS WITHDRAWING SERVICES AND RELOCATING INDIANS TO CITIES

Since the end of the Second World War, Congress had been faced with several inconsistent issues relating to American Indians. One was the extreme poverty, overpopulation, isolation, and lack of education on most reservations. The other was the desire by many members of the Congress to rid themselves of the Indian Bureau and make the Indians self-sufficient.

Early in the Truman administration, Congressional Committees asked the Bureau of Indian Affairs for a plan showing how tribes could begin managing their own affairs and the Bureau might begin withdrawing its services and personnel (Hearings of Post Office and Civil Service Committee, 1947, pp. 3, 547). The Assistant Commissioner testifying for the Bureau was requested to present such a plan which would include a list of tribes ready for such withdrawal immediately and in the future (Hearings of Post Office and Civil Service Committee, 1947, pp. 3, 547).

Over the next several years, the pressure from Congress continued for the Bureau to begin organizing plans for withdrawing services to specific tribes. At the same time, in 1949, the Hoover Commissioner on Reorganizing the Executive Branch of Government filed its report with the President and the Congress. This report recommended that the federal government turn its responsibilities for Indians over to the states and that the tax exempt status of Indian lands be terminated (Hoover Commission Task Force, 1949, pp. 65-66). This report

coincided with the growing mood in Congress to make the Indian self-sufficient and turn him loose from the Indian Bureau.

The Commissioner of Indian Affairs, Dillon Myers, began studying various tribes to determine their management capability, identifying programs which could be turned over to the states, and developing legislation on this subject for the Congress (Annual Report of the Commissioner of Indian Affairs, 1951, p. 353).

Congressional Resolution to End Wardship Status of Indians

By 1953, the 83rd Congress had organized these various efforts into a policy statement commonly known as House Concurrent Resolution 108 endorsed by both the Senate and House of Representatives. In part the resolution states:

> Whereas it is the policy of Congress, as rapidly as possible to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship; and
>
> Whereas the Indians within the territorial limits of the United States should assume their responsibilities as American citizens . . . . (House Concurrent Resolution 108, 1953)

The resolution indicated that all Indians in four states (New York, California, Florida, and Texas) along with five particular tribes in other states, should be released from federal supervision. This resolution became the guiding policy of the Bureau of Indian Affairs between 1953 and 1970 and was the basis for a constant tug of war

between the Congress, the Bureau, and reservation Indians and their friends. According to Senator Arthur V. Watkins, some "10,000 Indians were set on the road to complete citizenship rights and responsibilities" (Political Science Annals, 1957, p. 51). Other than the large Klamath Reservation in Oregon and the Menominee Reservation in Wisconsin, only small tribes were affected in California, Oregon, South Carolina, Texas, and Utah. This same Congress passed a law (Public Law 280) which permitted states to assume civil and criminal jurisdiction over Indians without their consent. The states of California, Minnesota, Nebraska, Oregon, and Wisconsin were listed in this bill.

After the initial tribes noted above were terminated, growing pressure on the Congress caused a rethinking in the legislative and executive branch about the best way to begin preparing Indians for such a policy.

Indians Relocated to Cities

Various funding priorities inside the Bureau continued to emphasize the best ways to prepare the Indians for self-sufficiency. The urban placement centers, launched earlier to assist Navajos, were expanded and converted to relocation and placement centers available for all reservation Indians. Between 1953 and 1968, these efforts were relocating some 10,000 Indians and their families to urban areas throughout the United States. (The articles and reports on this

program make it difficult to determine the actual number of participants or its costs and effectiveness)(Indian Relocation Survey, Indian Affairs, 1956).

SPECIAL AID TO PUBLIC SCHOOLS EDUCATING INDIANS

In 1950, the U.S. Congress passed Public Law 81-815. It provided for federal assistance for school construction in areas affected by federal activities. In the same year, Congress also adopted Public Law 81-874, a complementary law. It provided for federal assistance for maintaining and operating schools in areas affected by federal activities. The two laws together are called "Impact Aid," and are administered by the U.S. Office of Education, in the Department of H.E.W. Although the laws appeared to include the Indian reservations and students, initially they were not included in the law.

Background of Impact Aid Laws

The recommendation for both laws grew out of a report commissioned by the Senate Committee on Appropriations in 1949. The report was entitled "Education of Children Living on Federal Reservations and in Localities Particularly Affected by Federal Activities." In it, the Committee discussed Indian education, described the education of Indian children in public, mission, and federal boarding and day schools. The report also described the special congressional appropriations for public school renovation and construction on Indian reservations. This document indicated that Indian school construction

and operating moneys were provided for, under existing legislative authorizations and annual appropriations (Library of Congress Report on Children Living on Federal Reservations to U.S. Senate Appropriations Committee, 1949, pp. 42-44).

Public School Construction Authorized

Original hearings on S. 2317, the bill which became P.L. 815, made only slight references to Indians; in fact, the charts citing major reasons for needing the legislation did not even have Indian reservations as a category.

However, the House Committee report did mention Indian reservations--along with military camps and industrial plants, national parks, and reclamation projects--as examples of federal activities (U.S. House of Representatives, Report Number 2180, 1950, p. 2). The report explained that the impact on the communities had resulted from (1) the loss of tax revenue from federally-owned property which reduced local tax income for school purposes; and (2) the large and often sudden increases in population, including school children, caused by an influx of federal government employees.

Much of the impact resulted from increased activity during World War II and the slow readjustment to peace time conditions (U.S. House of Representatives, Report Number 2180, 1950, pp. 2, 3).

The floor debate on this initial bill did not mention Indians except as a part of the summary statistics from the hearings (Congressional Record, 1950, pp. 13039-56, et al.).

Public Law 815--
Amendments

The first amendment to Public Law 815 was enacted in 1953. It included a new Title IV designed expecially to provide for school construction needed because of Indian students, although the word Indian was not used in the text (67 Stat. 526). This intent was expressed in both the House and Senate reports as follows:

> It would authorize school-construction assistance in other Federally affected areas principally those with large Indian populations, which have a serious Federally caused school construction problem but which have no substantial increases in school population in recent years. (U.S. Senate Report Number 713, 1953)

Later in the same reports, a fuller explanation was given concerning the addition of Title IV for Indian children. It was captioned "School Facilities for Indian Children" and stated:

> A long-standing educational problem for which the Federal Government must share responsibility but which was left largely untouched by Public Law 815, involves a number of school districts which urgently need new school facilities primarily for Indian children living on tax-exempt Indian lands and attending public schools. In several States there are relatively large numbers of Indian children in local school districts which have undertaken responsibility for their free public education but which, because of the exemption from local taxation of the land on which the Indians live, are unable to finance the schools needed to house such children.
>
> These school districts receive little or no assistance under Public Law 815. This was because that law required, as a condition to any payment, that a school district show an increase in its aggregate school attendance since 1939. These districts could not qualify because they experienced their increases as a result of Federal activities before 1939. Prior to 1939 they enrolled large numbers of Indian children living

> on tax-exempt Indian lands, and they have not experienced any appreciable increase in enrollments since then.
>
> While the Federal Government, through the Bureau of Indian Affairs, has encouraged these districts to accept substantial numbers of Indian children, and has assisted them over the years in meeting some of their additional operating expenses, the Government has not (except in a few isolated instances) assisted them in meeting the cost of the additional school facilities required to house these children. There are a few other school districts with substantial numbers of children living on Federal property which sorely need, and are unable to provide, school facilities but which can show no increase in enrollment since 1939 because the Federal installation was established before that date and has not been expanded. (U.S. Senate Report Number 713, 1953, p. 4)

Thus the tax-exempt status of Indian land was utilized to justify the federal contribution to school construction.

Again in 1955, amendments were proposed to Public Law 815 to liberalize Title IV to allow payments to be made to school districts for the education of Indians who resided on Indian lands outside the district boundaries, if they had one hundred such students. This amendment was the beginning of a refinement process of P.L. 815 to clarify (a) payments to public school districts educating Indian children, where the districts were faced with special problems such as providing temporary facilities, (b) hardship payments, or (c) payments to districts with smaller numbers of Indian students. Minor amendments relating to Indians were passed from 1956 until 1965 when Public Law 89-750 made section 14 relating to Indian school construction a permanent provision of the law and authorized a $60 million aggregate appropriation limit (80 Stat. 1214).

The House and Senate Committee reports were identical on the Indian provisions; both recommended eliminating the ceiling on appropriations and making the section permanent. The reports state:

> This program has worked well. Other programs have brought more children on Indian reservation lands into public schools and have kept them there longer. There is a continuing need for construction of school facilities in these areas, and few of them have sufficient taxable resources to build the required facilities. Indian reservations are federally owned property and are non-taxable. There is no other Federal program to provide school facilities for these children. (80 Stat. 1214; 80 Stat. 1216)

Indian Children to Receive Equal Priority in the Law

Amendments to the law in 1970 were beneficial to school facilities for Indian children. Public Law 91-230 [Act of April 13, 1970, Pub. L. No. 84 Stat. 158, amending 72 Stat. 548 (1958)], the Elementary and Secondary Education Amendments of 1969, amended section 14 in two ways, one of which affected Indians. Section 205 of P.L. 91-230 inserted into section 14 of P.L. 815 a new subsection (c) designed principally to aid school districts located in national forest areas (U.S. Senate Report 91-634, 1970, p. 69). The amendatory provisions gave the Section on Indian Children priority at least equal to payments given schools for other groups in the Act. Special provisions were passed for the education of federally-connected children primarily on military bases for whom local agencies could not provide suitable free public education.

The present priorities for Public Law 815 require that disaster assistance must be funded first; then needs of a temporary nature, direct federal construction (mostly military), and construction for Indian children all share equal priority. Other local educational agencies' construction projects may receive funding, but they have no priority under the law (U.S. House of Representatives, Report Number 93-805). Because this law has not received full funding since its passage, the order of priority for funding is most important.

Status of Indian Lands Determines Most Advantageous Section of the Law

The Elementary and Secondary Education Amendments of 1974 (U.S. House of Representatives, Report Number 93-805, 1974, p. 40) did not amend section 14 dealing with Indian children. Public Law 93-380 amended both Impact Aid laws in section 5 so that a child who resides on federal property, regardless of where his parents work, is what is traditionally known as an "A category child" or, more accurately in the case of P.L. 815, a "section 5(a)(1) child." Therefore, any Indian child residing on a reservation or other federal land is in the category for which highest payments are made, whether their parents work in the reservation or are unemployed.

The language of section 14 requires that the local educational agency not be able to receive payments under other provisions of P.L. 815 before section 14 (a) or (b) will apply. This means in effect that the U.S. Office of Education first checks section 5 to see if it

applies. Section 5 is the basic section of the Act, which provides for payments in the case of the requisite six percent increase in membership of federally-connected children over a four-year period with different rates of payment applied to different types of children. Under section 5, children residing on Indian lands, because by definition they reside on federal property, are 5(a)(1) children. These children qualify for the highest rate of return--95 percent of the average per pupil cost of constructing minimum school facilities in that state. If the local educational agency serving the Indian land residents is eligible under section 5, because it meets the requisite increase requirements, and if the Office of Education determines administratively that "significant or substantial" aid can be given under the formula, and the local educational agency has requested minimum school facilities so that the request can be met under section 5, the project will be funded under section 5, even though it involves Indians. However, if the local educational agency has asked for more than section 5 can provide, section 14 will be applied and section 5 will be ignored. Usually section 14 is applied.

Eligibility Criteria

Section 14 eligibility differ vastly from those of section 5. While section 5 is based on increased membership, section 14 requires that the children residing on Indian lands for whom a free public education is provided represent (1) a substantial percentage of the total number of children for whom such agency provides a free public education, or (2) that the Indian lands constitute a substantial part

of the school district of such local educational agency, or (3) that the total number of such children who reside on Indian lands outside the agency's district be at least 100. Any one of these conditions is presumed to represent a great financial need. Under this section, ownership of the land determines who is counted. Thus, Indians living off Indian lands are not counted and whites living on Indian lands are counted for aid. Within section 14, the criteria of 14(a) are stricter than 14(b) and the amounts of money furnished under the two subsections would be different for the same project.

Section 14(a) provides minimum school facilities (with the broadened concept of "minimum") for all the unhoused membership in the district, whether such children live on or off Indian land. However, the "catch" is that the district must first contribute all its available funds to the project, while the Federal Government pays for the remainder of the expenses. The strict criteria which must be met to qualify under this subsection require that the immunity of the Indian lands to taxes creates a substantial and continuing impairment of the agency's ability to finance its school facility needs. This criterion is waivable in specified cases. Furthermore, the agency must indicate it is making a reasonable tax effort and is exercising due diligence to obtain state and other available financial assistance.

Under subsection 14(b), the reasonable tax effort and due diligence requirements do not exist, nor does the district have to contribute its available funds to the project. Here, however, the Federal Government only provides for the unhoused membership residing

on Indian lands, necessitating that the local agency pay for the unhoused children living off Indian lands.

The U.S. Office of Education determines the financial assistance available under both subsections (a) and (b), and the local educational agency makes the choice. If an agency has many unhoused children not living on Indian land and very little money available from other sources to provide minimum facilities, it will probably choose subsection (a). If most of the district's unhoused children reside on Indian lands and the local educational agency does have available funds, it will protect those funds by choosing subsection (b) and paying itself for the unhoused children living off Indian lands. The major difference in effect concerning the amounts of money available under sections 5 and 14, respectively, is that section 5 provides money by formula--a definite, calculable, unexpanded amount--whereas Section 14 provides money according to need. Thus the Federal Government will pay for cost overruns and the effects of inflation (which have been as high as 12 percent per month), once the project is high enough on the priority list to be funded at all. Consequently, the school districts get additional funds and their priority is usually higher under section 14 (Interview with Laurel Cornish, 1974).

Until 1967, Public Law 815 received nearly full funding. Thus, eligible applications were generally covered by available funds. Since 1967, only a few projects have been funded per year. In fact, the more than $8 million allocated for section 14 for fiscal year 1975 started

no new projects--the entire amount went to cost overruns in existing projects. The entire P.L. 815 appropriation is allocated so that sections 10 and 16--relating to children for whom LEAs are unable to provide military and disaster assistance--get a relatively small amount of money off the top. Recently, this was approximately one million dollars per fiscal year, with the remainder divided between sections 5 and 14.

Interior Department Given School Construction Authority

A response to the lack of funding under Public Law 815, and to the jurisdictional struggle in Congress over Indian education is found in section 204 of Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975. It established a school construction program in the Department of Interior parallel to P.L. 815 administered by H.E.W. (88 Stat. 2214). For the most part, it is an alternative way to fund P.L. 815 for Indians. Section 204 of the Indian Self-Determination and Education Assistance Act authorized $35 million annually through the fiscal year ending June 30, 1978. At least 75 percent of this amount would be for public school projects meeting the eligibility requirements of P.L. 815, sections 14 (a) and (b), according to the priority list and the needs assessments of DHEW. The Department of the Interior would do only a minimum follow-through. Section 204 differs from P.L. 815 however, in that it authorizes funds equalling no more than 25 percent of those appropriated to be spent

for the construction, acquisition or renovation of facilities of previously private schools now under Indian control.

Summary Regarding School Construction Laws

In summary, there are now two federal laws authorizing funding for construction of public schools needed because of enrollment of children living on Indian lands. One has a recent history of being seriously inadequately funded, the other is yet to be funded for the first time. Public Law 815 is under DHEW and section 204 of Public Law 93-638 is under the Department of the Interior. Section 204 was a deliberate attempt to provide a second avenue of funding for meeting Indian school construction needs. However, the records do not indicate any increase in funding since 1974.

Public Law 874--Federal Assistance for Maintenance and Operation of Public Schools

Public Law 874, enacted September 30, 1950, provides financial assistance to local education agencies for the operation and maintenance of schools in areas affected by federal activities. Financial assistance under P.L. 874 is based on a formula which took into consideration three categories of federally-connected children and provided different rates of payment based on the degree of impact. Reservation Indians were completely excluded under this law until the 1953 amendments.

Section 1 of Public Law 874, 64 Stat. 1100, sets forth the policy statement. It reads:

> . . . the Congress hereby declares it to be the policy of the United States to provide financial assistance . . . for those local educational agencies upon which the United States has placed financial burdens by reason of the fact that--
>
> (1) the revenues available to such agencies from local sources have been reduced as the result of the acquisition of real property by the United States; or
>
> (2) such agencies provide education for children residing on Federal property; or
>
> (3) such agencies provide education for children whose parents are employed on Federal property; or
>
> (4) there has been a sudden and substantial increase in school attendance as the result of Federal activities. (U.S. House of Representatives, Report Number 3109, 1950, pp. 1-2)

Section 2 of the Act provided that when the United States acquired additional property in a district after 1938, equal in value to ten percent or more of the total value of the district's real property, causing a substantial and uncompensated financial burden, the local educational agency would be entitled to an amount equal to the federal responsibility. Indian reservations had been established too early to qualify under this section. Section 4 furnished compensation when the establishment or reactivation of a federal activity caused a sudden increase in school attendance, a substantial burden with which the district could not cope financially.

Section 3 Defines Categories of Indian Children

Section 3 was the most important section and is the one under which Indians are now counted. Subsections 3(a) and 3(b) defined the categories of children to be used in determining a local educational agency's entitlement. Subsection 3(a) children were those who resided on federal property and had a parent employed on federal property. Subsection 3(b) children were those who either resided on federal property or resided with a parent who was employed on federal property. To determine the amount of entitlement, the number of 3(a) children in average daily attendance (ADA) was multiplied by the "local contribution rate" per child and the number of 3(b) children in ADA was multiplied by one-half the local contribution rate. Subsection 3(c) explained that the local contribution rate would be based on the expenditures of comparable school districts in the state, normally those unaffected by federal activities (U.S. House of Representatives, Report Number 2287, 1950, p. 29). The rationale for the one-half rate for 3(b) children was that approximately half of the real property tax revenue used for school expenses came from taxation of residential property, and half from commercial property (U.S. House of Representatives, Report Number 2287, 1950, p. 11).

Background of the Law

The Congressional hearings on the bill, which became Public Law 874, contained testimony regarding Indian children and noted that Johnson-O'Malley funds were insufficient to meet the needs of Indian

children. This condition forced the closing of BIA schools due to the lack of appropriations and thus many school-age Indian children were not in schools at all (Hearings on H.R. 4115, 1950). Committee reports on this bill were silent on the participation of Indian students in the program.

Impact Aid Amendments Affecting Indians

The first amendment which affected Indians was enacted in 1953. This law added a vaguely-worded section 10 to Public Law 874 which allowed each Governor to choose whether or not to apply the amendment with respect to the education of Indian children. When a Governor chose to have the P.L. 874 amendment applied, he had to notify the Commissioner of Education and the Secretary of Interior, concerning which funds his state intended to seek.

This amendment caused difficulty because it did not specify how JOM payments would be affected, but clearly required a reduction, if not an elimination of JOM payments.

The amendment also provided that under P.L. 874, an Indian child who did not meet the requirements because his parents were not employed on federal property would be deemed to meet the requirements if his parents also were not regularly employed on non-federal property. In short, an Indian child whose parents were unemployed could be counted as a 3(a) child. An Indian child whose parents were unemployed could be counted as a 3(b) child if he had a parent employed on non-federal property. According to this new section, an

an Indian child was defined as having one-fourth or more Indian blood and being a member of a federally-recognized Indian tribe (the standard BIA definition of Indian). The amendment went into effect in fiscal year 1955.

BIA Against States Receiving Two Sources of Aid

The hearings preceding the 1953 amendment show clearly that the Office of Education wanted P.L. 874 and JOM to apply to Indians simultaneously, with P.L. 874 to provide for general education costs and JOM money continuing to provide for special services, but not for general education (Hearings on H. Res. 115, 1953, pp. 17, 35, 70). The Bureau of Indian Affairs, however, made it clear that when a state opted for P.L. 874 coverage of Indians, it would get no JOM contract, not even for special services. The BIA had requested the use of JOM funds in connection with P.L. 874 money be eliminated, but the draft legislation being discussed at that time specifically allowed the BIA to provide special instructional costs or other general costs incurred for education of Indians (Hearings on H. Res. 115, 1953, pp. 347,349). This BIA position was apparently a reversal of their 1950 stance. One subcommittee member noted that when the committee was considering including Indian children in the original P.L. 874, "the Interior Department asked us not to interfere with the Johnson-O'Malley law" (Hearings on H. Res. 115, 1953, pp. 204-205). Selene Gifford, an Assistant Commissioner of the BIA, testified that the Bureau thought P.L. 874 would benefit the Indians and that it (P.L. 874) could do

much of what JOM had done with the exception perhaps of providing lunches (Hearings on H. Res. 115, 1953, pp. 342-343, 346). The amendment to P.L. 874 would not affect the use of JOM funds for health and welfare, but it would affect the use of JOM money for health and welfare in connection with the education of the children (Hearings on H. Res. 115, 1953, p. 345). The Assistant Commissioner announced quite simply that, "We do not feel that the Johnson-O'Malley contract is as important as some of the State directors do" (Hearings on H. Res. 115, 1953, p. 345). The BIA as a matter of policy was against continuing to provide JOM special services in addition to P.L. 874 general education services because it would be "very difficult, administratively, to have two Federal agencies . . . having relationships with a State or a local district . . . on the same problem (Hearings on H. Res. 115, 1953, p. 347). The BIA also thought it would be inconsistent to support including Indians under P.L. 815 without advocating that P.L. 874 also include Indians and that JOM be eliminated for those states (Hearings on H. Res. 115, 1953, p. 347). Furthermore, they believed that applying P.L. 874 was a step toward their goal of having Indian children considered like other children (Hearings on H. Res. 115, 1953, p. 348). The BIA also thought it could save money under its proposal (Hearings on H. Res. 115, 1953, p. 343).

This was the fourth attempt by Congress to abolish state contracts under JOM by including Indians in P.L. 874 (Hearings on H. Res. 115, 1953, p. 359). There was much opposition to such a move as well as to legislation which would have permitted JOM to continue to

fund only special educational services. But--as perceived by the states--such action would pose a threat to an important financial resource, so the opposition was an understandable response in the light of the BIA's determination to make states use either P.L. 874 or JOM, and preferably P.L. 874. Assistant Commissioner Gifford implied that the BIA would ask for no appropriations for education under JOM if Indians were incorporated into P.L. 874 (Hearings on H. Res. 115, 1953, p. 352).

A meeting of Indian educational representatives, from the twelve states with the largest Indian education problems in 1952, unanimously adopted a resolution endorsing the coverage of Indians under P.L. 815 and JOM, but not P.L. 874. The resolution said:

> That Indian education within all States having a contract under the Johnson-O'Malley Act of 1934 will continue under this act. It is further resolved that the original act, Public Law 874, and its proposed amendments should not include Indian children as they constitute a special problem over and above that of a purely financial nature. (Hearings on H. Res. 115, 1953, p. 352)

Opposition Against Including Indians

Among the opponents to the P.L. 874 amendment to include Indians were state Indian education supervisors, representing their respective state departments of education. These and others who protested this amendment to P.L. 874 pointed to several problems: (1) There was no eligibility requirement under JOM as under P.L. 874, and 50 percent of the districts which JOM had helped had less than ten Indians, and would consequently not be eligible for P.L. 874 aid.

Such small schools often needed the help most. (2) JOM payments were based on need rather than on a formula, and thus the practice under which one Indian student could get an especially large amount of aid if needed would be stopped. (3) JOM followed Indians who were transient and P.L. 874 could not do this adequately. (4) JOM with its contracts allegedly getting better each year was much more flexible than P.L. 874, whose main source of flexibility was a waiver provision for eligibility requirements. (5) JOM dealt with Indians in their special relationship as wards of the Government, while P.L. 874 would lump them into Impact Aid, losing the special interest in welfare of the Indian children. (6) P.L. 874 was subject to an expiration date while JOM had none. (7) It was feared that loss of JOM would take away the BIA's bargaining power to get children out of federally-operated day schools and into public schools. (8) Impersonal distribution of federal aid under P.L. 874's formula would not produce the close working relationship which sometimes existed under JOM between school districts, state departments of education, and the BIA. (9) P.L. 874 red tape was feared. (10) School lunch programs would be forced to close, and many health needs would not be provided. (11) Funds already allocated under P.L. 874 did not meet the needs and were being prorated; presumably adding Indians would exacerbate this problem. (12) Large schools with many Indians might not have a large enough percentage to be eligible, and if eligible, the first three percent would have to be absorbed, thereby receiving no allocations (Hearings on H. Res. 115, 1953, pp. 356, 361, 365, 367, 370).

The Office of Education wished to include Indians under P.L. 874 "in accordance with national policy to incorporate the Indian population into the normal patterns of American life" (Hearings on H. Res. 115, 1953, p. 40). In attempting to forecast the outcome of the inclusion of Indians, the Office of Education predicted an additional $2.5 million would be needed for P.L. 874 to offset $2.4 million in JOM payments which would be cut (Hearings on H. Res. 115, 1953, pp. 70, 76).

No completely satisfactory data could be provided on the number of Indian children who would be covered. In general, the Indians then receiving JOM money who would be switched to P.L. 874 often lived on federal property with parents unemployed or self-employed, and thus they would be 3(a) children. Oklahoma and Oregon, however, had many Indians employed off federal property, and in New Mexico few children were covered by JOM, but more than 1,000 would qualify for P.L. 874 funding (U.S. Senate Report Number 714, 1953, p. 6). The Office of Education admittedly found a direct comparison of the two programs to be difficult, and with this in mind was unwilling simply to substantiate P.L. 874 for JOM, as the BIA would have been happy to do.

Congressional Reports on Impact Aid and Johnson-O'Malley Act

The House and Senate reports help clarify the confusion over the relationship between P.L. 874 and JOM. The Senate report explained that Section 9 (2) of the law excluded all those eligible for educational services provided through the BIA. At that time the BIA was

operating a program of financial assistance through JOM to local educational agencies providing free public education to Indians. The report commented that the JOM program "in most respects parallels the program established under P.L. 874" (U.S. Senate Report Number 714, 1953, p. 6). It said the purpose of the section 10 amendment was

> . . . to shift from the Bureau of Indian Affairs to the Commissioner of Education responsibility for making payments to local educational agencies to help meet general educational costs involved in providing education to these children.

The report continued,

> . . . nor would the amendments diminish the BIA's authority to make payments to State educational agencies for school lunches, special transportation expenses, special instructional services, and other services undertaken specially on behalf of the welfare or education of Indian children which are outside the contemplated purview of Public Law 874 payments. (U.S. Senate Report Number 714, 1953, p. 6)

Thus, the Senate Committee on Labor and Public Welfare contemplated that even when a governor chose to include Indian children under section 3 of P.L. 874, JOM contracts to such states would not have to be discontinued altogether. JOM funds could still provide special service (lunches, transportation, etc.), while P.L. 874 paid the basic cost of education.

The House report should not necessarily be interpreted to have the same meaning as expressed in the Senate report. This report said:

> It is the purpose of this amendment to permit States which exercise their option, to become eligible to receive Public Law 874 payments with respect to their Indian children in lieu of educational payments under the Johnson-O'Malley Act.

> It is not intended that the exercise of such option shall preclude or in any way affect the eligibility of the electing State or any of its political subdivisions to participate in the Johnson-O'Malley program as respects health, welfare, or other noneducational services. (U.S. House of Representatives Report Number 703, 1953, p. 9)

Congressional debate did not resolve this conflict in interpretation. In the House, the Chairman of the Committee on Education and Labor explained that the bill permitted states to choose Public Law 874 or JOM for Indian children, without affecting the ability of the state or its political subdivisions to participate in JOM with respect to health, welfare or non-educational services (Congressional Record, 1963, 8815). The bill passed the Senate virtually without debate.

Confusion was the result of the 1953 amendment with respect to Indians. Different state laws included different services with their definition of basic educational services, and overlapping of funds occurred.

During the first year, only the Governor of Florida chose to use P.L. 874 money over Johnson-O'Malley (Fifth Annual Report on Public Law 81-874 and Public Law 81-815, 1955). In the second fiscal year, twenty Governors elected to apply for P.L. 874 funds for their states' Indian children. During that same fiscal year, 1955-56, ten of those states received more than one million dollars in Johnson-O'Malley funds (Lillywhite Memorandum, 1956).

Congress Seeks to Clarify Use of P.L. 874 and JOM Funds for Indians

In 1958, Congress sought to clarify this matter with an amendment to P.L. 874. The hearings on this amendment point up the confusion among the Bureau of Indian Affairs, U.S. Office of Education, and officials in the various states (Hearings on Amendments to Public Law 874 and Public Law 815, 1958, pp. 640-42, 731-32).

The House and Senate Committee reports made clear the intent with respect to Indian children. The House report stated

> H.R. 11378 makes a significant change in the treatment of school districts educating Indian children, by enabling them to accept payments under Public Law 874 without forfeiting the right to obtain payments under the Johnson-O'Malley Act for special services and for meeting educational problems under extraordinary or exceptional circumstances. Under present law, the Governor of each State must make a determination, in advance, whether all schools in a particular state shall seek assistance through Public Law 874 or the Johnson-O'Malley Act. H.R. 11378, in amending Public Law 874, in this connection, prevents any duplicate payments for the same services. (U.S. House of Representatives Report Number 1532, 1958, p. 2)

P.L. 85-620 did not actually make any legislative amendment which would prevent duplication of payments. The House report explained how duplication would be avoided:

> Duplicate payments will be avoided because the payments made under this act will be considered in arriving at the amount of the Johnson-O'Malley payments. (U.S. House of Representatives Report Number 1532, 1958, p. 51)

The Congressional debate on these amendments did not occur in the Senate. However, Congressman Lee Metcalfe did add the following insights in the House floor discussion:

> The law as it presently exists says that the Governor of a State can choose whether to come under the provisions of the Johnson-O'Malley Act or Public Law 874 for aid to education in that State. There are some districts that would like to come under P.L. 874, others under the Johnson-O'Malley Act. It is a very difficult decision for a Governor to make. So, we have said that every Indian child is treated as an impacted class A child and will receive education under Public Law 874 just the same as any other impacted child, and then the State superintendent of education of the school office may contract under the Johnson-O'Malley Act for additional benefits. (Congressional Record, 1958, 7112)

In an effort to bring an end to the confusion, P.L. 85-620 repealed the 1953 Governors' Choice Amendment while making its second attempt to include Indians under P.L. 874. This time section 2(b) was amended so that JOM payments specifically would not be subtracted from P.L. 874 payments under either section 2, the land acquisition section, or section 3, as were other payments in lieu of taxes and with respect to federal property. Indian children could be counted to receive 3(a) and 3(b) funds. Section 8 of P.L. 874 provided that no appropriation to carry out P.L. 874 itself could be used for the same purpose as the Act, but P.L. 85-620 made JOM payments an exception to this rule. Section 9(2), the definition of "child" which originally had excluded members of recognized Indian tribes eligible for JOM payments, was amended so that "child" meant simply any child within the age limits for which the applicable state provides a free public education. In this manner, Indians were finally and

unmistakably included within P.L. 874. Because the amendments also made the programs of financial assistance to children in a 3(a) category permanent, since most Indian children were in this category, the Federal Government had in effect recognized a continuing responsibility with respect to Indian education.

During this same period, Title I of P.L. 89-10, the Elementary and Secondary Education Act of 1965, became Title II of P.L. 874 and redesignated Impact Aid as Title I of P.L. 874. As will be described later the Indian Education Act, P.L. 92-318 was designated as Title III of P.L. 874.

Amendments of 1974 to P.L. 874

The Education Amendments of 1974, P.L. 93-380, greatly revised the entitlement and payment structure of P.L. 874 and is of major importance and benefit to Indians living on reservations. All Indian children living on Indian lands were made category A children. Until this amendment, children whose parents worked off federal property were B children. The House committee report explained that most of the estimated 9,000 children to be affected by this change would be Indian children living with their parents on federal reservations (Hearings on S. 2218 and H.R. 514, 1969, 238). The House report described the reason for this change as follows:

> The situation has been especially unfortunate as regards Indian children. If Indian parents are able to obtain employment, no matter how low-paying, on sites off the reservation, the school districts educating their children receive less in Federal

> aid than if the parents remained on the reservations. So the employment of an Indian parent off the reservation may lead to less funds being made available for the education of his or her children. (U.S. House of Representatives Report Number 805, 1974, p. 41)

In Senate debate, Senator Walter Mondale explained this amendment similarly:

> Currently, children of Indians on Federal property are counted as B students and reimbursed at a lower rate if parents are unemployed. Because these students place at least as high if not higher financial burden on school districts than children of Indian parents who live on Federal lands and are employed by the Government, I believe this is a long overdue improvement. This amendment would help an estimated 10-15,000 Indian students across the country by providing an estimated $2 million additional Federal aid to schools they attend. (Congressional Record, 1974, 8163)

In addition to declaring all Indian children on reservations to be "category A children" for funding purposes, the method of computing the money actually received by a district was amended to increase the amount of money available for districts educating Indians. "Entitlement" means the maximum dollar amount which a school district may receive, and "payment" means the actual dollar amount which a school district does receive. When appropriations are insufficient to provide full funding, computed entitlements will be greater than actual payments. For the last few years, appropriations have been insufficient to fully fund all A and B entitlements. Prior to the P.L. 93-380 amendments, the law had provided that payments for both "category A and B children" be reduced based on number of children participating. However, out of recognition of the greater federal

responsibility existing for "category A children," and the severe impact of such reductions on heavily impacted areas, appropriation acts have provided for graduated payment levels dependent on the quality of federal connection and quantity of federal impact. P.L. 93-380 revised P.L. 874 itself to account for these factors and policy decisions (U.S. Senate Report Number 763, 1974, pp. 2-3).

Of the four sections of P.L. 874 which authorized assistance to local educational agencies, three were extended through fiscal year 1978 with only minor amendments.

Section 3, relating to districts educating Indians, was provided with a new entitlement formula for use beginning in fiscal year 1976.

Revision of Entitlement Provisions of Section 3 in P.L. 874

Section 3(a) entitlements concern children living with parents who reside and work on federal property, children with a parent in active duty in the uniformed services, and children residing on Indian lands. Section 3(b) entitlements relate to children who live on federal property, or live with a parent employed on federal property, or have a parent in the uniformed services on active duty. Through fiscal year 1978, "category A children" entitlements were 100 percent times the local contribution rate times the number of "category A children." Entitlements for "category B children" are determined by the same method but using 50 percent instead of 100 percent. The local contribution rate is the calculated current expenditure per pupil from

local revenue sources in "generally comparable" school districts in the applicant district's state. No minimum local contribution rate may be less than one-half the state or national average per pupil expenditure in the second preceding fiscal year. The second preceding fiscal year is used because more current statistics are seldom available.

Beginning in fiscal year 1976 and continuing through 1979, entitlements were based on subcategories of 3(a) and 3(b) children matched with various percentages of the local contribution rate. Under subsection 3(a) the three categories are military, Indian land, and civilian, which receive 100 percent, 100 percent and 90 percent, respectively, or the local contribution rate. In addition, heavily impacted school districts, those having 25 percent or more of their ADA composed of category A children, are entitled to 100 percent.

Revision of the Section 5 Payment Provisions Under P.L. 874

The section 5 payment revisions also became effective in fiscal year 1976 and continue through 1980 to provide a three-step payment procedure applicable when appropriations are insufficient for sections 2, 3, and 4. The three-step process is hinged together in a way designed to insure maximum funding of P.L. 874. Until all payments are made under step one, no money may go to step two or three payments. The three-step, linked procedure is in effect a bulwark against attacks on Impact Aid by every recent Administration of both political parties.

As most districts with heavy impact serve Indians or military personnel, this is of special benefit to Indians (Congressional Record, 1974, 8262).

Another amendment in the law, effective fiscal year 1978, responded to the constant and mounting pressure to eliminate payments to 3(b) children by reducing 3(b) entitlements for districts with less than 10 percent 3(b) children or less than 25 percent dependency on section 3 for revenue. An amendment which will undoubtedly affect some Indian districts, is the new state aid equalization provision. Before the amendment, states were prohibited from considering Impact Aid payments when determining eligibility for state aid or the amount of such aid to local educational agencies. This was intended to prevent states from unfairly replacing state aid with Impact Aid (Congressional Record, 1974, H1661). Resulting inequities, however, necessitated an exception for states with programs designed to equalize expenditures for free public education among the state's educational agencies. In the Senate debate, Senator Dominick expressed his concern over the full use of P.L. 874 funds in equalization programs, because he was uncertain that state equalization programs handle Indians' needs adequately. Knowing that equalization formula take into account JOM funds, Title IV, and Title I money, he believed they should also take into account the unique problems of American Indians (Congressional Record, 1974, S8610). He said he recognized that Impact Aid was not intended to be a bonus (which it sometimes seemed to be when state aid was calculated without reference to Impact Aid and Impact Aid was

calculated without reference to state aid), but some districts have added problems which may be worthy of added aid.

The amendments also include "hold harmless" provisions to reduce the immediate impact of changes in the law.

Federal Desegregation Efforts

The era described above illustrates the movement for more federal assistance to the public schools educating reservation Indians. During this time, the movement for black equality began to take on a new dimension in the United States. Under President Harry S. Truman, segregation of the armed services was ended, and a Civil Rights Advisory Commission was established to begin investigating and reporting on civil rights in the United States. Prior to this, the National Association for the Advancement of Colored People and its Legal Defense and Educational Fund had been actively pursuing discrimination cases throughout the country, and particularly, in the Southeastern part of the United States (Kluger, 1976). This activity culminated in the historic Supreme Court decision of 1954 outlawing segregated schools, in the case Brown vs. Board of Education of Topeka, Kansas (1954). The Supreme Court stated

> We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

The Court set rehearing on this case for late October to seek advice from the litigants as to the best way to implement its decision. The hearing was only a foreshadow of what was to come as friends and foes set out to implement and impede the declaration. A decade was to pass full of racial tension, turmoil, and massive civil rights marches, before the U.S. Congress resolved how to underline the movement for desegregation of the nations' schools. The struggle for desegregation in public education was one aspect of the overall struggle for equality of opportunity for minorities in the United States. In the decade from 1954-1964, movements for equal access to public accommodations and public facilities also were in the forefront. Throughout this period, Congressman Adam Clayton Powell, as chairman of the House Education and Labor Committee, used his position to push for non-discrimination provisions in the education bills coming out of the Congress (Sarrat, 1966, p. 52). The massive civil rights demonstrations in Washington, D.C. and throughout the South, as well as President John F. Kennedy's assassination and Lyndon B. Johnson's succession to the presidency were all factors which led to the passage of the 1964 Civil Rights Act. Congressional debate centered on public accommodations and authorizing the Attorney General to intervene on behalf of complaints regarding school desegregation. There was virtually no debate on Title VI which provided that federal financial assistance could not be used to discriminate (Orfield, 1969). This was to be the title which gave the government major enforcement potential in school desegregation oversight and enforcement (Edelman, 1973, pp. 37-39). However, it took

the passage of the Elementary and Secondary Education Act a year later, to give the federal government the wherewithal through federal funds to use Title VI of the Civil Rights Act as an enforcement mechanism.

Debates on Economic Opportunity Bill

During this same period, Congress was debating President Johnson's Great Society Program activities designed to overcome poverty. The major focus of the program was the proposed Economic Opportunity Act. A major provision in this effort was to be Title II, the Community Action Programs.

The Congressional hearings and floor debates in both the House and Senate were occupied with concern for the black minority, the culturally disadvantaged, and minorities in general. However, there was not one word in the testimony specifically about American Indians. In late spring of 1964 in Washington, D.C., some eight hundred people attended and were able to pinpoint for members of Congress and the public at large the critical needs of Indian people. As a result of the recommendations of this conference, Indians were mentioned in the community action section of the Economic Opportunity Act.

Based on this law, the Community Action Program created an Indian division to fund general programs to Indian tribes. This was the first time a federal agency funded the tribes directly to organize and operate their own programs. Between 1965 and 1970, some one hundred tribes received and used federal money to coordinate an attack on reservation Indian poverty through the following programs:

pre-school, elementary, secondary, remedial, and adult education activities; community organization through VISTA; manpower training programs; economic development; and general administrative development of tribal governments. Although no evaluations have been conducted concerning the effectiveness of these programs, they are credited with causing the Bureau of Indian Affairs to be more responsive to Indian needs and with building the confidence and capability within Indian governments and communities to address their own socio-economic problems.

President Johnson's Message on American Indians

In 1968, President Lyndon B. Johnson sent a special message to the Congress on American Indians. This message laid out a broad-based program to systematically improve the socio-economic-educational aspects of American Indians. For the first time, a President called attention to the government's responsibility for urban and non-reservation Indians. This message noted:

> Indians in the towns and cities of our country have urgent needs for education, health, welfare, and rehabilitation services, which are far greater than that of the general population.
>
> These needs can be met through Federal, State, and local programs. I am asking the new Council on Indian Opportunity to study this problem and report to me promptly on actions to meet the needs of Indians in our cities and towns. (Johnson, Public Papers, 1968-1969, Vol. 1, pp. 335-44)

As it turned out, the Secretary of HEW was assigned the task of coordinating governmental activities for urban and non-reservation

Indians. As the Office of Economic Opportunity started being reorganized in 1970, the Indian Division of Community Action Programs was transferred to the Department of HEW. It was renamed the Office of Native American Programs and its program authority was expanded to include urban and non-reservation Indians. This office continues to function today as the Administration for Native Americans. Initially, this office stimulated some important educational activities for American Indians--the first Indian headstart project, an Indian community-controlled school and college on the Navajo reservation, and some of the early bilingual education programs. Today, the office primarily funds general administrative grants to Indians living on reservations and in urban and rural communities.

Great Society Education Laws

Many educational activities were initiated as a part of the Great Society's plan under the leadership of President Lyndon B. Johnson. However, a landmark was the Elementary and Secondary Education Act of 1965. Congress expressed its intent in this law as follows:

> . . . to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving areas with concentration of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children. (79 Stat. 27)

Title I, ESEA

As originally enacted on April 11, 1965, ESEA made no specific provisions for Indian children in any of its five titles. Title I, which in 1966 was to become an important force in Indian education, originated in 1965. It provided federal financial assistance to local education agencies (LEAs) with large concentrations of low-income families. This provision was based upon the well-documented assumption that children from low-income families faced special disadvantages as a result of living in an impoverished environment. The amount of federal assistance for which a district was eligible was determined by a formula (79 Stat. 27).

It is to be noted, however, that the children who are counted by the LEA for purposes of the eligibility formula are not necessarily the only children who ultimately will be affected by the influx of Title I money. Indeed, the federal funds which the formula produces are paid finally to the qualifying school district. The only real control over the district's use of the funds is the authority of the state to hold the districts to a plan which furthers the purpose of the Act. Funds obtained under Title I basic grants, in fact, are paid to the state government which then transmits the funds to those LEAs within the state which are conducting a proper Title I program. The propriety of an LEA's program is considered by the state at the time that the LEA makes application for a project grant. Requirements for such a grant under the original Act include:

(1) providing programs to meet the special education needs of educationally deprived children in areas having high concentrations of children from low-income families;

(2) providing programs of sufficient size, scope and quality to give reasonable promise of meeting children's needs;

(3) providing opportunities for the participation of educationally deprived children in non-public schools within the target area;

(4) providing effective procedure for evaluating, at least annually, the effectiveness of the programs in meeting the special educational needs of deprived children. (79 Stat. 27)

The state education agency was empowered to disapprove the application of any LEA which did not meet the above criteria, but must afford the LEA reasonable notice and opportunity for a hearing (79 Stat. 27, 205[b]). States are allowed to use up to one percent of their total entitlement for administration of this title.

Title II, as originally enacted, provided that any state which applied for a grant under this provision was entitled to a grant which bears the same ratio to the total sum available as the number of enrolled public and private elementary and secondary school children in the state bears to the number of enrolled children in all the states. Grants may be used to purchase all types of library resources, including audio-visual equipment, and state applications must guarantee that teachers and students from private schools will have equitable access to such materials. The Act specified, however, that actual title to such library resources is, in every case, to remain vested in a public

agency. No provision was made in this original Act for library resources for BIA schools.

Titles I and II of ESEA were subsequently amended to include Indian participation, and a Title VII, bilingual education was passed to teach English to non-English speaking students as well as train teachers to work with these students.

Elementary and Secondary Education Amendments of 1966

P.L. 89-750 was the first major amendment to the statutory scheme conceived by the 1965 ESEA. The original Act was not drastically altered by this 1966 legislation, but the Amendment was quite significant for American Indians. P.L. 89-750 amended section 203(A)(1) of P.L. 874 to authorize a "set-aside" (i.e., earmarked a sum) for educationally deprived children on Indian reservations and in BIA boarding schools. Other amendments to Title I acted to provide special education aid to neglected or delinquent children in state and local institutions.

In regard to the "set-aside" for Indian children, the House Committee on Education and Labor expressed this legislative intent:

> . . . that these funds be used to meet the special educational needs of Indian children and not merely become co-mingled with other Federal funds, the impact of which becomes lost in the total program. Therefore, the Committee expects the Office of Education to review carefully the special programs which the BIA intends to implement with these funds.

The committee expressed a particular desire to see this 1966 Amendment interpreted broadly enough to provide for the needs of all educationally deprived Indian children whether they were enrolled in school or not. Furthermore, the committee went on to address other concerns in Indian education:

> In addressing itself to the problems of Indian education, the committee realizes that there are gaps and duplications in the opportunities offered to Indian children. In some cases there is little or no opportunity for an Indian child to go to school near his home; in other cases the curricular offerings available to Indian children are so limited that it becomes very difficult, for example, for an Indian child to receive a good vocational or technical education. It is expected that the Department of the Interior and the Department of Health, Education, and Welfare will work closely together in administering these grants so that a more equitable distribution of funds and opportunities will be made among Indian children. This cooperation must also extend to the various programs throughout the Federal Government designed to assist the education of Indian children, such as other programs in the Department of Health, Education, and Welfare, in the Office of Economic Opportunity, and in the Department of Housing and Urban Development.
>
> In addition, the committee expects the Department of Interior to work closely with the Federal, State and local authorities having Title I responsibilities, to assure that programs and projects are developed to assure a continuity of educational programs among the several agencies serving the same general population. Finally, the committee expects that projects and programs will be relevant to the needs of the people they are designed to help. (U.S. House of Representatives Report Number 1814, 1966)

The amendment for BIA schools was also the subject of testimony during hearings which were held on the proposed H.R. 13161 in March of 1966. Statements submitted by the Association on American Indian

Affairs and Arthur Harris, Associate Commissioner of Education, U.S. Office of Education, supported the "Indian participation" sections which the bill added to Titles I and II (Hearings, U.S. House of Representatives, Committee on Education and Labor, 1966, Part 1, p. 110). Mr. Harris in particular stated that,

> As a final comment on Title I, I would like to point out that two additional groups of children--Indian children and migratory children--are being proposed for special consideration in much the same way certain handicapped children were handled through the amendment to the Title in the past year.
>
> Special provision would be made to meet the special educational needs of educationally deprived Indian children in Bureau of Indian Affairs schools. In Fiscal Year 1965, there were nearly 150,000 Indian children between the ages of 6 and 18. Only 134,000 of them were enrolled in school, more than 8,000 were unable to attend because of lack of facilities. Four thousand lived in dormatories away from home so that they might receive an education. Of those who attended school, 50 percent drop out before they complete the 12th grade. On the reservations, adults under 45 years of age average an eighth-grade education, compared to a national average of almost 12 years of school.

The Title II Library Resources programs were also amended by this 1966 Amendment to allow for participation by Indian students in BIA schools. Section 202(a) of ESEA was modified by increasing the set-aside for the territories (Puerto Rico, Guam, etc.) from 2 percent to 3 percent of the Title II appropriation and BIA schools were directed to share in this increased percentage. In discussing this amendment, the House committee cited a number of statistics dealing with such issues as Indian dropout rates in order to justify mandating the provisions for BIA (U.S.C.C.A.N., 1966, 3859).

Other developments in these 1966 ESEA Amendments included a revision of the Title I basic formula wherein the low income factor was raised from $2,000 per year to $3,000 per year so as to include more children in the sweep of ESEA. The federal per-child contribution, moreover, was modified so as to equal one-half the average per-child expenditure in the state or one-half of the national average per-child expenditure, whichever was higher.

Elementary and Secondary Education Amendments of 1967

The 1967 Amendments to ESEA extended without modification the authorization for the above-mentioned Indian programs under Titles I and II of the 1966 Act. In evaluating the progress of these programs, the House Committee Report (U.S. House of Representatives Report Number 188, 1966) noted that virtually all of the 48,000 children in attendance at BIA schools came from low-income families. The two-year extension provided by this 1967 Act made the authorization of the Indian programs under Titles I and II coincide in duration with the authorization of the basic programs under those titles.

During hearings held in March 1967, a number of Administration and Indian witnesses testified as to the progress of Indian education programs instituted under the 1966 Amendments to ESEA Titles I and II. Dr. Carl Marburger, Assistant Commissioner for Education, Bureau of Indian Affairs, stated that sixty-two projects serving 42,650 Indian children had been commenced during fiscal year 1967 and that the average expenditure of about $100 per pupil would have been doubled

had full-year funding been obtained in this initial year. Marburger hailed the two-year extension of authority for these Indian programs as vital for assuring secure planning and careful, considered teacher recruitment. He said,

> The Elementary and Secondary Education Act of 1965 did not include provision for Indian students, in Federal schools. Based on such factors as family income, isolation, English fluency, and cultural deprivation, American Indian children constitute one of the most severely disadvantaged segments of American society. In an attempt to remedy this omission, we cooperated with the Office of Education in drafting an Indian amendment which was included in the Elementary and Secondary Education Amendments of 1966.
>
> The Committee on Education and Labor is to be highly commended for its support of the Indian Amendment without which ESEA programs for Indian children would not have been implemented. (Hearings on H.R. 7819, 1967, 1021)

The only witness from DHEW who spoke at these hearings was the Special Assistant to the Secretary for Civil Rights whose testimony addressed only the issue of school bussing to achieve racial desegregation.

Another important development in the 1967 Amendments to ESEA was the advent of the Title VII Bilingual Education Act. Under this program LEAs could apply to the Office of Education for grants to develop and conduct programs targeted at the needs of children between the ages of three and eighteen years of limited English-speaking ability. The legislative history of the 1967 provision contains almost no reference to Indians (e.g., not a single Indian witness in two volumes of Senate testimony on Title VII taken in May of 1967);

however, Title VII was, in time, to become a significant force in Indian education.

Elementary and Secondary Education Amendments of 1969

The 1969 Amendments to ESEA were rather extensive. They were prompted in part by alleged abuses in the Title I program which were uncovered in the 1969 study by the NAACP Legal Defense and Education Fund entitled, "An Even Chance." This report suggested that considerable amounts of Title I funds were not being used to serve the special education needs of educationally deprived children but were being channeled into "general support" in lieu of local or state money, or were being used to supplant state and local expenditures for special education. Thus, the House report on the 1969 bill warned that the states have a continuing duty to inform LEAs if their applications do not conform to the law and to disapprove those which are inconsistent with the purpose and intent of Title I. The committee listed a number of administrative abuses which had been uncovered in an investigation by the U.S. Office of Education, including:

(1) The supplanting of State and local funds with Title I funds.
(2) The excessive use of Title I funds for capital outlay purposes.
(3) The use of Title I funds to maintain segregated school systems.
(4) The use of Title I funds in non-target areas.
(5) The use of Title I funds to serve the general needs of schools rather than the special needs of children.
(6) Improper restrictions on the public disclosure of Title I project information to the public.

(7) Inadequate participation by local citizens from the target areas in the administration of local Title I programs. (U.S.C.C.A.N., 1969, 2776)

The committee also complained that states had generally failed to produce the objective, statistical measurements of program success which Title I calls for, while chiding the U.S. Office of Education for its failure to demand such figures from the states.

Section 109 of the 1969 Amendments is the Congressional response to the above-described problems. This section is a simple, specific prohibition against the use of Title I funds to supplant state or local resources. Under the prohibition of this section, LEAs must use Title I funds only to supplement funds from state and local sources and must use the latter resources to fund Title I districts in amounts comparable to the amounts available to non-Title I districts. The U.S. Office of Education regulations measure comparability by:

(1) teacher/pupil ratio;
(2) expenditure per pupil for instructional salaries;
(3) expenditure per pupil for other instructional costs; and
(4) available courses and services.
(U.S.C.C.A.N., 1969, 2789)

Other developments in the 1969 Amendments included an extension to June 30, 1972 of the authorization for Title I and II Indian programs. Most other ESEA programs received renewed authorization through 1974, but the Indian "set aside" provisions were extended for a shorter period in response to the much publicized report of the Special Senate Subcommittee on Indian Education, "Indian Education:

A National Tragedy, A National Challenge." The Subcommittee had found that the proliferation of set-asides for BIA was an unsatisfactory method for availing Indian children of the benefits of federal education money. The House Education and Labor Committee thus recommended that BIA transfer authority should expire on June 30, 1972, with the understanding that a comprehensive Indian Education Act would be developed in the meantime. In a related development, the committee cautioned that there is no authority for BIA to use Title I funds for administrative expenses and called upon BIA to "prescribe higher standards with respect to transfer funds than the law permits with respect to funds granted to States" (U.S.C.C.A.N., 1969, 2724).

Title I authorization was extended without any change in program provisions by the 1969 Amendments. Title VII, however, was extended by the addition of a new section which made children in BIA schools and in non-profit, independent, reservation schools eligible for participation in Title VII programs. In the words of the committee, "This section is designed to encourage increased Indian participation in, and control of, their own bilingual education programs" (U.S.C.C.A.N., 1969, 2802). The House report declared, moreover, that funds authorized for programs in BIA schools will not be released by the Office of Education until

> . . . there is satisfactory assurance that there has been adequate tribal and parental participation in the development of the project for which application is made and that there will be such participation in the operation of that project . . . . The legislation gives complete discretion with respect to standards and conditions, to the Commissioner of Education. (U.S.C.C.A.N., 1969, 2803)

Although hearings on this measure were held by the House Committee on Education and Labor, no Indian witnesses appeared to testify on the proposed legislation.

Education Amendments of 1974

By 1974, Title I had grown to the point where it was funded at a level of $1.8 billion and served more than five million children in 13,900 school districts. P.L. 93-380 extended ESEA's authorization for three years, updated the Title I formula, and substantially extended the reach of Title VII bilingual education provisions.

The Title I basic grant formula was modified by P.L. 93-380. The Orshansky Index of Poverty was adopted in lieu of a single, fixed "low income" cutoff figure. The Orshansky Index measures poverty according to three factors: (1) the number of children in the family; (2) the sex of the head of the household; and (3) the farm or non-farm stature of the family. This system was superior to the "cut-off" method. Under the old formula, a family with one child and an income just below the cutoff figure would be counted under Title I, but a family with a slightly higher income and six children would not be counted; obviously, however, the latter family is far more seriously poverty-stricken.

Authority for HEW/OE to make payments to the Secretary of the Interior for the Bureau of Indian Affairs was extended by P.L. 93-380. However, P.L. 93-380 repealed the system of special grants to schools with highest concentrations of children from low income families because of its excessive administrative cost requirements. The Library

Resource aid provision of Title II was retained by P.L. 93-380, but was consolidated, for administrative efficiency, with a number of other federal education funding arrangements.

In the area of bilingual education, Title VII was extended by P.L. 93-380. Committee figures indicated that, in 1974, only 8 percent of the activities financed under this title served Indians.

The 1974 Amendments to Title VII allow the Commissioner to fund projects in schools other than those with large concentrations of poor children, if the bilingual needs of depressed districts have already been met.

Finally, it should be noted that the authority for section 810 of P.L. 92-318, Title IV (the Indian Education Act) was renewed for three more years, i.e., through fiscal year 1977, by P.L. 93-380. This law is discussed in the next section.

Administratively, the U.S. Office of Education transferred money directly to the Bureau of Indian Affairs with no oversight until 1969. A memorandum of understanding was signed in that year by the Commissioner of Education and the Commissioner of Indian Affairs. Later, in 1971, the U.S. Office required the Bureau of Indian Affairs to organize a plan of activities for use of these funds in BIA schools under Titles I, II, III, and VII. This plan was similar to required state plans for use of ESEA money. States which had Indian children in their local education agencies, and who met the economic requirements of the law, also received money for these children on the same basis as for the other children.

PUBLIC LAW 92-318, TITLE IV--THE INDIAN EDUCATION ACT OF 1972

Title IV of P.L. 92-318 is commonly known as the Indian Education Act of 1972. Part A of Title IV is concerned largely with the revision of P.L. 874 as it applies to school districts on or near Indian reservations, but does not affect the existing funding provisions of P.L. 874 in any way. Rather, it provides authorization for additional funds for formula grants for special Indian education programs by adding a new Title III to P.L. 874. This new Title III allows for the funding of pilot programs, planning projects, and the acquisition of teaching equipment designed to service the special educational needs of Indian children. Provisions for community and parental participation require grant programs to be formulated in consultation with Indian parents and with a public hearing (86 Stat. 337). Community control and self-determination are stressed by provisions which allow for a 5 percent set-aside for Indian-controlled schools which are on or near a reservation but which are not affiliated with a state school system or local educational agency, i.e., a non-LEA (86 Stat. 337). (This set-aside was increased to 10 percent by P.L. 83-380). (Education Amendments of 1974, August 21, 1974, Pub. L. No. 93-380, 632[b], 88 Stat. 586). The intent of this section is underscored by the Interior Committee's statement that the Commissioner is to actively solicit applications under this (non-LEA) provision (U.S. Senate Report Number 92-384, 1971, 18).

Part B of Title IV establishes a program under which the Commissioner of Education is authorized to make discretionary grants for the support of special projects designed to meet the remedial education needs of Indian children. This discretionary grant program is established under the auspices of the Elementary and Secondary Education Act of 1965 (ESEA) in that Title IV (B) adds a new section (810) to Title VIII of that Act.

Under this new section (810)(b) the Commissioner is empowered to make grants to state and local education agencies, Indian tribes and organizations, and federally-supported elementary and secondary schools to support special pilot and demonstration projects which are designed to improve educational opportunities for Indian children. These programs may be in areas such as bilingual education, bicultural education, and special health and nutrition services. Section (810)(c), on the other hand, allows the Commissioner to make grants to state and local education agencies and to tribal and other Indian community organizations to assist them in the development of programs to improve educational opportunities for Indian children. Grants under this latter section may be used first, to provide educational services which are in short supply and, second, to establish model programs. Section (810)(d) allows for grants to state and local educational agencies together with institutions of higher learning for the purpose of preparing persons to serve Indian children as teachers and improving the qualifications of persons who already are teachers.

As is the case in Part A, applications under section 810 must state that the advice of Indian parents has been sought in the development of the proposed program, but tribal government approval is unnecessary. Furthermore, Indian organizations are given priority in the bidding and selection process. An appropriation of 25 million dollars was authorized for Part B for 1973, whereas 35 million was authorized for each of the years 1974 and 1975. As of June 30, 1972, funds for library resources, supplemental education centers, and education of the handicapped (ESEA Titles II, III, and IV) which were formerly paid to Interior were discontinued. Funds for these purposes are now available under Part B. Bilingual education remains partially under ESEA Title VII.

Part C of Title IV provides for an adult Indian education program by amending Title III of the general Adult Education Act, which itself is part of the ESEA Amendments of 1966. Part C redesignates sections 314 and 315 as sections 315 and 316 respectively, and adds a new section 314. Section 314 provides that the Commissioner may make grants to state and local agencies and to Indian tribes, institutions, and organizations to support planning and pilot projects designed to improve employment opportunities and literacy levels of adult Indians and to procure high school equivalency certificates for adult Indians. As with Parts A and B, adequate tribal participation in planning is required (86 Stat. 342) and Indian organizations are to be given preference in the awarding of contracts under this section (86 Stat. 342).

Part D section 441 of Title IV establishes the Office of Indian Education at the Bureau level within the Office of Education (DHEW). This Bureau functions to administer the programs created by Parts A, B, and C of Title IV and is headed by a Deputy Commissioner of Indian Education. Section 442 establishes a National Advisory Council on Indian Education which consists of fifteen Native Americans and is charged with advising the Commissioner of Education with respect to the administration of any program in which Indian children or adults can participate and which is administered by DHEW; section 442 (B), in defining the scope of the Advisory Council's jurisdiction, apparently confines its activities to the Department of Health, Education, and Welfare.

Part E of the Act contains miscellaneous provisions. Section 451 amends the Higher Education Act of 1965 as amended by EPDA, the Educational Professions Development Act of 1967. EPDA aimed at stemming the nation-wide shortage of qualified teachers through an extensive program of college training and continuing education for teachers. Section 451 of Title IV provides that 5 percent of the money available for their programs shall be used to fund programs to serve teachers for reservation children.

Section 452 amends ESEA to allow non-profit tribal institutions to participate in programs under the Act in the same manner as a local education agency. The import of this section is substantially the same as that of section 303 (B) (Part A, Title IV) which makes a 5 percent set-aside for non-LEAs under P.L. 874.

Section 453 defines "Indian" for purposes of this Act. The definition is deliberately broad and inclusive so as to make non-reservation Indians and members of "terminated" tribes as well as reservation Indians eligible for the benefits provided by the Act.

Legislative History of the Act

Less than one year after the issuance of the report of the Special Subcommittee on Indian Education ("A National Tragedy, A National Challenge"), the General Indian Education Act (S. 4388) was introduced by Senators Edward Kennedy and Walter Mondale, both of whom were prominent figures in the development of the "National Tragedy" report. S. 4388 was not affirmatively acted upon by the Congress, but on February 25, 1971, the Indian Education Act (S. 659) was re-introduced with fourteen new sponsors. On April 28, 29 and May 6, the Senate Education Subcommittee held hearings on S. 659, inviting members of the Interior Committee to participate in recognition of that committee's parallel concern with Indian education. On August 3, S. 659 was returned to the floor of the Senate, with the Indian Education Act (Title IV) being reported favorably (U.S. Senate Report Number 92-346, 1971). On August 6, 1971, however, Title IV, by unanimous consent, was stricken from S. 659 (Congressional Record, 1971, 30489) and reintroduced as an independent bill (S. 2482) which was referred jointly to the Interior Committee and the Committee on Labor and Public Welfare. On October 9, S. 2482 passed the Senate by a unanimous vote and was referred to the House Committee on Education

Labor where it died. On February 7, 1972, however, the Senate Committee on Labor and Public Welfare reported an amended version of S. 659 which included, in place of the previously stricken Indian title, a new Title IV which was substantially identical to S. 2482 (U.S. Senate Report Number 92-346, 1971). On May 24, 1972, this version of S. 659 passed the Senate, and on June 8, 1972, it passed the House. On June 27, 1972, it was signed into law as P.L. 92-318 by President Richard M. Nixon.

While the voting roll call on P.L. 92-318 is significant in itself, it is important to remember that S. 659 was an omnibus education bill with a great number of diverse titles and provisions. Anti-bussing and integration riders, for instance, were a hotly contested issue in the debate on S. 659 and the voting split cannot, therefore, be taken as an indicator of a Congressman's attitude toward Title IV of the measure.

Genesis of Indian Education Act

Title IV of P.L. 92-318 had its genesis with the 1969 Senate Investigative Committee report (U.S. Senate Report Number 92-501, 1969). This report of the Special Subcommittee on Indian Education described with considerable detail the catastrophic failure of federal Indian education programs and made a number of specific recommendations for the correction of this long-standing deficiency. Among the facts cited by the committee in support of its legislative recommendations were its findings that:

(1) The dropout rates for Indian children are more than twice the national average, and approach 100 percent in some areas.

(2) Indian children taking standardized achievement tests consistently score 2 to 3 years behind white children. Indian children, moreover, fall progressively further behind the longer they stay in school.

(3) One fourth of elementary and secondary teachers, by their own admission, would prefer not to teach Indian children.

(4) More than any other minority group, Indian children believe themselves to be "below average" in intelligence, even though evidence is contrary to this belief. (U.S. Senate Report Number 92-384, 1971, 13)

Prompted by findings like the above, the subcommittee outlined an extensive scheme for the revision of federal and state Indian education policies. This plan included a recommendation (#6) "That there be presented to the Congress a comprehensive Indian education act to meet the special education needs of Indians both in Federal schools and in the public schools" (U.S. Senate Report Number 92-501, 1969, 110). The necessary objectives of this legislation, in the subcommittee's view, were the following:

(1) the elimination of "set aside" funding of BIA schools in federal programs such as ESEA and the creation of direct funding for these programs;

(2) the substantial revision of the Johnson-O'Malley Act, a move which the subcommittee felt was mandated by the failure of BIA to adequately effectuate an administrative reform of JOM;

(3) the consolidation, under one statute, of programs relating to adult education, model

programs, research, library resources, programs for the handicapped, and bilingual, bicultural education;

(4) the creation of community councils to advance the ideal of Indian self-determination. (U.S. Senate Report Number 92-501, 1969, 110)

Congressional Hearings

The Indian Education Act, in its several proposed forms, generated some five volumes of recorded testimony in a number of Congressional hearings during 1971. Representatives of the federal bureaucracy and various education lobbies as well as reservation and non-reservation Indians, commented on the proposed legislation, and the following summary attempts to highlight the major issues on which their testimony focused. Questions such as the advisability of direct funding of Indian tribes and "non-LEA" schools or the best definition of the theoretical "Indian" to whom Title IV services would be available, provoked many diverse responses from a wide variety of witnesses.

Removal of Indian Education from P.L. 874

It was this proposal of removing Indian education from P.L. 874 which Senator Fannin (one of the sponsors of S. 659, Title IV) referred to as the crucial question left unanswered by Title IV (U.S. Senate Report Number 92-384, 1971, 71). The original draft of Title IV cut Indian education away from the P.L. 874 "delivery system," but Indian leaders expressed such great apprehension over this move that later drafts of S. 659 were amended to restore the P.L. 874 funding source to Indians. Senator Metcalf, for example, recommended an

extensive overhaul of P.L. 874's "non-taxable land" formula for fund allocation, a formula which brings more money to affluent suburban counties than to depressed reservation areas. In the same breath, however, he notes the strong possibility that an alternate scheme would not be funded and states that S. 659, therefore, deliberately avoids severing the P.L. 874 pipeline (Hearings on S. 2482, 1971, 36). Similarly, Franklin Ducheneaux of the National Congress of American Indians (NCAI) (Hearings on S. 2482, 1971, 41) and Lorraine Misiaszek of the Affiliated Tribes of Northwest Indians (Hearings on S. 2724, 1971, 139) made strong statements opposing any attempt at separating Indian Education from P.L. 874, while still decrying the wastefulness of the P.L. 874 scheme.

Termination of ESEA Titles II, III and IV Funds for Indians

Like the proposal for the termination of P.L. 874 money, the provisions of Title IV cut off various ESEA benefits to Indians and replaced them with authorizations for programs under the new bill; these met with substantial opposition from Indian groups in the Congressional hearings. William Youpee, President of the National Tribal Chairman's Association, protested the loss of the ESEA money (Hearings on S. 2482, 42), as did Benny Attencio, Chairman of the All Indian Pueblo Council. Bolstering their objection is the testimoney of James Hawkins, Director of Education Programs for the BIA, who conceded the weakness of the Bureau's schools in a number of areas, especially in their programs for the emotionally and physically

handicapped, precisely the areas covered by the terminated ESEA Titles (Hearings on S. 2482, 83). Mr. Youpee and Mr. Attencio were both of the opinion the Title IV benefits should be added to the existing but deficient ESEA programs rather than functioning as a substitute for them (Hearings on S. 2482, 85).

School Construction,
P.L. 815 Deficiencies

In a series of discussions which closely paralleled the dispute over discontinuation of the old ESEA titles, Indian witnesses who urged that Title IV include an authorization for Indian school construction were met with the objection of "duplication of function." This objection was raised by administration witnesses who asserted that P.L. 815 already provided such authorization and needed only to be properly funded in order to meet Indian school construction needs. Administration witnesses, however, readily admitted that P.L. 815 appropriations had, in the past, been grossly inadequate with the result that a major need had gone unanswered in the area of Indian school construction. Sidney Marland, Commissioner of Education for DHEW, detailed the extent of the P.L. 815 construction request backlog (approximately $50 million in 1971) in a table submitted for the record at the Senate Committee on Labor and Public welfare hearings (Hearings on S. 659 and Related Bills, 1971, 1933). However, he recommended only increased appropriations as a solution. William Youpee also objected to the absence of a new school construction authorization in Title IV (Hearings on S. 2482, 43), as did William Demmert, Jr., of the National

Indian Education Association (NIEA). Mr. Demmert urged a new authorization for Indian school construction and/or an overhaul of P.L. 815 making Indian schools a priority under that law (Hearings on S. 2482, 55). Indian witnesses appeared to be generally unimpressed both with claims that P.L. 815 could be expected to meet Indian needs and that a Title IV school construction provision would duplicate authority existing under P.L. 815.

Office of Indian Education; National Advisory Council on Indian Education

The tension between unmet Indian needs and the Administration's desire to avoid "duplication of effort" among federal programs and agencies was a major factor in discussion of the Office of Indian Education which Title IV established in the U.S. Office of Education. Commissioner Sidney P. Marland of USOE was especially adamant in opposition to the creation of this new office (Hearings on S. 2724, 101), maintaining that existing agency structures were adequate to perform the functions which would ultimately be delegated to the Office of Indian Education (Hearings on S. 659, 1730). Likewise, the Navajo Tribal Council (Hearings on S. 659, 153) and the National Congress of American Indians (Hearings on S. 659, 1794) opposed the measure as fragmenting the responsibility of the BIA for Indian education. Other Indian groups, however, declared themselves in favor of the new office, including the Association of American Indian Affairs (Hearings on S. 659, 1869) and the United Native Americans (Hearings on 2. 659, 1907). Lehman Brightman, the president of the latter group, was

emphatic in his conviction that the responsibility for Indian education should be removed, as much as possible, from the ossified, paternalistic structure of the BIA.

Title IV Part D, which creates the Office of Indian Education, also provides for the establishment of the National Advisory Council on Indian Education. This concept was the subject of considerable adverse comment from Indian groups who tended to view it as a substitute for true self-determination. Among the groups who opposed the creation of the Advisory Council were NCAI (Hearings on S. 2724, 33), the Navajo Tribal Council (Hearings on H.R. 3837 and S. 2482, 1972), DHEW (Hearings on S. 2724, 22), and the Interior Department (Hearings on S. 2724, 22). Other witnesses, including the All Indian Pueblo Council (Hearings on S. 2482, 61), California Indian Legal Services (Hearings on H.R. 8937 and S. 2482, 231), and Americans for Indian Opportunity (Hearings on S. 659, 1830), approved of the National Advisory Coundil concept but felt that the Council should assume full supervisory (rather than mere advisory) responsibility for Indian education programs.

Indian Self-Determination

The sentiment that legislation which failed to offer a significant right to self-determination in education would be unacceptable is apparent in the testimony of a number of Indian groups. The late Ned Hatathli, President of the Navajo Community College, expressed the commonly-repeated objection that the provisions which require parent and tribal participation in the design of Title IV programs were vague,

weak, and subject to abuse. Mr. Hatathli further declared that local Indian groups should be given a voice in the hiring and firing of teachers employed in BIA schools and JOM programs (Hearings on H.R. 8937 and S. 2482, 67). This demand was reinforced by the testimony of Dillon Platero, supervisor of the Rough Rock Demonstration School, who noted that fewer than 3 percent of the teachers on the Navajo Reservation were, themselves, Navajos (Hearings on H.R. 8937 and S. 2482, 88). Mr. Platero suggested further that those Navajos who were employed on the reservation were subject to discrimination in promotion to administrative and supervisory positions. Commissioner of Indian Affairs, Louis Bruce, responded to this line of criticism by asserting that the Administration was taking action to redelegate authority to the operating level in a reservation education system (Hearings on S. 659, 1741). Under pressure from Senator Mondale, however, Commissioner Bruce admitted that only 650 out of 55,000 students in the BIA system attended locally-controlled schools (Hearings on S. 659, 1741). In response, Senator Mondale expressed support for local control over hiring and firing of teachers as well as the suspension of civil service hiring procedures in the case of Indian teachers (Hearings on S. 659, 1757). The only witness who expressed any apprehension over these proposals was Donald Morrison, the Vice President of the National Education Association. He voiced concern over the potential hardship which might befall unpopular teachers who would find themselves jobless in the event of assumption of hiring/firing power by local Indians (Hearings on S. 659, 1794).

In the hearings held in the House of Representatives, in addition to demands for specific rights, such as local control of hiring, curriculum, etc., there was much strong support for the idea of direct funding flow from the Federal Government to the local education or tribal unit. Nr. Ned Hatathli argued that direct funding to the tribe rather than federal grants to state and local education agencies would substantially alleviate some of the most pressing fiscal difficulties of the Navajo Community College. Mr. Natathli described in detail the endless difficulties which the college had encountered in its unsuccessful efforts at prying federal higher education assistance money loose from unsympathetic state bureaucrats (Hearings on H.R. 8937 and S. 2482, 60). Abe Plummer, Executive Director of the Ramah Navajo School, concurred in this view and made a plea for direct funding for independent Indian schools (Hearings on H.R. 8937 and S. 2482, 57). James McClarey of the New Mexico State Department of Education, however, stated that his department opposed all attempts at bypassing the states by giving federal money directly to tribes. He declared that his department has "the legal responsibility" for all education programs in his state and that bypassing his agency would therefore be improper (Hearings on H.R. 8937 and S. 2482, 112).

Defining Indian

The last major topic to be discussed in connection with the Title IV hearings was the definition of "Indian" which determines

who exactly will be eligible for benefits under the bill. Not surprisingly, reservation Indians tended to favor confining the term to enrolled members of federally-recognized tribes. Among those subscribing to this view was Peter MacDonald, Chairman of the Navajo Tribe (Hearings on H.R. 8937 and S. 2482, 231). On the other hand, California Indian Legal Services favored the census definition of Indian ("anyone who is 1/4 Indian blood, or is known as an Indian in his own community"), which would embrace terminated tribes and urban Indians (Hearings on H.R. 8937 and S. 2482, 522). Donald Fraser, U.S. Representative from Minnesota, stated that he also preferred this broader definition. As noted in the first portion of this paper, the definition of "Indian" finally adopted by Title IV is a broad, inclusive term which specifically aims at providing aid to "terminated," urban, and other non-reservation Indians, as well as enrolled reservation Indians.

Congressional Committee Reports

According to the Senate report on S. 2482, Part A of Title IV reflects Congressional concern over the wasteful character of P.L. 874 which has given more money to the wealthiest districts in the nation than to impoverished reservation areas (Hearings on H.R. 8937 and S. 2482, 72). Title IV, however, stops short of revising P.L. 874 to guarantee that Indians receive a share of existing P.L. 874 funds equal to the local area count of Indian children (Hearings on H.R. 8937 and S. 2482, 17). Public Law 874, moreover, makes no

provision for the special educational needs of Indian children (such as remedial or bilingual education) since P.L. 874 funds are channeled without restrictions into the general funds of the impacted school district. The original draft of the Indian Education Act would have removed reservation areas from the P.L. 874 "impacted area" funding scheme and would have utilized the Title IV delivery system instead. But, as evidenced in the Congressional hearings, Indian spokesmen expressed fears that the Title IV funding scheme would emerge as a low priority in the appropriations scramble and thus opposed the idea of severing Indian education from the P.L. 874 "pork barrel" funding process. Title IV, as a result, was amended to allow for continued Indian participation in P.L. 874 (Hearings on H.R. 8937 and S. 2482, 27).

The special education focus of Part B was mandated and explained by the facts that less than one-fifth of the Indian population have completed high school, and that the Indian drop-out rate approaches 100 percent in some school districts. Nationally, moreover, 40 percent of all Indian students drop out before completing high school (Hearings on H.R. 8937 and S. 2482, 18). The Senate committee reports indicate a legislative conviction that this state of affairs results largely from the absences (from public school curricula) of materials which are tailored to the special education and cultural needs of Indians and the frequent use of course materials which are derogatory to Indians (Hearings on H.R. 8937 and S. 2482, 14). Thus, a major priority in Part B is the section

810(d)(1) and (2) program for preparing individuals to serve Indian children as teachers, aides, etc. In this connection, the committee expresses an intent that Indian institutions of higher education will be preferred applicants under section 810(d). This concern for special education is consonant with the most recent development in JOM fund disbursement which leans heavily toward special education programs while keeping "general support" type funding at a minimum, with most to be assumed by P.L. 874, Impact Aid.

It is important to note that the section 453 definition of "Indian" makes terminated and non-federally recognized tribes and urban Indians eligible for these "special education" programs. It is significant also that Parts A and B do not address the questions of parent participation in general, curriculum reform, or teacher recruitment. Thus, it appears that Title IV represents a decidedly piecemeal approach to educational reform, leaving most questions of self-determination unresolved.

In the discussion of Part C, the Senate Interior Committee report cites statistics which reveal an illiteracy problem of enormous proportions among adult Indians (U.S. Senate Report 92-384, 1971, 20). This situation, as the committee points out, has far reaching and disastrous effects in that illiterate parents are unlikely to imbue their children with an appreciation of the benefits of a formal education and thus the children are often condemned, themselves, to functional illiteracy. Illiteracy, moreover, is a prime factor in contributing to adult unemployment, alcoholism, etc.

Further, the committee reports on Title IV cite the failure of the Office of Education to keep adequate data on Indian education. Thus, the need for an office within that agency to monitor Indian education was addressed by Part D. In addition, the committee emphasized the necessity of phasing out the general paternalism inherent in federal Indian policy (U.S. Senate Report 92-384, 1971, 20). With regard to the advisory council, the Senate Interior Committee declared its explicit intent that the effect of the advisory council was to have a substantial voice in Office of Education decisions (U.S. Senate Report 92-384, 1971, 21).

Public Law 93-80--Revision of Title IV

Public Law 93-380 authorizes a continued annual appropriation of 35 million dollars for Title IV Part B of P.L. 93-318 (88 Stat. 585) and extends the Commissioner's authority under Part A of Title IV until July 1, 1978 (88 Stat. 585, Sec. 631[b]). This most recent measure also amends Part B by providing that the Commissioner shall not approve any grants under section 810(b), (c), or (d) of ESEA (as added by Part B Title IV), unless he has determined that the grant program makes provision for the participation of eligible students in the area who are enrolled in private, non-profit elementary and secondary schools. Consonant with this amendment is the P.L. 93-380 revision of the Title IV set-aside for non-LEAs, which increased from 5 to 10 percent all Part A money (86 Stat. 339).

Part B of Title IV is expanded in scope by section 422 of P.L. 93-380, which authorizes the Commissioner to make grants to or contract with institutions of higher education, Indian organizations, and Indian tribes for the purpose of preparing individuals for teaching or administering programs aimed at the special educational needs of Indians. The Commissioner's authority under this section extends to the granting of fellowships which are to be awarded preferentially to Indians. Section 423 provides companion authority which authorizes the Commissioner to award up to two hundred fellowships to Indian students in fields other than education. A special appropriation of two million dollars per annum is authorized for section 422 programs for each year through fiscal year 1978.

Appropriations for Title IV, P.L. 92-318

Appropriations for the Indian Education Act began in 1973 with a special supplementary appropriation of 18 million dollars designed to get the fledgling Title IV program off the ground. This was followed by an appropriation of 40 million dollars in 1974, 42 million in 1975, and allocations of 55 million in fiscal years 1976-79. Of the 40 million appropriated for Title IV in 1974, 25 million was spend on Part A programs (formula grants under P.L. 874), 12 million was spent under Part B (special grants under ESEA) and 3 million was spent under Part C (Adult Education). The comparative proportions of money which has tripled its appropriation to 75 million in fiscal year 1980.

The Subcommittee on Appropriations for the Department of the Interior and Related Agencies is in charge of appropriations for Title IV of P.L. 92-318 despite the fact that the Office of Indian Education is in DHEW and has the responsibility for administering Title IV programs. In 1974, when Administration officials appeared before the Senate and House Committees on Appropriations for the Interior, some congressional members and Indian witnesses were rather pointed in their disapproval of the Administration's decision to abandon, at least temporarily, Part A of Title IV. The reasons for this approval are amply suggested by the statement of William Roberts, Director of the Coalition of Indian Controlled School Boards, who quoted statistics of the U.S. Office of Education which indicate that there are about 300,000 Indian students attending public, federal, and mission schools in the United States, and about 75 percent or 265,000 of these children are enrolled in public schools. Mr. Roberts stated that, of this number, BIA was reaching 100,000 or fewer through JOM, leaving about 165,000 with specific and unique educational needs which can only be met by Part A of Title IV (Hearings on H.R. 16027, 1974, 1789). Similarly, Herschel "Ace" Sahmaunt of the National Indian Education Association assailed the Administration's action in failing to request funding for Part A. He recommended a 60 million dollar appropriation for that section, 32 million dollar request for Part B, and 8 million dollar request for Part C, and a 2.5 million dollar request for Part D administration.

Administration officials, for their own part, explained the absence of a Part A appropriation as "a shift of emphasis away from formal grants" (Hearings on H.R. 16027, 1974, 1107). This policy, in the Administration's view, was necessary for the development of a non-inflationary budget. Frank McGettrick, Acting Deputy Commissioner of Indian Education at DHEW, argued that, in addition to being inflationary, an appropriation for Title IV would substantially duplicate the coverage of JOM. In reply to questioning from the committee, Mr. McGettrick indicated that "the exact extent of the overlap is unknown" but "a study is being made" (Hearings on H.R. 16027, 1974, 1107). Mr. McGettrick presented the Administration budget which included requests as set out below:

Part A - no funding
Part B - 22 million to develop and test various approaches to Indian education
- 10 million to train Indian administrators as teachers
Part C - 8 million
Part D - 2 million
(Hearings on H.R. 16027, 1974, 1107)

Senators Bible (Nevada) and Montoya (New Mexico) were pointedly hostile in their questioning of DHEW-OE witnesses and appeared to be dissatisfied with the responses concerning the procedures which OE used for tracking and allocating funds under JOM, P.L. 874 as modified by P.L. 92-318 and EPDA, as amended by P.L. 92-318. These Senators also appeared to be irked by the failure of OE to request Part A funding (Hearings on H.R. 16027, 1974, 1128-9, 1134-5, 1242).

As noted earlier, Congress made an appropriation of some 25 million dollars for Part A of Title IV in 1975, despite wishes of the Administration to the contrary. By contrast, the Carter Administration itself requested a Title IV appropriation of $95,055,400 for 1979 of which Part A accounted for 75 million (Hearings on Department of Interior and Related Appropriations, 1978, 280-2).

PUBLIC LAW 93-638--THE INDIAN SELF-DETERMINATION AND EDUCATIONAL ASSISTANCE ACT

Public Law 93-638, Title II, is cited as the "Indian Education Assistance Act." The form in which it was originally reported out of committee, Title II(A) completely repealed the Johnson-O'Malley Act of 1934 and substituted an entirely new scheme for educational contracting for Indian pupils in public schools (Hearings on S. 1017, 1973). This new design for educational contracting embodied a number of provisions which were designed to obviate abuses in the distribution and expenditure of JOM funds, the most significant of these reform provisions being a new formula for contracts between the Secretary of the Interior and the states. While this formula is too intricate to discuss in detail here, its significant feature was a requirement that school districts in an Indian-affected area treat Indian children on the same basis as any other residents of the state with respect to per-pupil expenditures not covered by JOM.

As it was finally enacted, Title II(A) of P.L. 93-638, contained a section 202 which added three new sections to the

Johnson-O'Malley Act. First, the new section 4 provides that prospective JOM contractors must submit to the Secretary of the Interior an education plan which "adequately addresses the educational needs of the Indian students who are the beneficiaries of the contract" and assures that the contractor is capable of carrying out this plan. The most significant portion of this section, however, is the clause that requires that, "where students other than Indian students participate in such programs, money expended under the contract shall be prorated to cover the participation only of Indian students."

Second, the new section 5 added by P.L. 638 provides that the Secretary shall not enter into any JOM contract unless that contract has been approved by a local committee composed of parents of affected Indian students. Section 5 does not demand that such a local committee be elected if the local school board is composed of a majority of Indians and it allows local Indian committees elected under the Indian Education Act of 1972 (Public Law 92-318, Section 305 [B][2][13][ii]) to be utilized for purposes of this section if the affected tribal governing body so desires.

Finally, new section 6 of the revision of the Johnson-O'Malley Act provides that the Secretary may, in his discretion, reimburse state school districts for educating "out-of-state" Indians who reside in federal boarding facilities for the purpose of attending public schools in that state.

Legislative History

The genesis of P.L. 93-638 occurred from President Nixon's message to Congress on American Indians on July 8, 1970. The thrust of this message was a new policy of "self-determination without termination," a policy which contrasted sharply to the federal termination experiments of the 1950s (U.S. Senate Report Number 762, 1974, 16). During the 91st Congress the Administration made legislative recommendations to implement this policy. The recommendations contained the following proposals:

> (1) Require the Secretaries of the Interior and Health, Education, and Welfare to transfer to Indian tribes, at their request, control and operation of Bureau of Indian Affairs and Indian Health Service programs and services;
> (2) Permit Indians to contract with the Bureau of Indian Affairs for the administration of Johnson-O'Malley (JOM) education funds, and to authorize the detail of commissioned personnel of the Public Health Service to Indian tribal organizations which assume the control and management of Indian Health Service programs; and,
> (3) Provide for continued fringe benefits (such as compensation for injury, retirement, life insurance and health benefits) to Federal civil service employees who transfer to Indian tribal organizations to perform the services they formerly performed as government employees. (U.S. Senate Report Number 762, 1974, 16)

No action was taken on these three proposals during the 91st Congress, and similar legislation was introduced in the 92nd Congress. The Indian community, however, was generally opposed to the administration's proposals, and Senators Jackson and Allott responded by introducing an alternative bill, S. 3157. During hearings on S. 3157 and the administration proposals, spokesmen for most major

Indian organizations expressed a preference for S. 3157 (U.S. Senate Report Number 762, 1974, 16). S. 3157 was passed by the Senate on August 2, 1973, but the House took no action on the bill.

S. 1017, the bill which finally became P.L. 93-638, was introduced on February 26, 1973, by Senators Jackson and Abourezk. Title I of this bill essentially embodied S. 3157 (U.S. Senate Report Number 762, 1974, 17). Hearings held on S. 1017-related measures (Hearings on S. 1017, supra note 1) revealed a general preference among Indian groups for S. 1017. Several suggestions which were made by Indian witnesses during the hearings were incorporated into the bill as the committee ordered it reported to the floor of the Senate on February 7, 1974 (Congressional Record, 1974, 4231). The bill passed the Senate on February 8, 1974, but on February 18 this action was vacated and the bill was sent back to committee at the request of Senator Jackson (U.S. Senate Report Number 682, 1974, 206). The committee reported S. 1017 back to the Senate floor on March 20 with an amendment in the nature of a substitute which extensively redrafted Title II, Part A. On April 1 it was reconsidered and passed the House that day and the Senate concurred in the House amendments. The Act was signed into law on January 4, 1975 by President Gerald Ford.

Congressional Action: The Education of Indians

In 1973, two years after the hearings on the proposed Indian Education Act, the Senate Interior Committee held hearings on S. 1017, the bill which finally became P.L. 93-638. This hearing

produced a plethora of testimony which tended to confirm all the worst suspicions concerning the frequency with which JOM funds were misused by state education agencies. James Hawkins, Director of Education for the BIA, admitted frankly that there were no uniform criteria for the disbursement of Johnson-O'Malley funds to the states and no uniform criteria for determining the purpose for which JOM funds might be used. When quizzed as to the reasons for BIA's failure to promulgate regulations to assure uniform distribution of JOM funds, Mr. Hawkins indicated that his department was concerned with the potential duplication of JOM services by DHEW via Title IV of P.L. 92-318 and the consequent overlap of jurisdiction between the two agencies. Mr. Hawkins suggested that this situation could best be resolved by having USOE issue regulations and then allow BIA to tailor its own regulations to match those of DHEW. In the meantime, however, no regulations or formal bureau policies could be said to guarantee uniform distribution of JOM resources (Hearings on S. 1017, 1974, 89). Compounding the opportunities for abuse which this administrative uncertainty produced was the fact (as stated by Mr. Hawkins) that BIA rarely, if ever, took immediate action to recover misused JOM funds from state contractors (Hearings on S. 1017, 1974, 89). Bureau efforts at monitoring JOM funds, moreover, were minimal at best, a factor which allowed many violations to slip by undetected at the very outset (Hearings on S. 1017, 1974, 87).

Perhaps the single most important factor in the history of JOM irregularity is the sweeping vagueness of the Johnson-O'Malley

Act itself. Drafted in 1934, amended in 1936, but never substantially modified until the present, the text of JOM leaves a great deal of latitude for administrative discretion. In the words of Senator James Abourezk, a sponsor of P.L. 93-638.

> The vagueness and ambiguity of the Johnson-O'Malley Act resulting in varied and inconsistent administrative procedures, the absence of a clear, concise policy defining the compliance and programmatic responsibility of the contracting agency and the complete lack of meaningful local Indian input, all evidence the glaring need for a fair formula which can provide for the equitable distribution of JOM funds and assure that the educational needs of Indian children are met.

The JOM formula to which Senator Abourezk referred appeared in the original draft of S. 1017, but proved to be extremely controversial and difficult as it applied to some states. Accordingly, it was dropped from S. 1017 when the committee reported the revised measure onto the floor of the Senate (Congressional Record, 1974, 4817). The draft of S. 1017 which was finally enacted into law approaches the reform of Johnson-O'Malley largely by reliance on "parent committees" and a few narrowly-drawn contracting requirements designed to insure that JOM funds reach the Indian children who are the rightful beneficiaries under the Act.

The potential problems with the approach to revising JOM through a new legislative formula were numerous and many objectives were raised to this approach. The testimony of the National Tribal Chairmen's Association, is exemplary of these objections:

> The President proposed that the Congress amend the Johnson-O'Malley Act to authorize the Department of the Interior to channel Johnson-O'Malley funds

> directly to Indian tribes and communities. Title II would give the Secretary of the Interior explicit authority to contract directly with Federally recognized Indian tribes and tribal organizations.
>
> While this section attempts to provide a formula which can be the basis for distribution of Part A funds, we believe that the formula will be too cumbersome to be useful or to be effective. Some prospective contractors may simply choose not to deal with such a formula and not contract for Part A funds. Some prospective contractors may not be able to meet the property tax rates of five non-Indian districts or comparable size enrollment and, therefore, lose Part A funds. We recommend that Part A not be enacted and that the Johnson-O'Malley Act be amended to include language that would explicitly authorize contracts with Indian tribes and tribal organizations. (Hearings on S. 1017, 1974, 112)

Testimony containing similar or related objections to this early draft of S. 1017, Title II, Part A, was offered by the All Indian Pueblo Council (Hearings on S. 1017, 1974, 141), the Michigan State Board of Education (Hearings on S. 1017, 1974, 152), and the National Education Association. (NEA urged specific modification of Title II[A]).

The committee heard the testimony of Allen Slickpoo of the Nez Perce Tribal Committee who called for strengthening of the parent committees' hold over JOM programs saying,

> Greater recognition should be given to the local Johnson-O'Malley parent advisory committees because we feel that we know the needs and the problems at the grassroots . . . and the recognition of authority of the JOM committees is a direct route toward the implementation of programs designed under the objectives of the Johnson-O'Malley Act. (Hearings on S. 1017, 1974, 148)

in order to determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indians." The study was to be conducted by eleven Commission members. Three senators, three representatives, and five Indian members composed the membership. Eleven task forces were created to conduct the investigatory work of the commission. The commission was authorized for two years--with one year set-aside for the work of the investigating task forces. Eleven task forces were established to review the following areas: trust responsibilities and the federal-Indian relationship; tribal government; federal administration and the structure of Indian affairs; federal, state, and tribal jurisdiction; Indian education; Indian health; reservation and resource development and protection; urban and rural non-reservation Indians; Indian law, consolidation, revision, and codification; terminated and non-federally recognized Indians; and alcohol and drug abuse.

A final report based on the work of the task forces and the commission's staff recommended a "super agency" for all Indian programs, expanded funding for all human services programs, and a procedure for recognizing Indians not presently under the jurisdiction of the Department of the Interior (American Indian Policy Review Commission Final Report, 1977, Vol. 1, pp. 11-46).

Congress began re-examining a number of areas suggested in the commission's final report. An Advisory Group on Indian Education, under the House Labor and Education Committee, soon began hearings

on specific needs of students in the Bureau of Indian Affairs boarding schools as well as in the public schools.

S. 1017 in its final form drew general, if not entirely, uncritical, support from most Indian groups.

Senator James Abourezk offered an analysis of Title II(A) on the floor of the Senate the day of the bill's passage,

> The second title of this legislation deals with some important innovations in the field of education. Although the formula in the original part proved to be extremely controversial and difficult to operate as it applied to some States, the proposed innovations stimulated a very intense and useful discussion. Part A as it now appears in this legislation has some desirable features. One of these is the creation of statutory language to guarantee the existence of Indian parent committees with the power to assure Indian input and approval of local programs under the Johnson-O'Malley program. Certainly we in Congress must devise a system to prevent the kinds of misuse of the Johnson-O'Malley funds that have been pointed out in reports by the General Accounting Office and others. I believe this system of controls will require further study, which Part A calls for. (Congressional Record, 1974, 4817)

The legislative intent behind this last section is interwoven with various statements of Congressional displeasure with the failure of BIA to issue comprehensive JOM regulations and the failure of that Bureau to commence a study of this matter and make recommendations to Congress to resolve it.

As the Indian Self-Determination and Education Assistance Act of 1977 became law, another significant resolution was moving through the Congress. It called for creating an American Indian Policy Review Commission (Public Law 93-580). The Commission was mandated to

"conduct a comprehensive review of historical and legal developments underlying the Indian's unique relationship with the Federal Government." Their work culminated in Title XI of the Education Amendments of 1978. This law combined amendments relating to Indian children in both the Bureau of Indian Affairs and the public schools. Part A of Title XI, amended Impact Aid (Public Law 874), to assure the involvement of Indian parents in planning, consulting, and dissemination of programs which serve their children in the public schools. This same section requires the Bureau of Indian Affairs to develop a formula for distributing the Johnson-O'Malley funds to tribes, Indian organizations, and public schools.

Part B of Title XI requires that the Bureau of Indian Affairs establish minimum academic standards for Indian children attending Bureau and tribally controlled schools. These standards are to comply with those of the public schools in the state where the facility is located. A further study is mandated concerning boarding arrangements of Indian students in the Bureau dormitories. Criteria are to be established in line with health and safety standards of federal, tribal, and state governments.

The director of the Office of Education for the Bureau is given direct authority to supervise operation of all personnel in education services both in the Bureau and its boarding schools. An elaborate plan for recruiting, hiring, and evaluating educational personnel is outlined by utilizing local Indian school boards. This section also notes, "the policy of the Bureau of Indian Affairs is to

facilitate Indian control of Indian affairs in all matters relating to education" (Title XI, Part B, Section 1130).

Part C of Title XI extends the Indian Education Act of 1972 until October 1, 1983 under the jurisdiction of the U.S. Office of Education. Tribal schools are deemed to be local educational agencies under this section and "gifted and talented students and handicapped children" are added as program priorities.

A special study is mandated to review the definition of Indian as used in the original law and report back findings and recommendations to Congress. A review of the eligibility of Indian children is required by collecting specific data covering the child's tribe, parents or guardian, and other relevant information deemed necessary.

Regional information centers are authorized for evaluation, training and technical assistance, and dissemination of information. Scholarships are authorized in medicine, law, education, engineering, business administration, natural resources and related fields.

In addition, Congress mandated in section 1147 of this law that the Assistant Secretary of HEW in consultation with Indian tribes, national Indian organizations, and the Secretary of Interior conduct a study and analysis of the definition of Indian as it appears in section 453(a) of the Indian Education Act (Title IV--P.L. 92-318, as amended) and submit a report on this matter to Congress. The report is due to the Congress May 30, 1980. Five elements are to be reviewed in this study. They are as follows:

1. Identification of the total number of Indian children being served under this title;

2. identification of the number of Indian children eligible and served under each of the definitions of Indian in the act;

3. an evaluation of the consequences of eliminating descendants in the second degree from the Indian definition section or of specifying a final date by which tribes, bands, and groups must be recognized, or both;

4. other options for changes in the terms of the Indian definitions and the consequences of such changes, together with supporting data;

5. recommendations with respect to criteria for use by the Commissioner under the rulemaking authority concerning the definition of Indians under the act.

Field hearings have been convened around the country to hear comments and suggestions from Indian tribes, organizations, and people as well as Title IV project staff and state departments of education on these matters. A panel of Indian consultants are also working with the Assistant Secretary's office on the study.

As the federal effort in Indian education moves into the 1980's, Congress seems to be mandating specific activities for the federal agencies involved, pursuing a policy of assimilation through education with two inconsistent practices--integration via the public schools and Indian control via the Bureau of Indian Affairs and tribal schools (92 Stat. 2143, Sec. 1101-1152).

SUMMARY AND CONCLUSIONS

The overarchiving policy of the United States, initially and after its formation as a republic, has been the assimilation of Indian people. Central to that policy has been the question of who the federal government defines as an Indian and how that recognition takes place. This question of who is an Indian and how is an Indian recognized has been used by the federal government as a basis for establishing various educational services and determining eligibility for such services.

A review of the various federal treaties and laws relating to Indians described in this chapter indicates open services to all Indian people with whom there was contact. This meant specifically Indians along the Eastern Seaboard. As the settlers moved west, Indians were moved further westward, and other tribes were soon in contact with the government. This contact brought new exchanges between various Indians and the government which soon was formulated into the "trust relationship." This relationshp has evolved from treaties, executive orders, and statutes and is used as the primary rationale for the federal government's services to reservation Indians. However, the decade of the 1960's saw an increased awareness of the Indians as a part of the "disadvantaged" in the American society. Much of the legislation passed during this period was directed to improve the educational and socio-economic status of the

"culturally disadvantaged"--Blacks, Hispanics, Asisns, and American Indians.

Today, there is a legacy of educational services which denotes a preoccupation by the federal government on how to organize education for Indians living on reservations. These educational services have used individual missionaries, missionary societies, local and state education agencies, and schools operated by the Bureau of Indian Affairs.

From 1835 until 1965, all of the federal government's educational concerns was directed toward Indians living on reservations, and those programs were administered by the Bureau of Indian Affairs. Other Indians were presumed to be absorbed into the general citizenry and educated under state laws. As the decade of the 1960's unfolded and the civil rights struggle gained increasing federal attention, the U.S. Congress found among its disadvantaged citizens a large number of American Indians. The new educational laws passed during this time, first excluded and then included all American Indians as eligible participants. These laws which extended educational services to all Indian people were located in federal agencies other than the Bureau of Indian Affairs.

Today 52 percent of the American Indian population live in urban and rural areas, away from Indian reservations. The Bureau of Indian Affairs provides schools for 50,000 Indian students. The public schools, in various states and counties, enroll more than 225,000 Indian students. Yet, the major focus and resource of the

federal government has been and continues to be on educating Indians in the Bureau of Indian Affairs schools. These students are defined as "reservation Indians," and must be of one-quarter Indian blood for purposes of the Bureau of Indian Affairs services.

The U.S. Office of Education has a number of definitions of Indians for purposes of eligibility for its various educational services. Among these definitions is the one included in the Indian Education Act. This law recognizes the following Indians for purposes of eligibility: state recognized Indians, Indians terminated since 1940, and Indians recognized by the Secretary of the Interior as one-quarter or more Indian blood.

This chapter illustrates the consistent federal policy of assimilation of the Indian into the mainstream of American Life as well as an ambivalent posture concerning who is an Indian and how is an Indian defined and recognized for purposes of educational services. The federal government has vacillated from inclusive recognition of Indians based on the local groups' self-recognition to exclusive definitions of the Secretary of Interior, tribes, and the Congress itself, as to who is an Indian and back to inclusive definitions as included in the Indian Education Act. Educational services have been organized throughout the nation's history to meet each and all of these various definitions.

Despite the variations in defining who is an Indian for purposes of eligibility for educational services, the goal of the

policy of the United States has not changed. It has always been to assimilate American Indians into the mainstream of American life.

The following chapters illustrate how one state, North Carolina, chose to assimilate its Indian citizens--sometimes in consonance and sometimes at variance with the federal government's efforts. It also describes the state's procedure for recognizing its Indian tribes, communities, and citizens and organizing a means for local definition of who is an Indian. The subsequent chapter describes the efforts of one tribe in North Carolina, the Lumbees, to gain state and federal recognition as well as eligibility for educational services. In both chapters, the educational history at the federal and state levels and its impact on the Lumbee community is noted.

Chapter 3

NORTH CAROLINA: THE EVOLUTION OF STATE AND LOCAL POLICY TOWARDS INDIANS AND THEIR EDUCATION

In 1885, 109 years after statehood, North Carolina authorized through legislation the first public schools for Indians residing in its borders. In fact, from the time of statehood until 1868, the state Constitution had only mentioned the public education of white children. However, after the Civil War, North Carolina was required to draft a new Constitution which incorporated the Fourteenth Amendment to the U.S. Constitution and a number of requirements from the Reconstruction and Civil Rights Act of 1866-1867. The new Constitution provided for a general and uniform system of public schools to be opened at least four months every year. By 1875, this Constitution had been amended to provide specifically that schools for white and colored children were to be separate. It was under this rubric that North Carolina's belated policy of public education for non-whites emerged.

The state's early public education policy relied on a combination of proprietary and private schools for whites from 1776 until 1835. In that year, the state Constitution provided for establishing schools if the county approved it by referendum. A majority of the counties did so. In 1852, an Office of the Superintendent for the Common Schools was created to guide the development of public schools for whites, and these schools expanded throughout

the state until the Civil War. A limited number of public schools continued to operate during that War. At the end of the War, North Carolina was required to draft a new Constitution and incorporate a number of federal laws into the document. This Constitution provided for a general system of public schools but made no mention of race. As the schools were established, the state soon found large numbers of freedmen interested in attending them. Many towns failed to provide schools and the particular task of educating the freedmen soon was assumed by the U.S. Freedman's Bureau and various private philanthropic organizations.

Seven years later, in 1875, North Carolina amended its Constitution to provide separate schools for whites and "colored." This policy merely affirmed the local practice which had developed--of separate schools for the races. The policy of separate schools for non-whites became the official state policy in 1875. It was affirmed by the U.S. Supreme Court in 1896, in Plessy vs. Ferguson (Plessy vs. Ferguson, 1896), and continued legally until 1954, when the U. S. Supreme Court, in Brown vs. School Board of Topeka, Kansas (Brown vs. Board of Education, 1954), declared separate and equal schools unconstitutional.

North Carolina viewed its Indian citizens as "colored or non-white". State policies in education also classified children as either white or "colored" (non-white). These policies stimulated the creation of segregated educational facilities for whites and "coloreds." Again the policy reaffirmed the local practice of

separate schools for non-white children. The state's policy concerning the public education of Indians therefore, was to categorize them under the racial heading of "colored," recognize them as Indians, and authorize the creation of separate schools, school committees, and teachers to educate their children. Segregated Indian schools were the result until 1954, when these schools were declared unconstitutional.

Although segregated schools were unconstitutional after 1954, North Carolina was not seriously affected by desegregation until 1968. The state's policy towards "colored" or non-whites legally was one of desegregation through "freedom of choice," and pupil assignment plans based on the individual request of students. Today, the official policy of North Carolina is desegregation in public education and public facilities for all of the state's citizens regardless of race or ethnic origin.

This chapter contains a review of North Carolina's state practice and policy towards Indians and their education, and an illustration of that policy as applied locally in Robeson County. In tracing its evolution, the history of state and local policy will be viewed from three areas: pre- and post-Civil War to illustrate the segregation policies; and post-Brown vs the Board of Education to describe the various policies and activities under the mantle of desegregation. A history and analysis will be developed of public practice and policy towards the public education of Indians in its several dimensions. The next chapter contains a description of how

a particular tribe, the Lumbee Indians of Robeson County, North Carolina, confronted the various practices and policies, moved to safeguard and protect their identity as a people, and utilized local practice and policy as a reason to devise a separate system to educate their children.

PRE-CIVIL WAR EDUCATION IN NORTH CAROLINA FOR WHITES ONLY

North Carolina's initial public education policies can be traced back to the earliest settlements of the original thirteen colonies which became the United States of America.

After English settlement began, the colony of Carolina was guided first by grants to various governors and then by the English Crown. In each instance, education was indirectly supervised by the Church of England through its power to approve and license teachers and ministers. Individual wealthy families used private tutors for their children and later sent them to Europe for advanced education. As new settlers, particularly the Scotch-Irish, came to North Carolina, a large number of schools were started under the auspices of the Presbyterian Church. These schools operated as private academies and were chartered by both the colony and the town in which they were located. In addition, the legislature granted these schools the right to raise funds through lotteries for building and other purposes. The private academies became North Carolina's principal instruments for education until the 1850's (Knight, 1916).

From these academies a number of students went to Princeton or some of the privately-endowed colleges in North Carolina or other states, and to Europe for advanced education. During this period, poor children and orphans in the colony were bound as apprentices to masters or guardians who agreed to teach them trades as well as how to read and write. Education was viewed as the responsibility of the family.

Early Constitution Provided for Schools and Laws Established Literary Fund

North Carolina was one of the first states to make provisions in its state Constitution for schools and a university. The first Constitution provided:

> That a school or schools shall be established by the legislature for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct at low prices, and all useful learning shall be duly encouraged and promoted in one or more universities. (North Carolina State Constitution, 1789)

The various governors of the state continuously called on the legislature to enact laws for public education, but to no avail until 1825 when a "Literary Fund" was established. With the creation of the "Literary Fund," in 1825, North Carolina began to shift its view of education from that of a family to a state function. The "Literary Fund" basically authorized a board of directors to invest funds from dividends of various state stocks, taxes, and other money due the state. This fund, once sufficiently accumulated, was to be divided among the several counties of this state in proportion to their free

white population, whose youth were to be instructed in reading, writing, and arithmetic. The directors of the fund were the chief political officers of the state: the chief justice of the Supreme Court, the state senate president, speaker of the general assembly, and treasurer (Knight, 1916). It was not until 1840 that the Literary Fund had increased enough to be used to support public education.

Freed Blacks and Indians Disenfranchised in 1835

North Carolina amended its constitution in 1835. It abolished the right to vote for all free people of color, abolished the election of representatives from boroughs, and provided that the white adult male taxpayers should elect the governor (Lefler, 1973). This amendment had the practical effect of disenfranchising both the freed Blacks and the Indians of the state. It also had the effect of encouraging de facto segregation between the Indians and whites who, according to tradition, had heretofore socialized and used the same educational and religious institutions. The researcher found no evidence in the printed records that Indians and whites associated freely in this manner but was so informed by many local Indian elders. However, the general education provisions of the first state constitution were retained in the revised Constitution of 1835. Distribution of a federal government surplus caused North Carolina to receive almost $1.5 million dollars in 1837. Of this money, $100,000 went to the Literary Fund for public education.

North Carolina Launches Common Schools

With the federal revenue and money already accumulated in the state Literary Fund, North Carolina had two million dollars with which to launch a public education system in 1838. The state legislature instructed the Literary Fund board to develop a plan for establishing common schools in the state and report it to the next session of the legislature (Knight, 1916). The ensuing report resulted in passage of the Public School Law of 1839, which called for county referendums to vote on whether or not the people of North Carolina desired to have schools (Lefler, 1973). When a county voted for common schools, the county court was authorized to appoint a superintendent to organize school districts and to appoint school district committees. Districts which supplied a school building for fifty pupils and raised $20 in taxes as levied by the county court, then received $40 from the state Literary Fund. This money was to be used to hire the teacher. By 1846, every county in North Carolina had one or two public schools opened to all white children at public expense (Lefler, 1973).

As the state further developed its public education policy, the Constitution provided for the instruction of youth and the creation of universities. From such provisions came state laws for financing public education. The Literary Fund was to be the chief source of money for county schools and such funds were to be distributed based on the numbers of "the free white population." Federal surplus money, when added to state funds, gave North Carolina enough money to launch its statewide school system for whites. County referendums were

organized throughout the state to let the people decide whether they should have local public schools. All but seven of North Carolina's counties voted to establish schools. As counties organized their schools, various financial incentives were organized by the state for counties which provided the school house and a particular level of taxes. Thus the state set the general parameters for establishing public schools and then called on local governments to agree to these by referendum and matching financial incentives given by the state. Public education was organized only for white children in the counties which voted to establish such school systems.

Evolution of Public Schools

Public schools developed slowly over the next decade. During this period, the state legislature began amending and clarifying some of the county duties for public education.

In 1849, the local courts were to levy an annual school tax not to exceed $250 to employ a competent person, recommended by the county boards of education, to visit the schools and review their programs. Teachers also were to be examined and hired by the county board. Three years later, in 1852, the state legislature passed a law which created the Office of the Superintendent for Common Schools and defined its duties (N.C. Statutes, Act of December 4, 1852). Between 1839 and 1852, North Carolina established a limited number of public schools in each of the counties. During this period, the state delegated its authority to the local courts who appointed the Superintendent. The local court was authorized to draw school

district jurisdictions, supervise the construction of school buildings, and levy the school taxes. The local superintendent was to supervise the schools, serve on the examining boards for teachers, and hire the teachers for the schools. Thus the state set the general public education policy and then delegated to the local county government authority to educate and raise revenues for public schools.

Wiley Expands and Maintains the Public Schools

C. H. Wiley became the Superintendent of Common Schools for North Carolina in 1853. He remained in that position until 1866, when the office was abolished. Superintendent Wiley is credited with organizing the program of public education for white children throughout the state. He visited all the counties in the state encouraging: public education for whites; accurate census records on the children; organized accounting for state and local expenditures; improved textbooks for the classrooms; and a large number of better-qualified teachers for the schools. Wiley also sought to encourage the teachers and administrators to form a statewide association and a county teacher training institute as well as a local examining and certification board. At the beginning of the Civil War, North Carolina is credited with having the finest public school system in the South (Weeks, 1898). In 1861, for example, there were six colleges in existence with 2,400 students enrolled, as well as 350 academies attended by 15,000 students and 4,000 public schools with 160,000 students (Public Education in North Carolina,

1830-1960). Some historians state that Wiley was able to maintain a semblance of public education during the Civil War, but others declare that the system suffered a severe blow (Lefler, 1973; Knight, 1916; Coons, 1908; Noble, 1916). At any rate, Superintendent Wiley remained in office until 1866, when the post-war constitution convention declared all state offices vacant.

At the time of the Civil War, North Carolina had a policy of public education for white children; organized a state agency to oversee the development of public education in the state, such as teacher certification, student enrollment data, and standard curriculum; and organized a measure of accountability for the use of state and local school money.

Pre-Civil War Education Policy in Robeson County North Carolina

Educational policy was also reviewed in Robeson County North Carolina for the pre-Civil War era. Robeson is the second-largest county in North Carolina. It is located in the southeastern section of North Carolina adjacent to the South Carolina border in the coastal plains area. The terrain consists of rolling hills and flatlands intersected by swamps throughout the county. The soil is said to be among the richest in the United States (Land Potential Study, Robeson County, North Carolina, 1969).

Robeson was formed from Bladen County by legislative statute in 1786 and named for Colonel Thomas Robeson, a Revolutionary War

hero. Lumberton was established as the county seat in 1848 by state law. Throughout most of its history, Robeson has had primarily a rural-oriented economy, with some 226,538 acres of land either harvested or in idle cropland. The decade of the 1970's has seen an increase in industrial and manufacturing employment, for which the labor force is shown as 39,370 in 1975, with 6,360 or 16.2 percent of this number listed unemployed. The county's population in 1975 was 93,700 people, about equally divided between Blacks, Indians, and Whites. Per capita income was listed as $3,717 in 1974. Educational statistics for 1975-76 indicated that there were 24,723 children in public schools; 3,057 students in community colleges; and 1,774 students in undergraduate institutions of higher education (Profile North Carolina Counties, 1977).

Lumbee Indians Original Inhabitants of the County

The first settlers in the area were Lumbee Indians. They were there when the Scotch immigrants settled in the upper section of what is now Robeson County and found Indians "speaking broken English tilling the soil in a crude manner and practicing in a rather imperfect way some of the arts practiced by the civilized people in Europe" (McPherson, 1915). These Indians were located primarily on the Lumbee River but occupied lands as far as the Pee Dee River in South Carolina. Lands were held in common by the right of possession.

The French Huguenots were the first whites to settle in this area and then came the Scotch immigrants and the English. By the end of the American Revolution, these groups were to be found near the Indian settlements (McLean, 1900). The early Black settlers of Robeson County were slaves brought into the area by the whites who moved in from Virginia and South Carolina (McLean, 1900).

Robeson County has had a long background of tri-racial history for Blacks, Indians, and Whites. The fastest-growing group since 1940, however, has been the Lumbee Indians. From 1940 to 1970, some 10,075 Lumbee Indians were added to the county's census. From the earliest days of the county's history, but particularly after 1835, rigid patterns and practices of segregation were enforced for all races in the county. Separate public facilities and institutions were organized by the state and county for all three races.

The prevailing agricultural way of life of individual farmers and share croppers; the landed gentry among a few white families; the very slow growth of industry until this past decade; and the rigid patterns of segregation; all have combined to locate the three races in specific sections of the county. Blacks are settled in the eastern edge of the county as well as in three towns. The Indians are concentrated in the rural areas of the western section of the county and in the town of Pembroke. The whites are concentrated primarily in the eastern part of the county.

County's Education Was for Whites Only

Education in Robeson County followed the general policies of the state of North Carolina until the Civil War. Education was, for white children only, as mandated by the state. Only families who could afford private schools were able to educate their children.

Between 1776 and 1852, academies and institutions were the major schools in Robeson County. These schools were chartered by the state but were established by private initiative and backed by private enterprise. In the towns where the schools were located, a school's charter was presented to the town council which permitted the school to raise money by lottery and sometimes exempted it from taxation (Weeks, 1898). Trustees of these schools established the rules, designed the academic programs, and issued the certificates of merit. The institutes were organized along the same line as the academies. When the federal government returned surplus money to the states in 1835, the N.C. state legislature passed a law "dividing the counties into school districts" (Common Laws of North Carolina, 1836-1839). Robeson County moved to participate in this program by electing a superintendent and dividing the county into common school districts. This law made it possible for each district of the county, having raised by local taxation the sum of twenty dollars, to build a schoolhouse to accommodate at least fifty pupils and then to receive forty dollars for school support from the state's literary fund (Common Laws of North Carolina, 1836-1839).

Education Statistics Reveal Sixty-One White Students in Robeson County

Four years after the N.C. Constitutional Convention had met in 1835 and adopted an amendment against "people of color" exercising the vote or attending schools, the U.S. Census indicated the following educational conditions in Robeson County:

Number of Colleges and Universities	0
Number of Academies and Grammar Schools	2
Number of Primary and Common Schools	0
Total population in the County	10,370
Total White Males	3,074
Total White Females	3,148
Total Male Black Slaves	1,439
Total Female Black Slaves	1,446
Total Free Black Males	596
Total Free Black Females	621
Number of pupils in college	0
Number of pupils in academies	61
Number of pupils in other schools	1,126

(Sixth Census of the United States, 1840)

Local Indian tradition says that Croatan Indians in the county attended schools and churches and generally socialized with whites until the 1835 Constitution disenfranchised them and classified them as "people of color." Local printed records show nothing regarding Indians before 1835. The above statistics infer that no Indians were acknowledged in the Census records.

North Carolina Urges State Office for Education

Between 1840 and 1852, the State Literary Board was in charge of public education. Their reports were directed towards persuading the legislature to appoint a single executive for the state's public

education activities. The only record available for this time was the 1850 U.S. Census which provided no figures on Indians, although there were figures for "free colored" persons in that report.

Office of State Superintendent of Public Instruction Created

Finally, in 1852, the state legislature created the Office of the State Superintendent of Public Instruction. Calvin H. Wiley received this appointment and set about to visit each county, collect data, and report on the progress of public education throughout the state to the state legislature. His 1853 report noted that Robeson County had fifty-four school districts; schools were operating in forty-nine of them and training 1,542 children (Biennial Report, State Superintendent of Public Instruction, 1853). Four years later, in 1857, there were 1,705 children of school age in the county in seventy-three districts, with the school term averaging two and one-half months, and with twenty-nine teachers (Biennial Report, State Superintendent of Public Instruction, 1860). All of the children attending school presumably were white.

At the beginning of the Civil War in 1860, Robeson County had seventy-five school districts and 2,727 children of school age. However, only 1,831 of these children were attending school, with the average term of school being three months (Biennial Reports, State Superintendent of Public Instruction, 1860). With the fall of the Confederacy in 1865, the Literary Fund was eliminated. This meant

the principal source of financing for public education also was eliminated. In the last report of the school superintendent in 1865, no information was given on Robeson County. Throughout this period, no statistics are given for Indians living or attending school in Robeson County. From 1860 until 1868, no information was included in either the school or general population census reports on "free people of color." Since the state policy was directed to educating White children, Robeson County carried out that policy. "The people of color"--Indians and Blacks--received no education except where individual masters chose to have their Black slaves learn to read by use of tutors, ministers, or apprentices. No academies were listed for Blacks. Although various missionaries were pledged to organize a school for Indians, there is no evidence of this occurring (Coons, 1915).

POST-CIVIL WAR EDUCATION POLICY IN NORTH CAROLINA FOR WHITES AND PEOPLE OF COLOR

This period of history in North Carolina saw the evolution of expanded statewide public education for all children in the state. However, the "people of color" were legally forced to obtain their education in separate schools for colored children. Along with separate schools came substandard buildings, old textbooks, and local politics which sought to thwart education of North Carolina's "colored children."

State Legislature Re-establishes Public Schools

Early in 1865, North Carolina called a Constitutional Convention to repeal its ordinance of secession, declare the abolition of slavery, establish a procedure for a general election of the governor, state legislators and congressional representatives, and repudiate the debts of war. The elections were held, but the U.S. Congress refused to seat the North Carolina representatives because they had not been loyal to the Union or fair to the freedmen. This was the case which Congress made against all the Confederate states. The U.S. Congress enacted a number of laws specifically aimed at the South's role in the Civil War. Among these were the passage of the Fourteenth Amendment, the Reconstruction Acts, the Civil Rights Act and the creation of the Freedman Bureau (Lefler, 1973). North Carolina, along with the other southern states, rejected the Fourteenth Amendment. They soon found themselves under general military government established by the Reconstruction Act of March 2, 1867. This law and its subsequent amendments required that a constitutional convention be called and that the Negroes be granted suffrage. Elections were called to vote for the delegates to the state Constitutional Convention. The Convention was set for January 14 to March 17, 1869, in Raleigh.

The legislature, in 1866, abolished the offices of the Superintendent for Common Schools and the treasurer of the Literary Fund and left no state focus for educational guidance and school

financing. Justices of the county court were given authority to lay and collect taxes at their discretion for common school support. The county school committee was given discretionary power to grant aid, "to the extent they may be authorized by the court, to the subscription schools to be carried on in the schoolrooms of their districts" (Public Laws of North Carolina, 1866). This same legislature passed two important laws which affected local counties. One law authorized towns and cities to establish public school systems to be supported by taxes collected for corporation purposes, and the second law required the county to appoint county superintendents, who were to serve under the same education rules and regulations that applied prior to the Civil War (Knight, 1916).

State Constitution of 1868 Provides for Uniform System of Public Education

The State Constitutional Convention was called in 1868. The resulting Constitution incorporated a number of significant changes, some of which remain in effect today. A number of these changes were as follows:

- abolition of slavery,
- provision of universal manhood suffrage, elimination of all property and religious qualifications for voting and holding office,
- abolition of the county court system and the adoption of the township-county commission form of government,
- provision for a general and uniform system of public schools to be opened at least four months every year,

- connection to be established between the University of North Carolina and the free public schools of the state; a Department of Agriculture, mechanics, mining, and normal instruction to be established in connection with the University,
- and creation of four new elective administrative offices: lieutenant governor, auditor, superintendent of public works, and superintendent of public instruction.

Article nine of this Constitution was devoted entirely to education and its section two provided:

> That the General Assembly at its first session under this Constitution, shall provide by taxation and otherwise for a general and uniform system of public schools, wherein tuition shall be free of charge to all children of the state between the ages of six and twenty-one years. (Lefler, 1973: 461)

The Constitution was adopted by the state electorate. The governor and state representatives also were elected. The new legislature met, ratified the Fourteenth Amendment, and elected its two U.S. Senators. By July 20, 1868, the U.S. Congress had approved the new state constitution, accepted North Carolina's representatives and senators back into its membership, and admitted North Carolina back into the Union (Hamilton, 1919; Conner, 1929; Lefler, 1934, 1948).

The 1868 Constitution created the Office of the Superintendent of Public Instruction as an elected position. The Superintendent was to be the chief administrative officer of North Carolina public schools. He was to be chosen by popular vote every four years and, along with the other duties, he was to serve as the Secretary to the State Board of Education.

State Requires Separate Schools for Whites and Colored

At the request of the Governor, in 1869, the state legislature passed an omnibus school law which provided for a state board of education and defined its duties, set a definite school term, provided for a general school tax to be levied as a township tax by the county commissioners, and required separate school facilities for the "white and colored" children of the state. The law also provided that the $100,000 appropriated by the General Assembly in public school funds be apportioned by the Superintendent of Public Instruction. At the county level, money was to be apportioned and distributed by county commissioners in proportion to the number of children on the local census. Each county was to have a county examiner and a treasurer. A course of study was prescribed: reading, writing, spelling, arithmetic, geography, and English grammar, and such other studies as necessary (Public Laws of North Carolina, 1968-69). However, in 1870 the North Carolina Supreme Court held this law unconstitutional.

The 1868 Constitution restored the voting rights to all people of color and provided for a public school term of four months for all children regardless of race. It said nothing about segregated schools. However, one year later, the state legislature clearly legalized separate schools for North Carolina's white and colored children. It further authorized local governments through the county commissioners to levy school taxes by a township tax and to apportion such money based on the school census.

During this Reconstruction period, the state resources were limited and the schools were few and in despair. Many towns failed to provide schools altogether. For seven years, Reconstruction politics held sway in the state.

Republicans held the governorship and many other executive and legislative offices. The federal army still occupied the state. The state's Conservative party held a number of public offices and appeared to be using the Ku Klux Klan to spread hatred among the whites toward the negroes. During this time, the federal government and private philanthropic organizations provided education for the freedmen. Programs were organized under the Freedman's Bureau and supplemented at the local level through funds from the Peabody, Jeane's and Slater Foundations. These were private foundations interested in upgrading the education of the freedmen in the South. They provided funds for various southern states to hire and supervise teachers and match money for school construction for schools for freedmen. Without these efforts, education for the colored race in North Carolina would have been minimal (Hamilton, 1919).

In 1875, the state legislature, with a majority of Conservative members, called for another constitutional convention. This convention retained the 1868 Constitution and added a number of amendments which were based on experience with Reconstruction. Among the amendments were the following:

- schools for whites and colored were to be separated,
- marriages were forbidden between white and colored, and

- control over county government and appointment of justice of peace were given to the General Assembly of state instead of maintained by popular vote. (N.C. State Constitution, 1875)

When federal troops were withdrawn from the South in 1877, the recent Constitution Amendments made it easy for North Carolina to slip back into its earlier pattern of separation of the white and colored races. Although separation of the races was outlawed by the U.S. Constitution, it was sanctioned by the North Carolina Constitution, particularly in education and public facilities.

The Conservative (Democratic) party regained political control of the state in 1877. Separation of schools for whites and colored children had been agreed to, in the referendum on the Constitution of 1875. The county commissioners were given responsibility to raise funds to operate the schools for a four-month term each year. This revenue was to be supplemented by money from the permanent school fund.

In January 1877, the newly-elected Governor, Zebulon B. Vance, asked the General Assembly to deal equitably with all school children in the state, and not to discriminate against any in public school education. Serious efforts were made to equalize schools for whites and colored during the first three years of Governor Vance's administration (Lefler, 1973).

Robeson County began filing reports with the State Superintendent for Public Instruction during this period. They reported the number of white and colored students. By 1881, the county

reported a total of fifty-five public schools with 1,939 white children in enrollment and thirty-eight colored schools with an enrollment of 2,332 children. The school term operated for seven and one-third weeks during this year (Biennial Report of State Superintendent for Public Instruction, 1880-1881).

Taxes and Separate Schools

In 1880 the state legislature authorized the town of Goldsboro, North Carolina to establish elementary schools and to use property and poll tax raised from white persons for white schools. The taxes from property and poll tax of colored persons were to be used for schools for colored persons (Logan, 1964). The act passed the Legislature but the subsequent tax referendum was defeated. The following year, a similar act was passed by the legislature and ultimately approved by popular vote in Goldsboro. The approach to the support of public education soon spread to other towns in the state (Logan, 1964) and this law formed the basis for financing North Carolina's separate schools at the local level for many years. Whites being more prosperous than non-whites, schools for whites were more prosperous than schools for others, so that schools were separate but not equal. Interestingly the Indians of the area owned land and paid taxes, but no schools were provided for their children.

During this time, the state legislature also authorized those townships that had cities of 5,000 or more inhabitants within their jurisdiction to levy taxes for the support of local elementary

schools. These schools were to be under a local board of trustees, selected as set out in the law, with the county commissioners being assigned responsibility for operating the schools. Funds were turned over to the local trustees in the city units to operate the city school system and to the county school committee for the rural schools. This law (Knight, 1916) set the precedent for city administrative or special charter units which were to expand in North Carolina. The authority of the county commissioners to tax, for purposes of raising school revenue to operate a four-month term, was challenged in Barksdale vs. Commissioners in 1885. The North Carolina Supreme Court ruled the law unconstitutional. It held that education was not a necessary expense and therefore the constitutional limitations on taxation had to be observed (Barksdale vs. Commissioners of Sampson County, 1885). This decision undercut the North Carolina Constitution's mandate of four months of schooling for white and colored students. It held that education was not a necessary expense and therefore the constitutional limitations would not have to be observed.

The county school board's traditional authority to appoint school personnel was given to the justice of the peace and county commissioners by the state legislature on March 11, 1885. These local officials in turn appointed a county superintendent with powers and duties and also authorized the county board of education to apportion two-thirds of the school fund in proportion to the whole numbers of children between the ages of six and twenty-one years.

The remaining one-third was to be apportioned in such a manner as to equalize school facilities in all local districts without discrimination in favor of or to the prejudice of either race (Logan, 1964). This law eliminated most Negroes from boards of education because board members became political appointees. Thus, many of the boards were free to favor the educational interests of white children in their respective areas (Logan, 1964).

Some of the rights of non-white students were maintained as a result of a North Carolina Supreme Court decision in 1886, Pruitt vs. Commissioners of Gaston County. This decision declared unconstitutional the law allowing school money to be divided on racial lines (Pruitt vs. Commissioners of Gaston County, 1886).

Higher Education Institutions Re-established

While elementary and secondary public education appeared to be slowly recovering from the Civil War, this period saw North Carolina re-establish its higher education institutions. The University of North Carolina's academic and financial resources were re-established in 1881. The first normal school in the South was chartered in Fayetteville in 1887 to train Negro teachers. It was soon followed by a white female normal school in Greensboro and two other Negro normal schools in other parts of the state. Private colleges and universities such as Meredith, Elon, and Duke also were established during this time (Lefler, 1973).

NORTH CAROLINA ACKNOWLEDGES AND AFFIRMS IDENTITY OF INDIANS IN ROBESON COUNTY

Early Settlement in the County

As the Scotch-Irish settled the Cape Fear River Valley in the late 1700's, historians noted the presence of an "Indian" village in which the tribal members lived in English style homes, cultivated the soil, spoke a form of Chaucerian English, and had members who wore beards and had blue eyes (Lawson, 1 60). The origins and traditions of these Indians will be treated in detail in the next chapter. One of the local state representatives, Hamilton McMillian, had become interested in these Indians and began tracing their geneology in 1864. He looked at their habits, customs, and traditions, then wrote that he believed the group to be decendants of Sir Walter Raleigh's Lost Colony and the Hatteras or Croatan Indians. Representative McMillian had lived through the Civil War and Reconstruction eras and witnessed many of the atrocities and acts of violence against the Indians (Barton, 1867). He took the case of these Indians for recognition and educational assistance to the state legislature. In 1885, he was successful in getting the General Assembly to enact legislation supporting his findings and providing the Indians with their own schools.

The resulting law designated the Indians as "Croatans of Robeson County, North Carolina" and provided:

> That said Indians and their descendants shall have separate schools for their children, school committees of their own race and color, and shall

> be allowed to select teachers of their own choice, subject to the same rules and regulations as are applicable to all teachers in the general school law.
>
> It shall be the duty of the county board of education to see that this act is carried into effect and shall for that purpose have the census of all the children of said Indians and their descendants between the ages of six and twenty-one taken, and proceed to establish such suitable school districts as shall be necessary for their convenience, and take all such other and further steps as may be necessary for the purpose of carrying this act into effect without delay. (Public Laws of North Carolina, 1885)

All the general school laws which applied to the other races of the county were to be applied also to the Indians.

Following the Act of 1885 which provided for separate schools for Croatan Indians, public school districts were created for the Indians. Indian school committeemen were appointed by the county superintendent to oversee the creation of Indian schools in Robeson County. A census was conducted of Indian children in the county. The census revealed 543 male and 463 female students or a total of 1,006 Indian children between the ages of six and twenty-one.

County records indicate that twelve school districts were drawn for Indian pupils and sums of $643 and $749.25 were appropriated to operate Indian schools in 1885. There is no evidence in the Robeson County School Board minutes that indicates how or whether this money was used (Robeson County School Board Minutes, 1885).

First Indian School Enrollment

The first recorded reference to Indian school enrollment and to Indian students being taught within the county system was in 1888. According to the School Board Minutes, the Indian School Census Report for 1888 indicated 1,183 Indian children between the ages of six and twenty-one. Of this number, 1,169 were enrolled in the public schools at some period of time during the year (Robeson County School Board Minutes, 1888). There was no known record of who the teachers were or the exact location of the Indian schools in the county. In fact, the records do not clearly establish that the Indians attended any school. Interviews with older Indian leaders in the community revealed that no schools were established for Indians except in Pembroke until the middle of the 1900's.

Indians Petition for A Normal School

The Indian community in Robeson County found itself without teachers or money to build the necessary school facilities throughout the county for any of their children. Mr. O. L. Moore began speaking at the churches and other gatherings proposing a school and a place where teachers of the Indian race could be trained. Such a school, some believed, could train Indians to be teachers for their own schools. At the urging of the Indian leaders and parents, Representative McMillian sponsored and the North Carolina legislature passed, in 1887, a further amendment to the Act of 1885 in which separate schools were originally established for Croatan Indians.

Included within the law of 1887 was the establishment of an Indian Normal School. The bill, entitled "An Act to Establish a Normal School in the County of Robeson," created a corporation under the control of seven trustees who were charged with the responsibility of maintaining a school for the sole purpose of training Indian teachers. The law specifically stipulated:

> That no person shall be admitted into said school as a student who has not attained the age of fifteen years; and that all those who shall enjoy the privileges of said school as students shall previously obligate themselves to teach the youth of the Croatan race for a stated period. (Laws of North Carolina, 1887)

The act which provided for the Indian Normal School also included $500 for the operation of the school, but carried with it the stipulation that unless the Indians provided a building by the next session of the General Assembly, the law would be repealed (Laws of North Carolina, 1887). The responsibility for obtaining a suitable structure for the school was left to the local Indian trustees. By public subscription, enough money was raised to erect a building. W. L. Moore, a local Indian who had led the movement for Indian schools, was elected Superintendent, and the Normal School opened its doors in 1887 with an enrollment of fifteen students (Cherokee Indian Normal School Catalog, 1928). The Legislature of 1889 raised the Normal School's annual appropriation to $1,000, a sum it continued to receive for a number of years.

From 1887, with the first major state appropriation, the Normal School for Croatan Indians began its slow, steady development--

first as a teacher training institute for future Croatan teachers and then as a part of the public school setting in the county.

The State Superintendent of Public Instruction made the following report about the school in 1889:

> I call attention to the report, in its proper place, of trustees and principal of the Normal School for Croatans . . . I respectively suggest that inasmuch, as the appropriation of $500 is annual, the Assembly pass an act allowing the State Board of Education to exercise their discretion as to future expenditures for this school. (Biennial Report of the State Superintendent of Public Instruction, 1889)

Interestingly, the "proper place" referred to meant that, although the state had seen fit to create separate Indian schools, the records for these schools were placed under the "colored" reporting category. No distinction was made under the general classification between Indians and Negroes. In state records, both were classified as "colored." Yet in this same year, 1889, the State amended the normal school law not only to lower the student admission age to ten, but also to exclude negroes from attending the Indian school. By 1890, the Biennial Report of the State Superintendent reported, under the "Colored Normals," that "the Normal Schools for the colored people and the Croatans have been so successful that I have no recommendations to make as to any changes" (Biennial Report of the State Superintendent of Public Instruction, 1891-1892). In the charts accompanying the report, there were usually census figures concerning the students. This year the record noted 649 male Croatans and 593 female Croatans under colored children in Robeson

County, for a total of 1,242 school age children. However, only 422 of these children were actually enrolled in the public schools with an average daily attendance of 262 students (Biennial Report of the State Superintendent of Public Instruction, 1891-1892). The following year the Croatan Indian Normal School reported seventy-three students enrolled for the fifteen week fall term in 1893 (Biennial Report of the State Superintendent of Public Instruction, 1892-1894).

AYCOCK PLEDGES UNIVERSAL EDUCATION TO ALL CHILDREN

By 1900, a statewide election significant to education saw the Democrats running Charles B. Aycock for governor and the Republicans running Spencer B. Adams. The previous elections of 1896 and 1898 had witnessed a split in the Democratic Party with a number of its members becoming Populists and organizing coalitions with the Republicans. White supremacy and Negro disenfranchisement had been key issues. These issues as well as public education and state development were factors responsible for a major statewide Democratic victory. With this victory, the Democratic Party gained and kept control of the Statehouse from 1901 to 1973 (Lefler, 1973).

During his campaign, Charles Aycock had pledged "the state, its strength, its heart, its wealth to universal education . . . . I pledge the wealth of the state to the education of its children . . . ." (Lefler, 1973).

Aycock was pledging his administration to education for all of North Carolina's students irrespective of race or national origin. The Governor saw education and literacy as a key for statewide economic development.

Governor Aycock's newly-elected Superintendent of Public Instruction was Thomas F. Toon of Robeson County. Toon was the first statewide superintendent elected from Robeson County, although the county was the second in the state in terms of geographic size. Aycock and Toon soon launched a massive public information drive to get public support for expanding public education for all of North Carolina's children. Unfortunately, Superintendent Toon died during his first year in office. He was succeeded by William F. Joyner from Mecklenberg County, who continued the task of arousing public support for public education.

Statewide Education Conference Held

Governor Aycock and Superintendent Joyner called a conference of individual teachers and educational leaders in the state to promote public education.

This conference, financed by the Southern Education Board, issued "A Declaration Against Illiteracy." The declaration called on all citizens "to promote free public schools, open to all, supported by the taxes of all its citizens, where every child, regardless of its condition in life, or circumstances of fortune, may receive that opportunity for training which the constitution of this and other

great states of the age demand" (Lefler, 1973). A local county newspaper, The Robesonian, described the participation of white Robeson County Educators in this meeting. No Indians or Blacks were in attendance. Out of this conference, a central Campaign Committee for the Promotion of Public Education was established. The Governor, Superintendent of Public Instruction, and other prominent educators used this committee to inform North Carolinians about the value of education and organize the citizenry to vote for local taxes, consolidation of school districts, provision for new and improved school buildings, expansion of the school term, and increased teachers' salaries (State School Facts, 1903-1904).

Two Decades of Public School Expansion

Beginning with the leadership of Governor Aycock, North Carolina's public school education expanded for the next two decades. Some three thousand school houses were built; the budget for public schools rose from one million to more than three million; school property increased from one million to more than five million; and the state organized a loan fund, which averaged $250,000 a year, to assist counties in building and improving their school facilities. The State Superintendent for Public Instruction was given new responsibilities in areas of school and curriculum supervision, as well as distribution of educational bulletins. In addition, the number of special local tax districts increased from eighteen to 1,167 and a compulsory school attendance law was passed. By 1907,

the state legislature began appropriating funds to various counties and towns to encourage high school instruction. The appropriations for this law peaked at $75,000 per year in 1911. This year also saw the North Carolina Supreme Court rule in J. R. Collie vs. Commissioners (Lefler, 1973) that county commissioners had a right to levy special taxes beyond 66 2/3 cents on $100 valuation, if such taxes were necessary to maintain the four-month school term required by the state constitution.

Two years later, in 1913, the state legislature levied a statewide property tax of five cents (per $100 valuation) to enable schools to lengthen the term to as long as six months, and require all children between the ages of eight and twelve to attend school for at least four months a year. Agriculture and domestic science was authorized to be taught in the high schools. Robeson County used these funds to begin replacing many of the log schoolhouses attended by white pupils.

Croatan Indian Enrollment Increases

When North Carolina's "education" Governor, Charles B. Aycock, took office in 1901, the Croatan Indians of Robeson County reported the following statistics:

1,737 Croatan children of school age
1,139 Croatan children enrolled in school
291 Croatan children in average daily attendance
22 school districts
29 school houses

> 10.21 average school terms in weeks
> $1,995 value of school peoperty
> 11 Indian teachers (4 in first grade and 7 in second grade). (Biennial Report of the State Superintendent of Public Instruction, 1900-1902)

The Croatan Indian Normal School reported an enrollment of forty students (twenty males and twenty females) who attended four months of school. Thus from 1885 to 1902, the Croatans had founded a school system, obtained state assistance, and graduated eleven Indian teachers who committed themselves to teach in the Indian schools in Robeson County.

From 1904 until 1913, Robeson County erected twenty-five white, four Croatan, and nine Negro schoolhouses (Raleigh News and Observer, 1907). The majority of these schoolhouses were for the elementary grades. Although when the State authorized the establishment of rural high schools, Robeson County established four for white students only (Raleigh News and Observer, 1907). As the state and Robeson County subsidized and expanded rural elementary and high schools, the Indian community continued its efforts to improve education for its children. The county newspaper, The Robesonian, described one of the Indian meetings which raised money to move the Indian Normal School to Pembroke and build a larger facility as follows:

> Many of the old Indians, gray headed, stooped and tottering with age, who have never had the opportunity of spending a day in school, could be seen pushing their way through the crowd to hand over their hard earned money in order that their children may have the advantage of an education. (The Robesonian, 1909)

The land was purchased by public subscription. With a $3,000 appropriation from the state legislature, a new building for the normal school was constructed in Pembroke in 1912. This same year, the second Indian student to achieve the equivalency of a full high school program was granted a diploma.

OTHER INDIAN GROUPS SEEK NORTH CAROLINA RECOGNITION

Other Indians in North Carolina also began petitioning the state legislature to officially recognize their identity and to provide public education for their children. The original bill of 1885 acknowledging the Croatan Indians of Robeson County became the precedent used for legislation for other Indians. In 1905, the state legislature further amended the Croatan Law to include the Indians of Person County. Again in 1917, the Croatans of Sampson County were added in the law.

A general education law on the organization and administration of school systems in the state described separate Indian schools and separate Indian school committees in Robeson, Richmond, Person, Scotland, Cumberland, and Sampson Counties in 1923 (North Carolina Session Laws, 1923). Indians in Columbus County were provided separate schools in 1927 by the State of North Carolina. An institutional vocational and normal school was established by North Carolina in Sampson County in 1941. This school was for Indians in Sampson, Hoke, Scotland, Cumberland, Bladen, Person, and Harnett Counties.

This school was authorized to have its own school committee and select its own teachers (North Carolina Session Laws, 1941).

As late as 1956, the state of North Carolina recognized and acknowledged the Haliwa Indians. These Indians resided in Halifax and Warren counties. They built and supported their own school system from 1956 to 1965. Then the state of North Carolina funded it, as a private school under the Pupil Reassignment Plan.

The early Croatan legal efforts in Robeson County served as the precedent and format for acknowledging the identity of North Carolina's various Indian communities and for the manner in which their children would receive public education.

Croatan Indians Petition for Tribal Name Change

During 1911-1912, the Croatan Indians twice petitioned the state government to formally acknowledge their tribal identity and to address their need for improved educational services. In 1911, the Croatans petitioned the state government to change their name from Croatan to the "Indians of Robeson County" because of the local racial slurs directed against the name Croatan. This was done. The very next year, the Indians returned to Raleigh and petitioned the state to change their name to the "Cherokee Indians of Robeson County," at the suggestion of state Senator Angus McLean. This name remained their legal designation under the passage of the Lumbee bill in 1953.

New State Education Laws Affect the Indians

In 1913, the state introduced a six-month school attendance requirement for every school district; set up a $250,000 appropriation to be given to counties based on school population; set up a tax to be collected and placed in an equalizing school fund; and required compulsory school attendance of at least four months each year for all children between eight and twelve years old (New School Legislation, 1913). All of these items were to have a direct impact on the schools of the Cherokee Indians of Robeson County. This same year, the Legislature enacted a law transferring by deed the property of the Indian Normal School to the State Board of Education. Thus, twenty-five years after the Indians started their school, the state finally assumed full responsibility for it and also assumed jurisdiction over the appointment of its trustees.

Other Indians Sue to be Admitted to Normal School

As the Indian Normal School in Pembroke expanded, Indians outside of Robeson County indicated an interest in sending their children to the school. In 1917, members of the A.A. Goins family of Cumberland County, North Carolina, sought to enroll their children in the Indian Normal School. The Board of Trustees denied admission to these students stating that they were not Indians or descendants of Croatan Indians. Mr. Goins sued the Board of Trustees of the Indian Normal School to admit their children as descendants of the Croatan Indians, now designated Cherokees of Robeson to the School.

The Board of Trustees held that the applicants were not descendants of the Croatan Indians residing in Robeson County in 1885 and therefore were not entitled to attend the schools. Suit was filed in the Superior Court of Robeson County, then appealed to the North Carolina Supreme Court. Plaintiff stated that their immediate ancestors had lived in Sumpter County, South Carolina but had gone to Robeson County from Cumberland County, North Carolina. They noted that they had no Negro blood in their veins and alleged that their children were entitled to be admitted to the normal school under the statutes establishing it.

The North Carolina Supreme Court upheld the decision of the lower court that, "none of the acts contained anything restricting the right to be pupils of the school, to the children of the Croatan race who resided in Robeson in 1885, embracing not only the Croatan Indians in Robeson County, but Croatan Indians who put themselves within the limits of the school in good faith, though coming from other territory" (Goins vs. Board of Trustees, 1917). This decision meant that the Goins children had to be admitted to the Normal School. In practical terms, it also meant that the state court system was determining who was an Indian for purposes of attending the Indian schools. The leaders among the Cherokee Indians of Robeson County had looked to their school system to educate their children as well as affirm the identity of members of their race. Mr. O. L. Moore and Mr. Oscar Sampson immediately began speaking in the various Indian churches throughout the county about the need to protect and preserve

the identity of the Cherokee Indians of Robeson County. These speeches soon culminated in legislative action to do just that!

North Carolina Institutionalizes Tri-Racial Education

By 1920, tri-racial pattern of public school education was established in North Carolina in terms of court opinions, special state laws authorizing separate schools for the three races, and separate school census for each race.

A Division of Negro Education also was established in 1921, by act of the state legislature, as one of the permanent divisions in the state department of public education. Prior to that time, the State Superintendent of Public Instruction had appointed a Superintendent of the Colored Normal Schools, who prepared a report of his work with the Negro colleges in the state and the Croatan Indian Normal School.

The newly created Division of Negro Education had the following stated purpose:

> . . . was and is to aid the State Department of Education to build up the general level of all phases of Negro Education which were at that time and still are very backward as compared with white schools. (Memorandum Concerning the Division of Negro Education, Undated Office Copy)

Indian activities were mentioned twice in the document, once under the duties of the director and once under the duties of the Assistant Director. The director was to serve as the "representative of the Department and State Board of Education on four Boards of Trustees,

three Negro and one Indian." The assistant director was "to aid the Cherokee (sic Cherokee Indians of Robeson County) Indian Normal School in its programs for training teachers for Robeson and surrounding counties" (Memorandum Concerning the Division of Negro Education, Undated Office Copy). The division had six professionals, including the directors, and three secretaries. In 1929 it had some $399,300 in outside foundation resources to assist the state and county educational programs for Negroes. The division filed summaries of their activities, including financial and statistical reports for the Superintendent's biennial reports and remained in existence until 1956. One can infer that this division maintained the reporting of Indians under the colored category county educational statistics. Based on a review of the archival records, the division appeared to work primarily with the Board of Trustees of the Cherokee Indians of Robeson County Indian Normal School and from time to time exercise oversight over special state appropriations to the public schools for Indians in that county.

A Bill to Protect The Indian Schools

As a result of the Goins decision, local Indian leaders in Robeson County declared that people who were not Indians were attempting to attend the Indian schools. They sought a legal remedy through State Senator L. R. Vaser. He introduced a bill to protect their schools. The bill became law in 1921 and established a committee of five Indian residents of Robeson County whose names

were included in the bill, to protect the public schools in the county for the education of the Indian race only. The Committee was "to hear and determine all questions affecting the race of any person or persons applying for admission into or attending the public schools of Robeson County for the Indian race only." The committee was given original jurisdiction as well as the authority to subpoena witnesses and compel their attendance. The only appeal from the decision of the committee was to the Superior Court of Robeson County (North Carolina Session Laws, 1921). This committee operated from that date until 1929 when its powers were clarified and expanded to determine the eligibility of any Indian wishing to attend the Indian public schools and the normal school in Robeson County. The Board of Trustees of the Normal School, the county board of education, the county superintendent, and the local Indian school committee deferred to the judgment of this committee before accepting any person of questionable Indian status into the school system. The committee remained in existence until 1968, when it voluntarily dissolved itself.

As the Indian School Enrollment Committee was expanded in Robeson County in 1929, it began to screen closely any new families that moved into the area and applied for admission into local Indian schools. The local Indian school principals reported any new students to the local Indian school committee. If there was any doubt about the child's family being Indian, the local school committee turned the "questionable enrollee" over to the Indian School Enrollment

Committee. This committee would call a formal hearing and ask the enrollee's family for proof of his/her Indian background. If such proof was produced to the satisfaction of the committee, the child was enrolled. If not, further investigation might be undertaken or the child denied admission. If the child was denied admission to the schools, his/her family could appeal the committee's decision to the county Superior Court. In each instance, the local tradition among the Indians in Robeson County indicates that the committee's decisions were respected (Interview with Reverand Dawley Maynor).

State School Law List
Counties Which Have
Indian Schools

North Carolina passed a general law relating to the organization and administration of the state school system in 1923. This law described where the various Indian groups were located by county and noted that the county board had to provide separate schools with separate Indian school committees. In addition to the separate laws mentioned heretofore that identified various Indian groups and provided schools for them, the new organic law for the state also noted the provision of separate education for them. For example, the law lists Robeson, Richmond, Person, Scotland, Cumberland, and Sampson as the counties where Indians have separate schools and separate school committeemen.

Although the State of North Carolina had passed laws encouraging the creation of county high schools in 1907 and again

in 1921, only public elementary schools were available to the Indians. In 1924, the first Indian high school was opened in Pembroke. It was an integral part of the Indian Normal School.

Expansion of the Normal School and Public Schools for Indians in Robeson County

Professor Clifton Oxendine, the first Indian historian at Pembroke State College, formerly the Cherokee Indian Normal School, described the expansion of the schools. The normal school faculty was enlarged, vocational training was added for boys and girls, and summer school was started. Old Main, an auditorium which later served the Indian community for many years, as the social and political gathering place, was constructed in 1923. During this time, dormitories, cottages, an agricultural building, and a home economic building also were constructed (Interview with Professor Clifton Oxendine, 1977).

The North Carolina state legislature placed the Board of Trustees under the direction of the governor in 1925. The following year appropriate normal school courses were offered at the school (Cherokee Indian Normal School Catalogue, 1936). The first graduating class from the normal school which was the equivalent of an associate of arts degree finished on June 1, 1928. At the commencement, the normal school superintendent announced that the school had been accredited by the state as a standard normal school (Interview with Mrs. Elizabeth Maynor).

Until this time, the normal school superintendent had operated the elementary, high school and normal school under one jurisdiction. In September 1928, the normal school and high school separated their administrative operations and academic programs from the Indian elementary schools. Other Indian elementary schools were located in the County, and their Indian school committees reported to the county superintendent. The elementary school at Pembroke also began reporting and operating under the county superintendent. In 1930, the Robeson County school superintendent cited the following statistics about Indian schools in the county:

18 - one-teacher schools
8 - two-teacher schools
3 - three-teacher schools
7 - four-teacher schools
1 - eight-teacher schools

Thirty-seven schools enrolled 3,559 Indian children. In an earlier section of his biennial report, the superintendent described the effective consolidation of the white schools in Robeson County. However, in reporting on the Indian schools, he noted, "as a large percent of the Indians in Robeson County are tenent farmers and move about very often, it is difficult to arrange permanent school buildings for them" (Robeson County School Budget, 1930-1931). The superintendent also noted that since the Indian schools were small, all the children walked to school. In 1933, the Indian schools began consolidating.

Cherokee Indian Normal School
Confers first B. A. Degree

Between 1930 and 1960, the normal school and the only Indian High School organized their programs under separate jurisdictions. The normal school began expansion of its own academic program and conferred its first four year B. A. degree in 1940. From the founding of the normal school in 1887 until 1945, its student enrollment was limited to Indians of Robeson and adjoining counties. The normal school was renamed Pembroke State College for Indians in 1945. Student enrollment then was opened to individual Indian students recognized as Indians by the Bureau of Indian Affairs. From 1945 to 1952, this was the only state tax-supported four-year college for Indians in the United States. The state legislature authorized the college trustees to admit any students of the Indian and white races to the Institution in 1952. The Committee reviewing Indian Eligibility before any student could attend the public schools for Indians, as well as the college, was still in existence and active during this period. The Supreme Court's opinion in the Brown decision which outlawed segregation in public schools in 1954, prompted the Board of Trustees to remove all racial restrictions on the students wishing to attend Pembroke College for Indians. The name was changed from Pembroke College for Indians to Pembroke College by the state legislature in 1949. On July 1, 1959, the state legislature granted regional university status to the college. The college board of trustees were brought under the State Board of Higher Education and the University

of North Carolina Governing Board. This newly conferred university status also brought an end to the appointment of an all-Indian Board of Trustees. The school was renamed Pembroke State University.

North Carolina and Robeson County Improve Indian Public Schools

As the Indian normal school phased out its public school education for Indian children, Robeson county assumed increasing responsibility for their education. Some thirty-eight Indian schools were consolidated into fourteen at the height of the Great Depression in 1933. The schools which were consolidated ranged from one- to seven-room schools (Robeson County Board of Education Annual Statistical Reports, 1920-1935).

The state also expended additional money for school construction. Robeson County built four new junior high schools for its Indian population during this period. The state department of education turned over the operation of the largest Indian high school, which originally had been attached to the Indian Normal School, to the Robeson County School Board for operation. As a result of this action, the Robeson County Board of Education erected the first Indian junior and senior high school and auditorium in Pembroke, the heart of the Indian community.

In 1939, the state legislature passed a law authorizing free textbooks for the elementary grades and rental textbooks for the high school grades. Prior to this, North Carolina students had to buy

their own textbooks. Many students could not afford to do this and so remained in school all year without textbooks. This new law was hailed by educators as a great boon to the education of all children in the state, but in particular for minority children. The first Indian high school principal, in Robeson County, noted "although the law was a great boon for the Indian children, they usually received the oldest and shabbiest textbooks of all--many as old as six to eight years old" (Interview with Mr. E. T. Lowery).

During the decade 1930-1939 there was an increased enrollment of Indian students in public schools. Indian schools were offering some high school courses and there were increased numbers of schoolhouses for Indian students. By 1940, some 5,356 Indians were enrolled in separate public schools (Robeson County Board of Education Annual Statistical Reports, 1939-1940).

The next decade, the state of North Carolina continued to expand its separate school system and began adding vocational education courses to its high school curriculum. In a 1943 referendum, the State voted to unify administrative control of public education in a new state Board of Education to be appointed by the Governor. Prior to this time, the State Board of Equalization, the State School Commission, and State Department of Public Education were operating the public education activities, with confusing and overlapping responsibilities. With the consolidated and newly-expanded responsibilities of the State Board of Education, the Superintendent of Public

Instruction began serving as its Secretary. He also began organizing and expanding the work of the Department of Public Instruction.

Bond Issues Floated to Meet School Needs

As the State Board of Education began exercising its authority, increased attention was paid to the need for better school facilities and improved curriculum. The state and counties began conducting special surveys of overcrowding and school construction needs. Robeson county had contracted for a survey of its school system in 1948. The survey team recommended that a large bond issue be floated by the county and that the proceeds be used to improve the Black and Indian schools in the county (W. E. Rosentangel, 1948: Minutes of the Robeson County Board of Education, 1948). The bond issue was proposed and approved by county referendum the following year. Of the $3,000,000 approved, the Indians received $1,500,000 to construct new facilities and to renovate old schools (Minutes of Robeson County Board of Education, 1948). This bond issue launched a building program for Indian schools which continued sporadically until the 1960's. The same survey team was invited back to review Robeson county's system in 1952. It recommended an additional need for $2,000,000 expenditures to bring the school facilities up to minimum standards. It also pointed out a new movement of Indian population into other sections of Robeson county and adjoining counties. The team recommended building additional Indian schools in these areas, as well.

A statewide bond issue of $50,000,000 was approved by referendum in 1953 and the county's share was used to begin meeting some of the critical classroom shortages. The State Department of Public Instruction surveyed the needs of the Robeson County schools in 1954, because a county Grand Jury had found the entire system extremely overcrowded and in need of classrooms (The Robesonian, 1953).

Improved Facilities for Minorities

As a result of the Grand Jury's action and the recent school survey, the county approved a three-year building program for Indian schools (Minutes of the Robeson County Board of Education, 1954). Another bond issue for $2,000,000 was called by the county in 1956. It also carried by referendum. This gave the county additional means to construct and renovate school buildings primarily for the Blacks and Indians (The Robesonian, 1956). From 1940 to 1956, the Indians of Robeson County saw their elementary and high schools come fully under the jurisdiction of the county superintendent of schools. They also saw an increase in student enrollment and marked improvement in educational facilities.

By 1956, the Indians had twelve modern brick school buildings for elementary, union, and high schools. However, two-thirds of these were rated as fair or poor by outside surveys and many students were still attending school in substandard frame buildings (Minutes of Robeson County Board of Education, 1956). Continuing concern for improved school facilities caused the county commissioners to call

for county-wide bond issued of $2,000,000 again in 1963. This amount was approved by the voters. The county commissioners used it to improve the county's administrative school unit and, after analyzing the heavy increases in student enrollment, decided to join a statewide bond issue request for $100,000,000 in 1965. This request also was agreed to by the voters.

Between 1940 and 1965, state and county bond issues provided the funds necessary for the Indian Schools in the county administrative units to be constructed, renovated, and made accessible to the Indian students. Although the Brown vs. Board of Education (1954) opinion of the Supreme Court outlawed segregation in public schools in 1954, there was no evidence in Robeson County as late as 1965 that the county intended to desegregate its schools. In fact, it was after the Brown decision that the state and county began improving the segregated facilities attended by Indians and Blacks. It appears as though the state and county sought to perpetuate separate but equal schools. Interestingly enough, the history of improved educational opportunity for the Indians of Robeson County parallel the state's increasing support of public schools with one important exception. The Indian educational development when finally launched as separate segregated schools, lagged behind the state's announced programs for public education by ten to fifteen years at the county level.

SEPARATE AND EQUAL RULED UNCONSTITUTIONAL IN EDUCATION

Higher Education Desegregation

While North Carolina and Robeson County were underwriting bond issues and surveying school construction needs for public education, Negroes were becoming impatient to obtain equal higher educational opportunities. A number of lawsuites were filed in attempts to open the University of North Carolina to Negro students. In 1951, the Supreme Court of the United States ruled in Sweatt vs. Painter (1951) that providing a separate facility for colored law students did not make it an equal facility. The Sweatt case originated in Texas. Its ruling was soon tested and by 1952 it had been affirmed in a number of southern states including North Carolina.

As the University began to desegregate, Governor William B. Umstead created a special study commission on higher education to study all institutions supported by state funds and recommend how to make them more effective and efficient. This Commission, commonly referred to as the Bryant Committee, after its chairman, Victor S. Bryant, recommended the creation of a State Board of Education with its own appointed members and with defined powers, duties, and financing (North Carolina Commission on Higher Education Report, 1953). This recommendation was later adopted in a statewide referendum. All the state-supported schools, including Pembroke College for Indians, were transferred from the State Board of Education to

to the new State Board of Higher Education. Pembroke College for Indians was renamed Pembroke State University.

Public School Segregation Unconstitutional

On May 14, 1954, the Supreme Court of the United States, in Brown vs. the Board of Education of Topeka, ruled that "segregation of children in the public schools solely on the basis of race, even though the physical facilities and other 'tangible' factors may be equal, deprives children of the minority group of equal education opportunities" and is unconstitutional. This opinion declared the "separate but equal" doctrine in public education to be unconstitutional.

After announcing its opinion, the Supreme Court invited the Attorney General of the United States and the Attorneys General of the various states permitting segregation to participate in reargu-ments on the best manner in which to desegregate their facilities (Kluger, 1976).

North Carolina's Brief to Supreme Court

North Carolina was one of the states participating in the reargu-ments. The state's brief to the Supreme Court declared that "an attempt to compel the intermixture of the races in the public schools of North Carolina forthwith would result in such violent opposition as to endanger the continued existence of the schools. It is impossible at this time to foresee what the final results would

be even if the Court should recognize the divergent conditions existing in this state and allow sufficient time and ample discretion of the District Judges to frame final decrees after full hearing to meet these conditions. This, however, would seem to be the only way, if any can be found, which might possibly have the result which the decision of this court contemplates" (Brief of North Carolina Attorney General, Henry McMillian, to Supreme Court, 1954; Brown vs. Board of Education, 1959; North Carolina Amicus Curiae Brief in Brown vs. Board of Education, 1954).

The North Carolina brief responded to the Supreme Court's questions and submitted responses from statewide surveys of superintendents of county schools, local sheriffs, and county police. The brief's narrative describes exclusively the relations of Whites and Blacks in North Carolina and the potential violence which would occur if these races were mixed in the schools. It made no mention of Indians, although the surveys of local schools and police specifically included questions and responses concerning mixing Indians, Blacks, and Whites in the schools.

Final Decree in Brown Case

The final decree in the Brown case and subsequent arguments was issued on May 31, 1955. Basically, the court recognized that implementation of the new doctrine would require the solution of various local school problems. It placed major responsibility for solving these problems on school officials. The federal district

courts were to determine whether these officials were acting in good faith. The courts were to require a "prompt and reasonable" start toward the elimination of racially segregated school systems. However, once the start towards desegregation was made, the courts could allow additional time for the ruling to be carried out. School officials were to show that they were acting in good faith and to justify the need for any additional time sought. The district courts also were assigned the task of reviewing the adequacy of desegregation plans submitted by school officials. No further guidelines were given to the district courts (Brown vs. Board of Education, 1954).

NORTH CAROLINA CHARTS ITS DESEGREGATION STRATEGY

Institute of Government Recommends Three Options

At the time of the Brown decision, the Governor of North Carolina, Luther A. Hodges, called members of the State Board of Education together to discuss how North Carolina should proceed to implement the decision. The Board of Education voted to continue racially segregated schools for the coming year. Governor Hodges called on the Institute of Government at the University of North Carolina to devise a proposal for preserving segregated schools within the framework of the Supreme Court's decision. The ensuing report recommended three options to the Governor. They were as follows:

- note the Court's decision and meet any efforts to enforce it with attitudes from passive resistance to open defiance;

- accept the Court's decision and move to integrate the various schools;

- buy time by making haste slowly enough to avoid undue litigation and strife; to be within the letter of the law, keep the peace as well as keep the schools open. (Institute of Government's Report on Brown Decision, 1954)

Special Advisory Committee Appointed

Governor Hodges appointed a Special Advisory Committee to find solutions to the problems created for North Carolina public schools by the Supreme Court decision. State Assemblyman, Thomas J. Pearsall, noted conservative, became the committee's chairman and recommended that the state make haste slowly (Winstead, 1966). The state legislature chose fellow Assemblyman Pearsall's recommendations when it met in 1955. Two school laws were enacted based on his recommendations. They were as follows:

- An Act to Provide for the Enrollment of pupils in the public schools; and

- An Act Terminating the Contracts of all principals and teachers in the public schools of North Carolina as of the end of 1954-55 school term.

The Pearsall Plan for Pupil Assignment

The first act became known as the Pupil Assignment Act or "Pearsall Plan." It gave authority for enrollment of pupils in the

public schools to local boards of education and outlined the administrative procedure which applicants had to follow through the courts. This act also placed the initiative and the cost of litigation on the pupil requesting transfer (North Carolina General Statutes, 1955). Any student wishing to be assigned to another school had to initiate a request with the local board. Then the student had to go through a hearing and appeal process before a decision would be made by local school board.

State Protection from Loss of Employment

The second act was a protection for the state and local governments from any lawsuits which might arise due to loss of employment from the shifting or elimination of school districts. Both of these laws were enacted between the U. S. Supreme Court's decree in Brown on May 17, 1954 and its final decree on May 31, 1955.

North Carolina's Legislative Remedies Regarding Desegregation

In July 1956, a special session of the North Carolina Legislature convened and in four days passed seven bills and one resolution to express the state's policy towards desegregation of its public schools. These laws and the resolution related to the following items:

- an amendment to Article IX of the Constitution of North Carolina, which had authorized the separate schools of the state, now was to authorize educational expense grants and local option;

- a bill to create the machinery for a statewide referendum to vote on the proposed constitutional amendment;

- a bill which provided educational expense grants to students;

- a bill which organized a system of local options regarding public schools to close or remain open;

- a bill changing the compulsory attendance law age requirements to 16 years of age;

- a bill authorizing expenditures from the Contingency and Emergency Fund for education expense grants;

- a bill amending the 1955 assignment act; and a resolution protesting the Supreme Court's usurping of power from the states. (Patton, 1966)

These laws set the tone and direction of North Carolina's policy for desegregating its public schools. They gave the primary power to county boards of education to decide how to assign pupils to schools for purposes of desegregation or to opt out of the public school system as private schools under a state educational expense grant. In addition, these laws made all action for new enrollment or transfer an individual matter which had to be pursued administratively, and not a subject for class action lawsuits. The laws also exempted the state from being sued in lawsuits growing out of pupil assignments.

The majority of these laws were used to create and subsidize private schools for whites. One Indian community, the Haliwa's, used the educational expense grant to subsidize an Indian public school system for its students from 1956 to 1970 (Interview with

Chief W. R. Richardson, 1977). The implementation of these laws, which sought to "make haste slowly" in desegregating North Carolina's public schools, became a subject of intense litigation from the time of their enactment continues on through the present day.

NEW MOVEMENT TOWARDS QUALITY EDUCATION FOR ALL CHILDREN

Between 1956 and 1960, politics in North Carolina reflected a split in the Democratic Party between the liberals and conservatives. Terry Sanford of the liberal wing was elected governor on a platform of a "New Day for North Carolina" with a pledge to promote quality education for all the students of the state.

Governor Sanford proposed Capital Improvement Bonds to assist the state's building programs for all elementary, secondary, and higher education. The bond proposals were rejected by the people. However, Governor Sanford began a number of comprehensive school projects in various parts of the state. Financed by the Ford Foundation, these programs were pilot efforts to illustrate how desegregation could be made to work in urban and rural areas of the state. During this time, the state legislature approved $10,000,000 bond issue for renovating and constructing public school facilities. This bond issue was agreed to by statewide referendum and the money was used to upgrade rural and urban schools previously attended by large numbers of minority children.

Desegregation Responsibility of County School Board

The decade of the 1960's found North Carolina continuing to pursue desegregation activities through individual pupil assignment or education expense grant plans. On the surface, the state appeared to be complying with desegregation through various pupil assignment and freedom of choice plans exercised in the local public schools. However, the public records indicate a constant barrage of individual and class action suits against the local boards of education to create a desegregated public school setting. After the state laws were enacted, the state board of education took the stance that desegregation activities were the responsibility of the county school board. The state department of public instruction attempted to play the role of advisor and render technical assistance concerning human relations.

Civil Rights Act Enhances Desegregation

Prior to 1963, the Robeson County Board of Education had been composed of all white members. In 1963, the state legislature authorized the governor to appoint one Indian and one Black to the Robeson County Board of Education (Minutes of Robeson County Board of Education, 1963). The next year saw the passage of the Civil Rights Act which prohibited discrimination in public education. Although North Carolina continued to operate its schools under the Pupil Assignment Act, the new Civil Rights Act was to have a great

impact on the state's public schools. Two titles of the law were to become the instruments of federal government activities which encouraged desegregation of the public schools. Title IV was designated to accelerate desegregation in the classroom. The other key section, Title VI, was a requirement which assured no discrimination in any projects which received federal funds. This latter title became the major instrument used by the federal government to insure movement towards desegregation in North Carolina's public schools.

ESEA Initiates Federal Aid In Robeson County

The Elementary and Secondary Education Act of 1965 (ESEA) brought federal aid to local education agencies by providing compensatory educational assistance for the economically and culturally disadvantaged. These federal funding provisions were accompanied by the requirement that there be no discrimination in any project receiving federal money. Between 1965 and 1970, the majority of North Carolina's school districts received ESEA funds and were permitted by ESEA administrators to meet the federal compliance standards with only minimal desegregation efforts. Local educational agencies identified the "culturally disadvantaged" in their schools and forwarded these figures to the state educational agency which submitted a statewide plan for the use of compensatory education money.

Guidelines for
Federal Funds

As the Elementary and Secondary Education Act began funding statewide projects, the Civil Rights Act of 1964 with its amendments of 1965 and 1966 provided guidelines by which a school district could qualify for federal financial assistance. Three qualification options were given in these guidelines, as follows: a district could receive federal assistance (1) if the school was fully desegregated, (2) if the school was subjected to final desegregation order of the Court of the United States and provided an assurance that it would comply with this order, or (3) if it had submitted a plan of desegregation which the Commissioner of Education determined was adequate to accomplish the purposes of the Civil Rights Act. In addition to these options, the United State Office of Education developed standards to apply to desegregation. These dealt with the pace of desegregation, the method of student assignment, and faculty desegregation.

North Carolina's efforts at school desegregation continued slowly from 1965 through 1971, with many school districts being under court mandates to desegregate. There were continuing court-ordered desegregation mandates in the majority of school districts in the state.

Schools attended by Indians were not affected by these federal and state policies until 1970, when the federal government seriously began to enforce, for the first time, the several

educational guidelines. The counties with separate Indian and Black schools were receiving Title I, ESEA money; hence they were among the first to come under DHEW's scrutiny on desegregation compliance.

North Carolina Creates An Indian Commission

The state of North Carolina created a Commission on Indian Affairs in 1971, at the behest of the five non-reservation Indian tribes in the state. All of the tribes, except the Lumbees were small in terms of their membership. Although there were a limited number of federal programs available for non-reservation Indians, because of size and lack of administrative experience, none of the North Carolina tribes except the Lumbees felt capable of applying. The Commission was organized to spearhead this effort. The charter stated the Commission would work to improve the educational, social, and economic opportunities for North Carolina Indians (North Carolina General Statutes, 1971). The Governor appointed fifteen tribal representatives and five state agency officials as the governing and policy-making body. A small state budget was appropriated for Commission staff. The Commission was to serve as an advocate for Indians in North Carolina and to seek federal and state funds to improve their socio-economic well-being. In 1979, the Commission has a staff of seventy-five and a budget in excess of $2.5 million dollars. Its primary activity is to operate housing, economic development, manpower training, and community development programs

for North Carolina Indian communities (Interview with Mr. Bruce Jones, Executive Director, North Carolina Commission on Indian Affairs, 1977).

Federal Education Assistance to North Carolina Indians

Soon after desegregation activities began to take firm hold in North Carolina, the U.S. Congress in 1972 passed the Indian Education Act. This law asked the states to identify local education agencies with ten or more Indian students. These local education agencies were encouraged to apply for money to meet the "Special educational needs of American Indian students" attending their public schools (Title IV, Public Law 93-318, 1972). This same year, Governor Jim Holhauser appointed an American Indian to the State Board of Education and three other Indians to various state educational advisory committees. Five years later, in 1977, the State Board of Education authorized the creation of an Indian Education Unit within the Human Relations Division of the State Department of Education. This unit was to advocate Indian educational interest in the state department and serve as an Indian program specialist by gathering information and other relevant data. This office was created as a result of the concerned advocacy of the Lumbee Indians of Robeson County (Interview with Mr. Hughes Oxendine, 1977).

Robeson County Desegregates Its Public Schools

The "Freedom of Choice Plan" was used in Robeson County from 1965 until 1970. A member of the local NAACP chapter and a number of Indian parents living within the city education administrative unit complained about the long distances their children were being bussed to keep them from attending white schools. In that year, the Office of Civil Rights in the Department of Health, Education and Welfare threatened to withhold all federal aid to the Robeson County Board of Education unless their schools were desegregated and brought into compliance with the department's mandate. Faced with the possible loss of millions of dollars in federal funds, the county school board moved to desegregate its school system for school year 1970-1971.

Administrative Units in the County Closed

It is important to remember that in addition to the existing Robeson County School District, a scheme creating five city administrative school districts, each governed by its own board and enjoying considerable autonomy, had been created earlier by the North Carolina legislature. The boundaries of the school districts were set by legislation. Each of the five city districts extended into territory outside the municipal boundaries. The Robeson County administrative unit was comprised of all remaining areas of the county outside the city districts.

The members of each city district board were responsible to an electorate consisting of those residing within the geographic bounds of the area subject to that particular board's control. The Robeson County School Board was elected by all citizens of Robeson County, including those residing in city administrative school districts. Thus, a city resident helped to elect two school boards, but other residents of the county shared in electing only one (Interview with Dexter Brooks, Attorney-at-Law, 1977).

Even though the United States Supreme Court declared segregation to be unconstitutional in 1954, separate school systems for all three races--Indian, White, and Black--continued in Robeson County until the 1970-71 school year. Indian children were bussed from within the various city districts to Indian schools, all of which were within the geographic bounds of the Robeson County district.

The administrative school districts of Robeson County had been organized to confine Indian children to the county school district while still keeping whites in control of the county school board. The county was faced with the demands of the Department of Health, Education and Welfare to desegregate its schools by the beginning of the school year 1970-1971, or face the imminent DHEW threat of withholding federal aid to their schools for non-compliance. The various school boards of Robeson County entered into agreements with DHEW officials, and agreed to eliminate the bussing of Indian and Black children into the county system. These officials further

agreed to close their school attendance boundaries and educate all students who lived in that boundary (Locklear vs. Robeson County School Board, 1970).

Many whites who lived in the county had previously sent their children to the city schools. They rented houses and apartments in town and continued to send their children to those schools. These rentals provided them with the necessary legal address for such action (The Robesonian, 1970).

Summary and Conclusions

North Carolina's public education policies toward American Indians have been subsumed under its general policies towards minorities. First the policy was one of exclusion. Then it became a policy of providing limited segregated educational facilities. The legislature, by special legislation, authorized separate public schools for Indians, just in Robeson County, and then in other areas of the state. School committees of Indians to determine which students were Indians and eligible to attend their schools were appointed by the state legislature. A normal school to train Indians to teach in these school systems was established. After authorizing these separate schools, the legislature then placed them under the jurisdiction of the local county school boards and made them subject to the general education provisions of the state in terms of school curriculum, teacher and academic certification. Separate recordkeeping on these Indian schools also was authorized

in the laws setting up these schools. A separate school census of Indian students, was to be maintained at the local county school board. However, when these records were combined in the annual reports of the State Superintendent of Public Instruction, Indian students were placed under the "colored" category.

The policy of separate schools for Indians, as a part of the state's policy of separate minority schools, continued until the federal policy of desegregation became a reality in the 1970's.

The desegregation policy has been under constant attack at the county level by Indian parents since it began. Indians believed they established and partially financed their own schools for many years. They viewed the school as a community institution. Lawsuits and counterlawsuits have been filed and are still pending on school boundaries, student assignment, the make-up of the school board, and the boundaries of the school districts.

After the Brown decision, fifteen years lapsed before Robeson County moved to desegregate its public schools. Federal money for the "disadvantaged" proved to be the carrot used to get the county to comply with DHEW's desegregation mandate.

Although the state of North Carolina initially set the tone and manner for desegregation through the Pupil Assignment and Freedom of Choice Plans, the county board of education had to organize and implement local desegregation activities. Robeson County had six educational administrative units. Five of these were for the various towns and cities in the county. These units had been

drawn to serve predominantly white children. Indian and Black children were bussed from the city and town units into the county's administrative unit. Thus, the county schools became primarily institutions for minority or non-white students. Compliance with DHEW's desegregation mandate required the five city and town units to close their boundaries and permit all resident children, regardless of race, to attend their public schools. The Robeson County administrative unit continued to serve predominantly minority children. For the county unit, desegregation compliance meant combining primarily Indian and Black schools and adding a limited number of white students. Desegregation compliance continues to be an unsettling issue in Robeson County for all races.

It is evident that the Lumbee Indian community, and the other non-reservation Indians, in North Carolina were able to fashion an accommodation to segregation once they were recognized as Indians and able to establish and control their own Indian schools. They also developed an Indian system of social institutions, i.e., schools, churches, towns, and businesses.

Although the Indians sought legal affirmation of their identity and federal programs, federal policy appears to have been a mixed blessing as far as the Lumbee Indians of Robeson County are concerned. For example, the Elementary and Secondary Education Act and the Indian Education Act has made Indian students a valued financial resource for county and state predominately white controlled government. Desegregation legislation has disturbed traditional

separateness of Indians, whites, and Blacks, a situation Robeson County Indians find difficult to accept. However, neither the Elementary and Secondary Education Act, the Indian Education Act, or Civil Rights legislation has materially altered the traditional separation of whites and Indians, since place of residence still determines where pupils attend school. Federal funds have made possible the teaching of Indian culture and history in the public schools. This is a source of much pride for the local Indians.

Although the Indian schools were a boon to the educational development of Indians in North Carolina, their schools were decidely inferior. What is not clear is the extent to which the evolution of federal, state, and local policy viz-a-viz the public education of Lumbee and other Indians in North Carolina has closed the gap in quality of education between the races in North Carolina.

Chapter 4

THE PUBLIC EDUCATION OF THE LUMBEE INDIANS: TRIBAL REPRESENTATIONS AND GOVERNMENTAL RESPONSE

Today in North Carolina, there are five major non-reservation Indian tribes, three urban Indian organizations, and one state-chartered federal reservation. In these groups there are 50,500 Indians in the state, of whom roughly four-fifths are Lumbees. The one group of federal reservation Indians are the Eastern Band of Cherokees. Among the non-reservation Indian tribes, the largest is the Lumbee, followed by the Cohaire, Waccamaw-Siouan, and Haliwas. Urban centers in Charlotte, Greensboro, and Fayetteville serve Indians residing both in the cities and in the surrounding counties.

Throughout North Carolina's history, the question "who is an Indian?" in the state has been an issue. State legislation has been used to recognize the identity of particular Indian groups and to provide educational facilities for the children of those groups in segregated Indian public schools. Although there are five non-reservation Indian tribes in the state, the legal precedents and patterns of recognizing tribal identity and providing educational facilities evolved from the organic law for the present day Lumbee Indians of Robeson and adjoining counties. These Indians were originally named Croatan, then Eastern Cherokees of Robeson County, then Robeson County Indians, but Lumbee now is the legal designation. This chapter is used to trace the various representations made by the

Lumbee people to the federal and state governments, concerning the clarification and recognition of their tribal identity as well as the provisions made for the education of their children.

LUMBEE TRIBAL DEVELOPMENT BEFORE THE CIVIL WAR

The 40,000 Lumbee Indians of Robeson County are the largest group of non-reservation Indians in the United States and the largest group of Indians east of the Mississippi River (Dial, 1972).

Indians and The Lost Colony

Most authorities on the history of North Carolina believe that the Lumbees are descendants of Sir Walter Raleigh's Lost Colony which disappeared off Roanoke Island in 1587. This attempt (the second) at colonization by Sir Walter Raleigh was under the leadership of John White. When White returned to England for supplies he found England at war with Spain, and he was unable to return to America until 1590 (Hawks, 1857)

Upon his return to Roanoke Island, White found that the colonists had left the island and discovered on a tree the word "Croatan." According to various legends, the colonists had agreed, if they left the island in distress, to carve a message on a tree with a cross. There was no distress signal left on the tree. White returned to England a third time, without locating the colony (Smith, 1896).

According to various accounts the Hatteras Indians and the colonists who left Roanoke Island in 1587 were not heard from again

until the settlement of Jamestown in 1607. Numerous expeditions were sent out from Jamestown to search for the Roanoke Island colonists.

Captain John Smith stated that an Indian chief had told him of men at a place called Ocamahowan, wearing English-style clothes. This man also agreed to take men from Jamestown to a place beyond Roanoke Island where men were wearing English dress and residing in houses (Smith, 1896).

William Strachey, a resident of Jamestown, wrote in 1613 that Indians at Peccaeconak and Ochanahoen had been taught how to build two-story houses with stone by colonists who had escaped from Roanoke Island. Strachey noted that seven colonists from Roanoke Island fled up the Chowan River and were given protection by an Indian chief named Eyanoco. In return, the colonists taught the Indians the arts of a more civilized life (McPherson, 1915).

John Lawson, a general surveyor and North Carolina's first historian, explored the southeastern section of the state and talked with a group of Hatteras Indians. In his writings he noted that the Indians stated, "many of their ancestors were white people who could talk from a book" (Lawson, 1860). Lawson's history was published first in 1709.

It is the consensus of most historians that the colonists moved to Croatan and intermarried with the Hatteras Indians. Many people believe that the westward wandering of the colonists can be traced and their descendants can be identified today among the Lumbee Indians in Robeson County. After Lawson's writing, the Croatans

lived in the Carolina swamps and inlands without again being "discovered" until the late 1750's. From the time of white settlement until 1835, tradition says that the Indians intermixed and socialized with the white newcomers.

Indians Classified as People of Color

In 1835, the North Carolina State Constitutional Convention was torn apart over the issue of representation in the state legislature by the eastern and western interests in the state. One of the resulting amendments withdrew the franchise from all "people of color," actually meaning from all people who were not white (Lefler and Newsome, 1973). Thus the Croatans, as "non-white," were deprived of their right to vote and of their citizenship with its attendant rights. The county government began to treat the Croatans in the same manner as "freed Blacks." Between 1835 and 1868 not much is recorded about the Croatans. Local Indian tradition calls this "an age of darkness." The people were discriminated against, segregated into their own areas, denied their identity as Indians, and told to attend Black institutions. As the Civil War broke out, the state tried to conscript the Indians to work in the Confederate munitions factories, in Wilmington, North Carolina. The Indians refused and, from 1862 to 1872, a Lowery Gang became famous for its robberies and molestation of whites and its protection of Indian families and farms (McKee, 1971).

LUMBEE TRIBAL DEVELOPMENT AFTER THE CIVIL WAR

After the Civil War, the Reconstruction Legislature created a new state constitution in 1868. It called for universal manhood suffrage and a general and uniform system of public schools for whites and colored to be operated for four months. In addition the franchise was restored for colored peoples.

Croatan Indians felt their identity strongly. They refused to attend schools with "the colored" which to the Indians meant the Negroes. So they began to petition state government for recognition as Indians and for separate schools for their children. One of the local state representatives, Hamilton McMillan, took a great interest in the Croatan Indians. He interviewed many of the older Indian people and looked at early historical records and land grants. Then he organized his research and findings into a general booklet on the Croatans and explained their origin in terms of intermarriage with Sir Walter Raleigh's Lost Colony. He also described the habits, customs, and traditions of these Indians.

Identity and Educational Provisions Tied to Tribal Name

In 1885, Representative McMillan was successful in getting the North Carolina state legislature to pass legislation designating the Indians in Robeson County as Croatans. This same law authorized separate schools for the Indian children, plus a school committee of

their own race, and assured the Croatans the right to select teachers of their choice. Sections two and three of that law provided:

> That said Indians and their descendants shall have separate schools for their children, school committees of their own race and color, and shall be allowed to select teachers of their own choice, subject to the same rules and regulations as are applicable to all teachers in the general school law.
>
> It shall be the duty of the county board of education to see that this act is carried into effect and shall for that purpose have the census of all the children of said Indians and their descendants between the ages of six and twenty-one taken, and proceed to establish such suitable school districts as shall be necessary for their convenience, and take all such other and further steps as may be necessary for the purpose of carrying this act into effect without delay. (Public Laws of North Carolina, 1885)

All the general school laws were to apply equally to the Indians as to the other races of the county. This same state legislature of 1885 restored the county superintendent's powers and duties and passed important legislation concerning education for all public school age students. It also established a method for equalizing funds to be apportioned from state and county money for general school operations and for equalizing school facilities "to all concerned, without discrimination in favor of or to the prejudice of either race" (Public Laws of North Carolina, 1885).

Twelve township districts were immediately created for the Croatan Indians and the sum of $749.25 was apportioned to run their schools for the year 1886. County records listed 543 male and 463

female students on the Croatan school census between the age of six and twenty-one.

However, local Indian tradition says that the state required the Indians to put up the land and raise $500 before they (the state) would take over the school. Mr. O. L. Moore, acting principal of the school, raised the money by door to door canvassing and by selling part of his own farm's tobacco crop (Interview with Professor Adolph Dial, 1978).

Two years later, in 1887, Representative Hamilton McMillan again petitioned the state on behalf of the Croatan Indians. This time, he succeeded in getting a bill passed to create a Normal School for Indians. The law created a corporation under the control of three trustees responsible for maintaining a school for the sole purpose of training Indian teachers. It provided in part:

> That no person shall be admitted into said school as a student, who has not attained the age of fifteen years; and that all those who enjoy the privileges of said school as students shall previously obligate themselves to teach the youth of the Croatan race for a stated period. (Public Laws of North Carolina, 1887)

The state appropriated $500 for the Normal Schools with the proviso that the Indians had to obtain a suitable structure for the school. Again, the Indian trustees worked throughout the county raising money and, according to tradition, building the school with their own hands to assure that the students had a place to come (Interview with Professor Clifton Oxendine, 1977). The school opened its doors to fifteen students in 1887.

The following year, the Croatans petitioned the U.S. Congress concerning their identity and for aid in educating their children. Congress referred the petition to the Commissioner of Indian Affairs, who in turn referred it to the Bureau of Ethnology for comments. Three years went by before the Indians received a reply. The Director of the Bureau of American Ethnology, Mr. J. W. Powell, did not comment on the contention by Croatan Indians that they were the descendants of Sir Walter Raleigh's Lost Colony. Instead, he noted:

> It is probable that the greater number of the colonists were killed; but it was quite in keeping with Indian usages that a greater or less number, especially women and children, should have been made captive and subsequently incorporated into the tribe. (Powell, 1889)

The Commissioner of Indian Affairs answered the petition from the Croatan Indians on August 10, 1890. His response was as follows:

> While I regret exceedingly that the provisions made by the State of North Carolina seem to be entirely inadequate (for the education of these people), I find it quite impracticable to render any assistance at this time. The Government is responsible for the education of something like 36,000 Indian children and has provisions for less than one-half this number. So long as the immediate wards of the Government are so insufficiently provided for, I do not see how I can consistently render any assistance to the Croatans or any other civilized tribes. (Commissioner of Indian Affairs, 1890)

During that time, the Indian Normal School thrived. The State Superintendent of Public Instruction reported about the school in 1889.

> I call attention to the report, in its proper place, of the trustees and principal of the Normal School for Croatans . . . . I respectively suggest that, inasmuch as the appropriation of $500 is

> annual, the Assembly pass an act allowing the State Board of Education to exercise their discretion as to future expenditures for this school. (Biennial Report, 1889)

Interestingly, the "proper place" referred to meant that, although the state had seen fit to create separate Indian schools, the records for these schools were placed under the "colored" reporting category. There was no distinction shown in the general classification between Indians and Negroes. In the state records, both were classified as "colored." However, this same year, 1889, the state amended the law establishing the normal school by lowering the student admission age to ten and excluding Negroes from the Indian school. Thus, the Croatans had waited fifty years to hear from the federal government that no assistance was available to them "or any other civilized tribes."

Indians and the State Expand Schools

The Indian Normal School continued during this time, and in 1891 the state Superintendent of Public Instruction reported that sixty-six students were enrolled, average daily attendance was thirty students, and supervision of the teachers and conduct of the scholars was satisfactory (Biennial Report, 1891). By 1900, Robeson County enrolled 3,670 white, 3,623 colored, and 861 Croatan Indian students. Value of school property for the whites was $6,345; for the colored $4,673; and $2,010 for the Indians. Within fifteen years, the Indian schools appeared to be making significant strides in obtaining school facilities and increased student enrollment when

compared to the other races. Although the normal school was organized to train teachers for the Indian schools, in reality it was an elementary school consisting of grades one through six. Twenty years were to pass before the school could offer high school courses. It was not until the early 1900's that schools for Indian students were established in various parts of the county. Thus from 1885 until 1903, the Croatan Indians had one school for all the Indian students. That school was the Croatan Indian Normal, first at Pates, North Carolina and later moved to a permanent location at Pembroke. This meant that for twenty-three years after the state of North Carolina had authorized separate schools for Croatan children, Indian children living outside of the Pembroke area in Robeson County had no schools to attend.

In 1903, the state had created a loan fund to give aid to the counties for erecting buildings and improving schoolhouses. Robeson County used this fund to begin replacing many of the log schoolhouses attended by the White children. The next seven years, Robeson County erected twenty-five white, four Croatan, and nine Negro schoolhouses (Raleigh News and Observer, 1970). The majority of these schoolhouses were for the elementary grades. During this decade, the state authorized the establishment of rural high schools; Robeson County soon established four high schools for white students only (Raleigh News and Observer, 1970).

Although the state and Robeson County were subsidizing and expanding rural elementary and high schools, the local county paper,

The Robesonian, described one of the Indian meetings to raise money to move the Indian Normal School and build a large facility at Pembroke as follows:

> Many of the old Indians, gray headed, stooped, and tottering with age, who have never had the opportunity of spending a day in school, could be seen pushing their way through the crowd to hand over their hard earned money in order that their children may have the advantage of an education. (Robesonian, 1903, p. 2)

The land was purchased by public subscription and, with the $3,000 appropriation from the State Legislature, the new building was constructed in Pembroke in 1912. This same year saw the graduation of the second Indian student who had achieved the equivalent of a high school education. The first student had finished at the old Normal facility in 1909.

Croatan Indians Petition State and Federal Governments

During the years 1911-1912 the Croatans were petitioning both the state and federal governments concerning their identity and educational services. First, in 1911, the Croatans petitioned the state government to change their name to "Indians of Robeson County" because of the racial slurs against the name Croatan. This was done, the very next year, these Indians returned to Raleigh and petitioned the state to change their name to "Cherokee Indians of Robeson County." This was done also.

The Cherokee Indians of Robeson County approached the federal government for educational assistance in 1912. Senator Simmons and

Congressman McLean introduced bills in February, 1912, to provide for acquiring a site and erecting a school for the Indians of Robeson County. An initial appropriation of $50,000 was to be made, with $10,000 to be appropriated annually for such a school, and the Secretary of the Interior was to supervise the school.

S.3217 was introduced by Senator Simmons in February 1912 and passed the Senate August 8, 1912. The companion bill in the House of Representatives was H.R. 20728. It was introduced by Congressman Angus McLean as an amendment to the Bureau of Indian Affairs Appropriations bill. No action was taken on this bill.

However, as a result of this Congressional activity, the Commissioner of Indian Affairs sent one of his supervisors of Indian Schools to visit the Croatan Indians and their schools on March 2, 1912. Mr. Charles F. Pierce, supervisor of Indian Schools, Fifth District, Pipestone, Minnesota reported his impressions and recommendations concerning his visit to the Croatan Indians in Pembroke, North Carolina as follows:

> In regard to giving federal aid to this institution (the Indian Normal School), no doubt it would be of great benefit, at the same time it appears to me that it would be taking a backward step in our Indian school policy. It is the avowed policy of the Government, to require the states having an Indian population to assume the burden and responsibility for their education as soon as possible.
>
> North Carolina, like the state of New York, has a well organized plan for the education of Indians within her borders. I can see no justification for any interference or aid, on the part of the Government, in either case. (Pierce Report, 1912)

By the end of March, 1912, the First Assistant Secretary of the Interior reported to the Senate Committee on Indian Affairs that "it is firmly believed, it will be unwise and unnecessary to appropriate for the establishment of a school for Croatan Indians" (Letter to Robert J. Gamble, March 30, 1912). However, the bill was reported out of the Senate but died in the House of Representatives.

North Carolina Obtains Title to the Indian Normal School

The following year, North Carolina required a six months' school term for every school district; set up a $250,000 appropriation to be given to counties based on school population; set up a tax to be collected; placed it in an equalizing school fund; and required compulsory school attendance of at least four months a year for all children between eight and twelve years old (New School Legislation, 1913). These laws were to have direct impact on the Indian schools over the next several years. This same year, the Legislature enacted a law transferring by deed the property of the Indian Normal School to the State Board of Education. Thus, twenty-five years after the Indians started their school, the state assumed responsibility for it and also assumed jurisdiction over the appointment of its trustees.

Special Investigation on Tribal Rights of Robeson County Indians

During this period, the Cherokee Indians of Robeson County continued to call on the federal government for educational assistance.

Congress authorized the Secretary of the Interior to investigate the condition and tribal rights of the Indians of Robeson and surrounding counties in 1914 (S. Res. 410, 1914). Special Indian Agent O. M. McPherson was sent to conduct the investigation. His report was very detailed concerning the theories about the identity of the Robeson County Indians, the traditions of the older Indian people, and the socio-economic and educational conditions of the group. Agent McPherson concluded that the "facts suggest this character of the educational institution that should be established for them, in case Congress sees fit to make the necessary appropriation, namely the establishment of an agricultural and mechanical school in which domestic science shall be taught" (McPherson, 1915).

As the recommendations presented in the McPhereson report on Robeson County Indians were reviewed by the Congress, officials in the Bureau of Indian Affairs began looking at potential boarding schools which these Indian students might attend. The Assistant Commissioner of Indian Affairs, E. B. Meritt, wrote to the Carlisle Indian School and suggested that the director give special attention to enrolling some of the Robeson County Indian students.

Assistant Commissioner Meritt noted in his February 11, 1916 letter to Superintendent O. H. Lipps at Carlisle that

> . . . with the present attendance at the Carlisle School of approximately 500 and an enrollment far below its capacity, there seems no reason why there should not be enrolled those of the Cherokee children from North Carolina who will be eligible in accordance with the courses of study.

> I will request you give this matter your special attention and report to me how far you can cooperate in getting these children to Carlisle. (Meritt, 1916)

Superintendent Lipps took exception to this request and stated his reason in correspondence on February 12, 1916 as follows:

> We have one student here now from that tribe who has been here for a number of years . . . . If we have to fill the Carlisle School by going out and finding Indians such as those that live in Robeson County, North Carolina, in my opinion the time has come to abandon this school. I have been doing the very reverse of that very thing. I have sent out of Carlisle almost one hundred students, since I have been here, who were frankly speaking ineligible. They possessed a very small degree of Indian blood and were living in towns or communities where they could attend public schools and this I judge to be the real desire of the office. If we are ever going to solve the Indian problem, it will be by the process of elimination . . . . What we should do is adhere strictly to the law and the real spirit of our oft repeated Indian policy and cease enrolling Indian students at Government schools who have the privileges of public schools and especially those who are living in towns and villages and have never affiliated with any Indian tribe. (Lipps, 1916)

However, the outgoing Secretary of the Interior recommended an appropriation for a boarding school for the Robeson County Indians based on "the facts presented in the McPherson Report" (H.R. 11332 Report, 1916).

On March 2, 1916, the new Secretary of the Interior, Franklin Lane, reported to the Chairman of the Senate Committee on Indian Affairs,

> Whether this information (in the McPherson Report) would justify an appropriation by the Federal Government to supplement the educational facilities afforded these people is, of course,

> a position for determination by Congress, but I doubt the wisdom of the Government's assuming this burden. (Secretary of Interior Lane, 1916)

Lawsuit to Admit Children to Indian Normal School

This same year, a group of local parents successfully challenged the right of the Board of Trustees of the Indian Normal School to deny their children admission to the school. Mr. A. A. Goins and several parents from Cumberland County sued the Board of Trustees of the Indian Normal School in Pembroke, North Carolina to admit their children as Croatan Indians to the school. The Board of Trustees held that the applicants were not Croatan Indians residing in Robeson County in 1885 and therefore were not entitled to attend the schools. Indeed the Board indicated that they believed the family to be Black instead of Indian.

The suit was filed in the Superior Court of Robeson County and then appealed to the North Carolina Supreme Court. Plaintiff stated that their immediate Indian ancestors had lived in Sumpter County, South Carolina but had gone there from Cumberland County, North Carolina. They contended that they had no Negro blood in their veins and that their children were entitled to be admitted to the normal school under the statutes establishing it. The North Carolina Supreme Court upheld the decision of the lower court that held, "none of the acts contained anything restricting the right of pupils of the school to the children of the Croatan race who resided in Robeson in 1885, embracing not only the Croatan Indians of Robeson County, but Croatan

Indians who put themselves within the limits of the school in good faith, though coming from other territory" (Goins v. Board of Trustees, 1916).

Committee of Indians Established by State Law

As a result of the North Carolina Supreme Court's decision in the Goins case, and the feeling by local Indian leaders in Robeson County that people who were not Indians were attempting to attend the Indian schools, Senator L. R. Varser introduced a bill to protect their schools. The bill became a law in 1921 and established a committee of five Indian residents of Robeson County, whose names were listed in the law, to protect the public schools in the county for the education of the Indian race only.

All questions concerning the race of those applying for admission to public schools for Indians in Robeson County were to be referred to this committee. The committee members, named in the law, were given original and exclusive jurisdiction over questions of eligibility for admission and were given the power to subpoena witnesses. The only appeal from their decision was to the Superior Court of Robeson County (North Carolina Session Laws, 1921). This committee reviewed applications of all Indians who had not been residents in Robeson County in 1885 or who lived outside the county and were seeking admission to the Indian public schools. This committee continued to function until 1929 when it was expanded to nine members who were residents of Robeson County. The committee was

given the power to determine racial eligibility of students seeking admission to the Cherokee Normal School and the common schools in Robeson County for Indians. The committee maintained exclusive power to make such determinations and was established in perpetuity, with authorization to appoint its own new members. The Committee remained in existence until 1968 (North Carolina Session Laws, 1921, 1929). This committee played a critical role in determining who was eligible to attend both the public schools and the Indian Normal School until 1968, when it was voluntarily disbanded.

Thus, from 1921-1968, both a set of local Indian school committees under the supervision of the county superintendent and a committee on Indian school eligibility authorized by state legislature and operating autonomously, except for appeals to the Superior Court of Robeson County, operated concurrently. The pattern of separate Indian schools scattered throughout Robeson County was an accepted fact by 1921 and each one continued to operate under the two committees until 1968.

Statewide Education Law Cites Indian Schools

North Carolina passed a general education law describing the organization and administration of the state's school system in 1923. This law described where the Croatan Indians were located in various counties. This law also stated that the county board had to provide separate schools for Indians and school committees of their own race. In addition to the separate laws mentioned heretofore, identifying

various Indians in North Carolina and providing schools for them, the new educational organic law for the state also noted the provision of separate education facilities for various Indian children in the state.

Higher Education Assistance Sought from the Federal Government

In 1923, the Robeson County Indians also were petitioning the federal government for higher education assistance. This time, the Bureau of Indian Affairs (BIA) sent Indian agent, James Henderson, from Cherokee, North Carolina to review and report on the educational conditions existing among the Croatan Indians of Robeson County. Agent Henderson made a number of recommendations, three of which had program relevance:

1. The state of North Carolina should revise its 1884 roll of Croatan Indians;

2. Graduates of Pembroke Normal School who wish to prepare themselves as teachers should be permitted to attend Haskell Institute (a BIA institution) until the state puts normal courses at Pembroke Normal School;

3. Further investigation should be made concerning Indians unable to send children to district schools and to Pembroke because of lack of funds. If this is so, Congress should pay board at Pembroke Normal School for those students who have graduated from the district schools. (Henderson Report, 1923)

Agent Henderson's report was the beginning of almost two decades of increased attention by the U.S. Congress and the Bureau of Indian

Affairs concerning the identity and educational needs of the Indians of Robeson County.

From February 1924 until December 1938, federal attention actively focused on the need to clarify the identity of and provide additional educational opportunities for the Indians in Robeson County, North Carolina. The first such bill was introduced in February 1924 by Congressman McLean. It was H.R. 8083, a bill to change the name Croatan to Cherokee Indians of Robeson and adjoining counties in North Carolina. The bill did not confer any Cherokee tribal rights to lands or monies upon these Indians and stated, "nothing herein shall be construed as prohibiting the attendance of children of said Croatan Indians in Government Indian schools" (H.R. 8083, 1924). This bill did not pass the House of Representatives.

The next year, on March 18, 1924, Secretary of the Interior, Hubert Work, sent forward an amendment to Congressman H. L. Lyons, Chairman of the Indian Affairs Committee, concerning the Croatan Indians. It stated "provided however that nothing herein shall be construed as prohibiting the attendance of children of said Croatan Indians in Government Indian schools (Secretary of the Interior Work Letter, 1924).

Then on April 11, 1924, Secretary Work sent forward the following comment on H.R. 8083, a bill to designate Croatan Indians of Robeson and adjoining counties as Cherokee Indians. The Secretary wrote that the first provision of the bill to designate these Indians as Cherokees had been accomplished by the General Assembly of North

Carolina on March 11, 1913. The second proviso was to allow children of Croatan Indians to attend Government Indian schools and receive benefits of education. Secretary Work said "the Department sees no objection to change in the designation of the Croatan Indians and recommends enactment of the measure" (Secretary of Interior Work Comments, 1924). The bill was reported out of Committee but no action was taken by the House of Representatives.

By 1926, a new proviso was added to the bills introduced concerning the Croatan Indians of Robeson County. Two companion bills were introduced (S.1632 and H.R. 5365) concerning these Indians. The bills provided that "the name Croatan be changed to Cherokee and that these Indians should be recognized and enrolled as such." The bill also noted that "such designation, recognition, and enrollment shall not in any manner affect the present status or property rights of any such Indians or prohibit the attendance of children of such Indians at Government schools" (Provisions S.1632 and H.R. 5365, 1926). Further provisions of this act were not to be construed to give such Indians any rights in or to the tribal lands or moneys of other bands of Indians in the United States (Provisions S. 1632 and H.R. 5365, 1926).

The Secretary of Interior wrote to the Chairman of the Senate Committee on Indian Affairs expressing the following views:

> As the Federal Government is not under any treaty obligated to these Indians, it is not believed that the United States should assume the burden of the education of their children, which has heretofore been looked after by the State of North Carolina. In

> view of the foregoing, I do not favor the bill in its present form. However, I do believe that legislation to clarify the status of these Indians is desirable. (Secretary of Interior Letter, 1926)

He recommended that the bill be limited to designating a name for these Indians, with the proviso "that nothing contained herein shall be construed as conferring federal wardship or any other governmental rights or benefits upon such Indians" (Secretary of Interior Letter, 1926). The bill was not reported out of committee.

On May 26, 1926, a brief was filed with Commissioner of Indian Affairs Charles Burke petitioning for his agency's assistance on behalf of the Cherokee Indians of Robeson County, North Carolina. Attorney Ellwood P. Morey of Washington, D.C. filed the brief on their behalf. Commissioner Burke's response on June 1, 1926 stated "the United States is in no way indebted to them and that their claims for assistance, etc., have no merit other than that which would attach to ordinary needs of citizens" (Commissioner Burke, 1926).

Expanded Educational Activity in Robeson County for Indians

The on-going appeals from the Indians of Robeson County to the federal government brought no long-term educational assistance to them. Nevertheless, their educational facilities continued to expand. Until 1924, only elementary schools were available to the Indians. In that year, the first high school--located at Pembroke within the complex of the Indian Normal School--was opened. The state had passed laws encouraging high schools in 1907 and 1921; however, until 1924

there had been no Indian high school. According to retired Professor Clifton Oxendine, the normal school faculty was enlarged, vocational training was added for boys and girls, and summer school was started from 1924-1928. Old Main, an auditorium which served the Indian community as an educational and social facility for many years, was constructed--along with dormitories, cottages, an agricultural building, and a home economics building--during this period.

By 1925, the state legislature placed the Board of Trustees under the direction of the governor. Appropriate normal school courses were offered the following year (Cherokee Indian Normal School Catalogue, 1936). The first graduating class from the normal school finished on June 1, 1928. At the commencement, the superintendent announced that the school had been accredited by the state as a standard normal school (Interview with Elizabeth Maynor, 1978). In September 1928, the normal school and high school separated their administrative operations and academic programs from the Indian elementary schools. The elementary and high school facilities for Indians had been combined with the Normal School in Pembroke. Other Indian elementary schools, located elsewhere in the county, were under the Indian school committees who in turn reported to the county superintendent. Forty-one years after North Carolina established the Indian Normal School to train Croatan Indian Teachers, it became an accredited institution.

By 1930, the county school superintendent cited the following statistics which illustrates the educational facilities for Indians in Robeson County: eighteen one-teacher schools, eight two-teacher schools, three three-teacher schools, seven four-teacher schools, and one eight-teacher school. Thirty-seven schools enrolled 3,559 Indian children. In an earlier section of his biennial report, the superintendent described the effective consolidation of the white schools in the county. However, when he reported on the Indian schools, he noted, "as a large percent of the Indians in Robeson County are tenant farmers and move about very often, it is difficult to arrange permanent school buildings for them" (Robeson County Superintendent's School Budget, 1930-1931). He also noted that since the Indian schools were small, all the children walked to school, an interesting non sequitur.

At the request of the Indians in Robeson County, the North Carolina Assembly passed a law requiring the Superintendent in and for Robeson County to keep separate school records for the Cherokee Indian schools in that County (North Carolina Session Laws, 1931). Thus, the school records were to be changed from "Indians of Robeson County" to "Cherokee Indians of Robeson County." This change was to be reflected as such on the local records.

Renewed Efforts for Federal Designation and Assistance

Congressional efforts were renewed in 1932 regarding a legal designation for, and educational assistance from the federal government for, the Indians of Robeson County.

Identical bills were introduced in the U.S. Senate and House of Representatives concerning designation of the Croatan Indians of Robeson County as Cherokee Indians and providing educational facilities for some of their students. The Commissioner of Indian Affairs suggested to the Secretary of the Interior that

> We believe that the enactment of this legislation would have the effect of providing educational facilities for some of them at the expense of the Government. Since the Federal Government does not have any responsibility for these people, it is not for us to say whether or not they should be classified as Cherokees. (Commissioner of Indian Affairs Rhodes Letter, 1932)

As before, no action was taken on the bill by Congress.

Indians Travel to Washington to Seek Legal Designation

On April 23, 1933, a delegation of Robeson County Indians arrived in Washington, to meet with Commissioner John Collier concerning their legal identity and educational assistance for their children. Commissioner Collier referred them to Dr. John Swanton of the Bureau of American Ethnology. Dr. Swanton met with the delegation and took the question of their legal designation under study. After several months, he recommended to the Commissioner of Indian Affairs that a proper designation for these people might be Cheraw or Siouan

Indians of the Lumbee River (Swanton, 1933). A bill, S. 1632, was introduced early in the next Congress to enroll the Croatan Indians of Robeson County, North Carolina as Cheraw Indians and to permit their children to attend government Indian schools (S. 1632, 1935).

BIA Suggests Name
But No Benefits

On January 10, 1934, the Secretary of the Interior wrote to Senator Burton K. Wheeler, Chairman of the Committee on Indian Affairs, an unfavorable report on S. 1632. He stated that he did not approve the bill in its present form. He suggested legislation to clarify the status of these Indians, as follows:

> That those Indians in Robeson and adjoining counties, North Carolina, who were formerly known as Croatan Indians, shall hereafter be designated Siouan Indians of Lumbee River, and shall be so recognized by the United States government: Provided that nothing contained herein shall be construed as conferring Federal wardship or any other governmental rights or benefits upon such Indians. (Secretary of the Interior Ickes Letter, 1934)

BIA's Education Policy
Toward Southern Indians

W. Carson Ryan was the Education Director of the Bureau of Indian Affairs. Dr. Ryan forwarded a memorandum to the Commissioner of Indian Affairs on April 3, 1934 regarding the Bureau's policy on numerous groups of Indians in the southern states. The Memorandum stated Ryan's views:

> We have never had, as I understand it, a definite office policy regarding the numerous groups of Indians in the southern states. During the Wilson

> administration an attempt was made to round up these various groups and find out whether anything should be done for them by the Federal Government. It is chiefly from this period that our present work with the Seminoles of Florida and the Choctaws of Mississippi dates.
>
> It is customary to refer to these Indian settlements, as 'small, scattered groups.' As a matter of fact, however, there are between 5,000 and 9,000 people of Indian blood in the group usually known as 'Croatans' (in and around Pembroke, North Carolina) . . .
> .....
>
> In view of the pending Wheeler Howard Bill (which interests many of the Indians in these groups very much), and the present difficulties securing educational and other services for people of Indian blood in the southern states, it seems especially important to have some data on hand as a basis for policy. In any recommendations that appear in the following statements, I have assumed as an Indian Service policy that, while we do not desire unduly to interfere with an existing situation, particularly with a satisfactory situation, the Federal Government has an obligation to all people of at least one-fourth Indian blood who have a diminished social, health, and educational service in the communities in which they are living as a result of the fact that they are Indian. We sometimes refer to Indians as adequately 'adjusted' when what we really mean is that they are resigned to a discrimination that is neither fair or socially desirable. (Ryan Memorandum, 1934)

In Dr. Ryan's accompanying report he described Indians and their educational conditions in North Carolina, Louisiana, Mississippi, Florida, and South Carolina. The report said this about the Croatans of North Carolina:

> Estimates of the number of these Indians (formerly called Croatans, but more exactly known as Cheraw Indians of the Siouan stock) vary, but there must be at least 5,000, or possibly as many as 9,000, located mostly in Robeson County, North Carolina. These Indians have been officially

> recognized as Indians by the State of North Carolina. They have an Indian teachers' college (accredited) furnishing two years of training beyond the high school, 42 schools, of which four are high schools, two being accredited. With a few exceptions all the teachers in the elementary schools are Indians trained in their own state teachers' college and one of the high school teachers is also Indian. The Indians feel especially the need for some advanced training so that one or two of their better qualified people may have university work and prepare for high school teaching and other positions requiring university training.
>
> There are two things the Indian Service can do in this matter, (1) we can pay instruction costs for a few Indian students who without such aid would not be able to attend the State Normal School at Pembroke; (2) we can furnish scholarship, loan, instructional costs, or residence for university training of one or more qualified individuals. The representatives of the tribe have agreed to submit candidates for this and they have been assured that we would give very careful consideration to any well qualified candidate with the requisite degree of Indian blood. (Ryan Report on Indians in Southern States, 1934)

During this period, the Croatan Indians of Robeson County formed a Siouan Indian Council and elected officers and Council members. In addition, the Indians sent Mr. Joe Brooks to act as their representative to seek again to gain legal designation and federal resources for their group.

On October 15, 1934 Superintendent J. E. Sawyer of the Cherokee Indian Normal School in Pembroke, North Carolina heard from Dr. W. Carson Ryan, BIA Director of Education, regarding assistance from Federal funds in paying instructional costs for several students at the Normal School. The letter stated "We have authorized the following amounts: James Bell, Jr.--$38.00; Stella Graham--$38.00,

and Gertrude Locklear--$18.00. This money is to be disbursed through Superintendent Harold W. Fought of Cherokee Agency, Cherokee, North Carolina . . ." (Ryan Letter, 1934). The letter noted that Mr. (Joe) Brooks had been asked for recommendations since he has been generally recognized in Washington as representing the interests of the Indian group in the Pembroke area. The letter also stated:

> As to the use of the name 'Siouan' or 'Cherokee', this would have nothing to do with the granting of aid. The only questions for us in connection with Federal aid are whether you are sufficiently interested in the welfare of these three students to have us do it, we will be glad to change the designation in the applications to North Carolina Indians in order that you and your board may be able to accept such federal assistance. (Ryan Letter, 1934)

The federal records did not indicate whether these students were assisted, how long they received assistance, and whether other Croatan Indian students of Robeson County received such aid.

Effects of Indian Reorganization Act on Robeson County Indians

As the Indian Reorganization Act was implemented at the Bureau of Indian Affairs, a number of "unorganized tribes" sought assistance from the Commissioner of Indian Affairs, John Collier. Among the tribes seeking such assistance were the Indians of Robeson County. Mr. Joe Brooks asked Commissioner Collier a number of questions about recognition under the Indian Reorganization Act. Commissioner Collier forwarded these questions in a memorandum to the Solicitor of Indian Affairs, Mr. Felix Cohen. Solicitor Cohen

was the father of codified Federal Indian law and is still considered the foremost attorney in the field.

On February 18, 1935, the Memorandum to the Solicitor noted that Mr. Joe Brooks of the Siouan Indians of North Carolina had asked the following questions--

> . . . can Indians, half or more bloods, members of a tribe not under U.S. jurisdiction, organize under the Wheeler-Howard Act to receive a constitution, charter, etc.? Or would the benefits to them be exclusively individual ones, such as land purchase and scholarship loans, predicted on their showing half or more blood? (Collier Memorandum, 1935)

Solicitor Cohen reviewed these questions and responded accordingly on April 8, 1935. He stated

> . . . these Indians could participate in the benefits of the Wheeler-Howard Act only insofar as individual members may be of one-half or more Indian blood. Such members may not only participate in the educational benefits of Section 11 of the Wheeler-Howerd Act; in the Indian preference rights for Indian Service employment granted by Section 12 of the Wheeler-Howard Act; but may also organize under Sections 16 and 18 of the Wheeler-Howard Act, if the Secretary of the Interior sees fit to establish for these eligible Indians a reservation. (Cohen Response to Collier Memorandum, 1935)

This information was shared with Mr. Joe Brooks and the Siouan Indian Council by Secretary of the Interior, Harold Ickes on April 10, 1935. Two weeks later, on April 25, the Secretary informed Solicitor Cohen and Commissioner of Indian Affairs Collier that he agreed with the opinion in the Cohen Memorandum. Over the next several months, the Commissioner of Indian Affairs assigned members of his staff to identify ways the Bureau of Indian Affairs might assist these Indians.

State Asks BIA to Assist
Indian Students

After noting earlier that the Bureau of Indian Affairs could assist Indians attending the Indian Normal School at Pembroke, Dr. Carson Ryan, BIA's Director of Education, inquired of the State Department of Public Instruction in North Carolina about plans for the school. Dr. James Hillman, Director of the Division of Curriculum Instruction, from the North Carolina Department of Public Instruction, wrote the following response on February 19, 1935:

> We recognize the institution as a standard two year Normal School. While this is true, there are evident weaknesses which need to be overcome. In general the quality of work would not quite measure up to work of a similar nature in our other institutions. It has been necessary to be somewhat lenient in our interpretation of and in the enforcement of the standards with reference to accrediting this institution. In spite of this concession, however, graduates of the institution are generally allowed full credit for work done there when they attend a senior college. I would say that any institution would be justified in allowing a conditional rating for those students who graduated from Indian Normal School at Pembroke.
>
> I am quite certain the Federal Government would be justified in allowing a small payment toward meeting the instructional costs for Indians planning to teach and who would attend the Normal School. The opportunities which Indians have for education are quite limited. They should be given such encouragement as possible, consistent with a sound Federal program.
>
> As far as I know the State Department of Public Instruction has no immediate plan for changing the type of work in which the Normal School engages. We are anxious, however, to strengthen this school in every way possible. This would involve, among other things, an improvement in the qualifications

> of the faculty. If the Federal Government could assist Indians who are now on the faculty to attend a University and acquire graduate degrees, it would hasten the day when the faculty would be in a position to render a high order of teaching service. The school does not seem to attract outstanding white teachers. We believe that improvement in the faculty would involve securing properly qualified Indian teachers. Any financial assistance which could be afforded to carefully selected Indians to prepare themselves for teaching in this institution would hasten the day when it could be manned by well-qualified Indian teachers. (Hillman Letter, 1935)

Although the initial attitude of the Collier Administration appeared sympathetic to the Indians of Robeson County, as the budget allocations tightened in the Bureau of Indian Affairs so did the attitude concerning financial assistance. There is no evidence in the federal or state archives to indicate that any educational assistance was given to Robeson County Indian students.

BIA Seeks Federal Resources to Assist Indians

Commissioner Collier had directed his staff to identify resources which might be helpful to the Indians of Robeson County. The Farm Security Administration had launched a number of programs to assist rural areas. On July 9, 1935, Indian Agent Fred A. Baker was dispatched from Sisseton Indian Agency in South Dakota to visit Robeson County, North Carolina. He was to report on the suitability of establishing a land purchase and rehabilitation project among those Indians. Baker recommended individual farms of forty acres and a neighborhood plan where each family had their land and their homes and all shared

a community building. Agent Baker gave his unqualified approval to a federal project to assist these Indians. He stated,

> We feel strongly that these people are already recognized by the laws of the State of North Carolina as Indians. It is true that they have no treaty or other legal relationship with the United States Government. Under many handicaps and beset with many difficulties they have, up until now, made their own way. I would not have the government assume that measure of control which is now exercised over many Indian tribes, as I feel that this would tend to bring about a spirit of dependence which would tend to destroy that sturdy spirit of self-reliance which now prevails. But the measure of relief recommended herein, if properly carried out, will not, in any way bring this to pass. This plan is intended to give Work Relief and to take Indians off the rolls by giving them employment at reasonable wages. (Baker Report, 1935)

The Resettlement Administration sent John Pearmain to Robeson County in October 1935. Pearmain reported on the history, background, and socio-economic status of the Siouan Indians of the County and combined his findings with those in the Baker Report described above (Pearmain Report, 1935).

By early January 1936, the Assistant Administrator of the Resettlement Administration in Washington wrote to Mr. H. B. Mask, Regional Director, Resettlement Administration, Raleigh, North Carolina. The letter authorized land acquisition for a Pembroke Indian Resettlement Project and stated the project would be handled as a resettlement project. Over the next several years, Indian families were assisted in purchasing their homes and forty acre tracts of land (Gray, 1936).

BIA Policy Under IRA
Toward Eastern Indians

A growing number of Indians along the eastern seaboard began appealing to the Bureau of Indian Affairs for assistance under the Indian Reorganization Act.

Commissioner John Collier issued a Memorandum on April 22, 1936, regarding policy toward various folk groups in the south and north eastern regions of the United States. The Memorandum stated the following:

> The problem is whether these peoples should be treated as Indians under the Reorganization Act and therefore be brought under the guardianship of the Federal Government. These groups have never had an explicit relationship to the Federal government. It is even doubtful whether they are recognized by prior colonial governments. They have lived amidst the general population for hundreds of years--and have made their social and economic adjustment as human beings and as citizens not under the guardianship of the United States . . . . The budgetary allowance for those Indian groups, about whose legal status and rights there is no questions, are and will continue to be insufficient to meet their needs. Adding further strains on the Indian Bureau budget would either jeopardize the work with those Indians already under Federal guardianship or arouse hopes with newly-made guardians that could not be met . . . . For these reasons the conclusions reached by the Indian office is that these folk groups should not be brought under Federal guardianship. (Collier Memorandum on Folk Groups, 1936)

This memorandum meant that the Bureau of Indian Affairs would no longer attempt to expand its activities to reach the so-called scattered non-reservation Indians.

Indians Seek To Be Enrolled

The Cherokee Indians of Robeson County continued to press their case. Based on the opinion of Solicitor Felix Cohen that they could qualify as individuals under Section 19 of the Indian Reorganization Act, the Indians requested that an Enrollment Committee from the Bureau of Indian Affairs come to Pembroke. On June 2, 1936, Commissioner John Collier appointed an Enrollment Committee to go to Pembroke, North Carolina to investigate the claims of Indian blood of a group of people in Robeson County, North Carolina. The purpose of the Committee was to see if the Siouan Indians of Robeson County could qualify under Section 19 (one-half Indian blood or more) of the Indian Reorganization Act 1934. A physical anthropologist was included to determine scientifically whether any applicants were one-half or more Indian blood. The Enrollment Committee stayed in the Robeson County area for three months. They called rallies, passed out fliers, and urged any Indian interested in being enrolled to pay $5.00 (five dollars) and submit to various physical anthropological tests. In turn, they would be declared a certain quantum of Indian blood or no Indian blood. Some two-hundred and nine (209) individuals took the tests. The Enrollment Committee returned to Washington to review their findings and submit a report to the Commissioner of Indian Affairs. The report was completed January 26, 1937 (McNickle et al. Memorandum, 1937).

One year lapsed before Commissioner Collier shared the findings with the Indian community. On February 24, 1938, the Commissioner

wrote to Mr. Joe Brooks, the Siouan Representative in Washington. He informed him that of the 209 examined by Dr. Carl Selezer, the physical anthropologist, some 22 were found to be one-half or more Indian blood. Commissioner Collier stated that he did not know whether these findings will be enough for the Secretary of the Interior to rule on whether "22" can be declared Indians under the Indian Reorganization Act (Collier Letter, 1938).

There was much discussion in the Indian community about the results of the physical tests and what to do with the findings. On November 8, 1938, the General Tribal Council of Siouan Indians wrote to Commissioner Collier urging him to accept the "22 Indians" for participation in the benefits of the Indian Reorganization Act. They also asked advice on how other Indians should be organized (Chavis, 1938).

Assistant Commissioner of Indian Affairs, William Zimmerman, Jr., responded to the Siouan Tribal Council informing them that Secretary Ickes had authorized twenty-two out of the 209 applications from Robeson County Indians as eligible for enrollment as persons of one-half or more Indian blood. These persons were entitled to benefits established by the Indian Reorganization Act and no other rights (Zimmerman, 1939). Mr. Zimmerman stated that he was preparing notices to the individuals so approved. The benefits in question were tuition loans, economic development loans, Indian preference in BIA employment, and the right to petition the Secretary to take land in trust and organize as a group. After winning concession, the

Council of Siouan Indians decided to dissolve and did not move to obtain the actual federal benefits for the "22 Indians" so recognized. Local Indian tradition states that the Lumbees were fearful of having to give up their lands to the Bureau of Indian Affairs. They decided to forego any such benefits and keep their land in individual deeds of trust (Interview with Jim Chavis, 1978). Over the next several years, there was no further contact between the Robeson County Indians and the Bureau of Indian Affairs.

Educational Activity in Robeson County Elementary and Secondary School

Between 1930 and 1940, the normal school and the only Indian high school were separated. The normal school began to expand its own academic program and conferred its initial four year Bachelor of Arts degree in 1940. As the normal school withdrew from the public school education of Indian children, Robeson County assumed increased responsibility for their elementary and secondary education. School facilities for Indian students increased between 1930 and 1940. Instead of only one secondary school for Indians, there were five, and fourteen elementary schools were provided (Robeson County Board of Education Annual Statistical Reports, 1929-1940). By 1948, the county had contracted for a survey of its school system. The survey team recommended that bonds be sold by the county and that proceeds be used to improve the Black and Indian schools in the county (Rosentangel, 1948; Robeson County Board of Education, 1948). The bond issue was proposed and approved by county referendum in 1949. Of the $3,000,000

approved, the amount $1,500,000 was reserved to construct new schools for the Indians and to renovate old schools (Rosentangel, 1948; County Board of Education, 1948).

This same survey team was invited to review the county's system in 1952. They recommended an additional need for $2,000,000 expenditures to bring school facilities up to minimum standards and pointed out the shift of Indian population to other sections of the county and into adjoining counties. The team recommended building additional Indian schools in these areas. This bond issue launched a building program which continued sporadically for the Indians until the 1960's.

A statewide bond issue of $50,000,000 was approved by referendum in 1953. The County's share was used to begin meeting some of the critical classroom shortages. The State Department of Public Instruction surveyed the needs of the Robeson County schools in 1954, because the County Grand Jury had found the entire system extremely overcrowded and in need of classrooms (The Robesonian, 1953). As a result of this survey the county board approved a three-year building program for Indian schools (Minutes of the Robeson County Board of Education, 1954).

Indian Higher Education

From the founding of the Indian normal school in 1887 until 1945, the student enrollment was limited to Indians of Robeson and adjoining counties. In 1945, the normal school was renamed Pembroke State College for Indians and its enrollment was opened to individual

Indian students throughout the United States who were recognized as Indians by the Bureau of Indian Affairs. From 1945 to 1953, this was the only state tax-supported four-year college for Indians in the United States.

In 1949, the name of the college was changed to Pembroke College and the state legislature authorized the college trustees to admit any students of the Indian and white races to the institution. The Committee on Indian Eligibility to attend Indian schools and the Normal School was still in existence and still active, during this period. The Supreme Court decision in the 1954 Brown case, which outlawed racial segregation in public schools, prompted the Board of Trustees to remove all racial restrictions on the students wishing to attend Pembroke College.

On July 1, 1959, the state legislature granted regional university status to the college and brought the board of trustees under the State Board of Higher Education and the University of North Carolina Governing Board. This year saw the end of the appointment of an all Indian Board of Trustees and the beginning of the university's role as a regional educational facility.

BIA Says Cherokees of Robeson County Sufficiently Assimilated

Mr. D. J. Brooks wrote to the Commissioner of Indian Affairs seeking a reason why the Indians of Robeson County could not be organized under the Indian Reorganization Act. John Collier was

still the Commissioner of Indian Affairs. He wrote the following reasons on June 14, 1941:

> It is our conclusion, after careful study, that the Indian Reorganization Act does not afford a solution to your problems, and that organization under that Act would intensify rather than solve your problems. The Robeson County Indians have a special status under state law, with special schools and a special normal school. For the Federal Government to recognize as Indians only a small fraction of this group might weaken the special status of the great majority. I think it is right and proper for the state to give this special recognition. The fact that the Federal Government is debarred by law from so recognizing the whole group mearly means that the Siouan people have gone so far along the road of social assimilation and of self-support that they do not need the special guardianship of the Federal Government that is still being given to tribal Indians living on reservations. The lack of such Federal recognition does not imply that the Robeson County Indians are not Indians, but merely that they are not eligible for the special protection afforded to Indians who have not been sufficiently assimilated into the predominant culture. (Commissioner Collier Letter, 1941)

Over the next ten years, many Indians wrote to the Commissioner of Indian Affairs seeking information about their identity and entitlement to the Bureau of Indian Affairs services. All of them received the same answer, the BIA does not recognize the Cherokee Indians of Robeson County, North Carolina and therefore they are not entitled to special services as Indians!

Indian Name Changed to Lumbee

However, leaders among the Indians of Robeson County continued to press for a more suitable name. Many Indians felt the name

Cherokees of Robeson County was a misrepresentation of their "true identity" (Interviews with Dial, Chavis, and Locklear, 1978).

In 1951, spearheaded by Reverend D. F. Lowery, a referendum passed in which the Cherokees of Robeson County changed their name to Lumbee Indians. This name was taken from the Lumbee River which flows through the Indian communities. After the referendum, the tribal leaders organized a drive to get the state of North Carolina to pass legislation legalizing their name. This occurred on April 20, 1953.

As soon as this was official, Lumbee leaders appealed to their Congressman, Ertyle Carlyle, to introduce legislation in the U.S. House of Representatives to get Congressional recognition and approval of the Lumbee name. On January 18, 1956, Congressman Carlyle introduced H.R. 4656. This bill was to recognize and designate certain Indians as the Lumbee Indians of North Carolina in Robeson and adjoining counties. The Department of the Interior sent a report to Congress which recommended against enacting the bill. The report also requested that the bill "be amended to indicate clearly that it does not make these persons eligible for service provided through the Bureau of Indian Affairs to other Indians." This clause was to haunt the Lumbees over the next several decades. The bill was signed into law June 7, 1956 (Public Law 570, 1956).

POST-BROWN ACTIVITIES AMONG THE LUMBEE INDIANS

The U.S. Supreme Court in Brown vs. the Board of Education of Topeka, Kansas ruled that separate and equal schools were unconstitutional. Yet, there was no evidence in Robeson County of desegregation among the schools until 1970-71. North Carolina had passed the Pupil Assignment and the Freedom of Choice Acts in 1955 and 1958 respectively, as a response to the Supreme Court's ruling. However, once these laws were enacted, the state board of education left their implementation up to the county board of education.

In Robeson County a few Black families applied to have their children reassigned to other public schools which were not totally segregated. These applicants were subjected to unnumerable delays and administrative appeals.

From 1954 until 1963, the major activity in the Robeson County public schools was construction of new facilities or renovation of old buildings. The schools bonds approved by referendum during this period benefitted the Indian public schools in the county.

Minorities Appointed to the School Board

Prior to 1963, the Robeson County Board of Education had been composed of all white members. In 1963, the state legislature instructed the governor to appoint one Indian and one Black to the Board (Minutes of the Robeson County Board of Education, 1963). The next year saw the passage of the 1964 Civil Rights Act by the U.S. Congress. The North Carolina and Robeson County response to Title IV

of the Act was to continue the "Freedom of Choice Plan." Students were to attend the school of their choice. Although there were a few instances where Indians and Blacks wished to attend schools closer to their homes or schools with better facilities and higher standards of education, the majority of the Indian students chose to attend their original segregated schools.

The county board of education requested that the State Department of Public Instruction abolish the overlapping school districts within county educational administrative units and establish a unitary district for the entire area under the jurisdiction of the Robeson County Board of Education. This was done and the individual school committees were abolished also.

FEDERAL AID

President Lyndon B. Johnson launched "The Great Society Programs" in 1964 to improve the lives of all Americans, but in particular, the "culturally and economically deprived." Three of these programs, the Elementary and Secondary Education; Civil Rights; and Economic Opportunity Acts, were to have major impact on the Lumbee Indians of Robeson County.

Compensatory Education Assistance

The Robeson County educational administrative unit received $1,500,000 from Title I, ESEA during the programs' first year and annually thereafter until 1974. A new authorization for Title I,

ESEA resulted in a decline in program funds to $1,250,000 due to a new socio-economic formula. However, Title I, ESEA, continues to be the largest federal grant received by the county board of education (Interview with Purnell Swett, 1977).

In 1964, the Civil Rights Act was passed by the Congress. Initially this Act was intended to end discrimination based on race, color, creed, and sex. Title VI of the Act also prohibited discrimination in any program funded by the Federal Government. As federal aid to public schools increased, this title has proved to be extremely effective. It was used by the Department as the legal requirement for compliance to force Robeson County to desegregate its tri-racial separate school systems.

As the pressure for desegregation mounted, the U.S. Congress passed the Emergency School Assistance Act of 1968 to assist public school districts with desegregation activities for students, teachers, and school programs. By the autumn of 1969, DHEW was insisting on the desegregation of Robeson County's public schools and the reassignment of minority teachers and students. This law brought tri-racial segregation in Robeson County under immediate scrutiny and required immediate desegregation.

Community Action Programs

However, the Economic Opportunity Act of 1964, was directed to organizing the nation's poor to break the paradox of poverty through community action programs. This task was to be accomplished by community action organizations with non-profit status. In the case

of American Indians living on reservations, the Office of Economic Opportunity created "an Indian desk." This desk was to grant money directly to Indian tribes to attack poverty on the reservations. The tribes established Indian Community Action Agencies (ICAP's). Urban and rural non-reservation Indians were to participate in the county community action agencies. Between 1964 and 1970, one hundred and fifty Indian tribes participated in the program. They hired staffs, did program development, and brought many new resources and jobs to the reservation.

In 1970, the Indian Community Action Programs were transferred to the Department of HEW and renamed the Office of Native American Programs (ONAP). Its new office was located in the Human Resource Development Division. The office's new Congressional mandate directed it to fund programs to urban and rural non-reservation Indian organizations. Prior to this time, the Lumbee Indians were receiving community action services under "Tri-County Community Action Agency." In 1970, the Lumbee Indians petitioned the Department of HEW for a separate grant to be funded to the Lumbee Regional Development Association for a community action program. The Lumbees stated that they were interested in operating their own programs and felt that both their size and knowledge of their own group would enhance such activities. By June 1970, the Office of Native American Programs had funded the Lumbee Regional Development Association to operate a community program. This organization has become a major advocate for Lumbee people and has brought $4.2 million dollars in federal programs

into the area. Services are provided to Lumbees in the areas of education, economic development, manpower and youth employment opportunities. This was the first federal grant to Lumbees based on the fact that they were Indians entitled to federal money earmarked for Indians.

Accreditation of Indian Schools

In 1969, the Southern Association of Colleges and Schools conducted a review of the Robeson County schools. Although the Indians had 50 percent of the school buildings in the county and 61 percent of the student enrollments in the system not one of their schools was awarded accreditation by this association (Interview with Purnell Swett, 1977). Interestingly enough, the next year (1970), the 60 percent of the elementary and high schools enrolling Indian students in the county were accredited by the North Carolina State Department of Public Instruction (Public School Survey, Robeson County, et al., 1970).

Beginning of Desegregation

The "Freedom of Choice Plan" seemed to work well for Robeson County from 1965 until 1970. In that year, however, the Office of Civil Rights in the Department of Health, Education and Welfare threatened to withhold all Federal aid to the Robeson County Board of Education unless the schools were desegregated to comply with the Department of Health, Education and Welfare's mandate for student and faculty desegregation under the Emergency School Assistance Act.

It is difficult to tell from a review of the literature what caused DHEW's action. However, the researcher was informed by teachers in the Indian schools that a member of the local NAACP chapter, and a number of Indian parents living in the city education administrative unit, had complained about the long distances their children were bussed to keep them from attending white schools. Faced with the possible loss of millions of dollars in federal funds, the county school board moved to desegregate its school system for the school year 1970-71 (The Robesonian, August 15-30, September 1-15, 1970).

It is important to remember that, in addition to the existing Robeson County School District, a scheme creating five city administrative school districts, each governed by its own board and enjoying considerable autonomy, had been created earlier by the North Carolina Legislature. The boundaries of the school districts were set by legislative acts. Each of the five city districts extends into territory outside the corporate boundaries of each municipality. The Robeson County Administrative Unit was comprised of all those areas of the county which remained outside the city districts.

Issue of Double Voting

The members of each city district board were responsible to an electorate consisting of those residing within the geographic bounds of the area subject to that particular board's control. The Robeson County School Board was elected by all citizens of Robeson County, whether or not they resided within the area subject to that

board's control. Hence, those residing in city school districts could help to choose both the county board and their city school boards. The result has been a controversial situation. The Indians observed "double voting" on the part of the predominantly white populace who live in the city units and who vote for both city and county school board members. The practical effect of this arrangement was a dilution of the voting power of the residents within the county administrative unit, for they could vote only for county school board members (Interview with Dexter Brooks, 1977).

Even though the United States Supreme Court declared segregation in violation of the law of the land in 1954, separate school systems for all three races--Indian, white, and black--continued in Robeson County until the 1970-71 school year. Indian children were bussed from within the various city districts to Indian schools, all of which were within the geographic bounds of the Robeson County district.

County Agrees to Desegregate

The administrative school districts of Robeson County, created by acts of the North Carolina Legislature, did not apply to and did not affect Lumbee Indian children until 1970-71. Faced with the demands of the Department of Health, Education and Welfare that schools had to be desegregated by the beginning of the school year 1970-71, and further faced by the imminent DHEW threat of withholding federal aid to the schools of Robeson County for non-compliance with their guidelines, the school boards of Robeson County entered into

agreements with DHEW officials. They promised to delineate and enforce for the school year 1970-71 actual school district lines as the basis for assignment of pupils of all races. This was to mean that no children of any race could cross boundary lines. Many whites who lived in the county had previously sent their children to the city schools. They soon rented houses or apartments in town and continued to send their children to those schools. These rentals provided them with the necessary legal address (The Robesonian, August 28, 1970).

The Lumbee Indian parents felt that the school district lines had been established by the various boards of education in order to segregate the whites and desegregate the Indians, i.e., combining them with the Blacks (The Robesonian, August 15, 1970). The Indian parents believed that the Robeson County Board of Education told HEW officials that the district lines were serving the purposes of desegregation for all races, when in reality it affected Indians most. The Lumbee Indians further felt that the utilization of the district lines as set by the various boards of education were discriminatory, and that the practice denied them equal protection under the law. They based their opinion on the fact that several formerly Indian schools, located almost on the school districts lines were closed to Indian children living within a "stone's throw" of the schools but were bussed miles away to other schools. In addition, practically no students not formerly attending Indian schools were assigned to them. As a consequence, enrollment of Indian schools and the allotment of

Indian teachers decreased. The racial balance in the schools for both teachers and students, which was the avowed guideline purpose of HEW was not achieved, particularly as it affected the proportionate number of Indians. In fact, the Indians declared that this plan was not rational and placed the greatest burden of desegregation on the Indian schools (The Robesonian, August 25, 1970).

Indians Sit Out Of Schools

The Indian parents organized to oppose "gerrymandering" of the school boundary lines and shifting of the Indian children around in a disproportionate manner. When the schools opened in August 1970, five hundred of the 1,777 Indian students, assigned to new schools under the DHEW compliance plan, refused to attend those schools. They staged a year long sit-in at the Indian schools they had attended previously (The Robesonian, September 13, 1970).

Ensuing Lawsuits

Lumbee Indian parents took their fight against the county's desegregation plan to the United States District Court in Fayetteville, North Carolina in September, 1970. They sought an injunction against the existing desegregation plans which prevented Lumbee Indian children from attending traditional Indian schools. The major complaint by the Indian parents was that white and black students were not being bussed in to replace Indian children being bussed out. The Robeson County Board of Education, in a countersuit, asked for a restraining order directing the parents of Indian children to comply with the

attendance provision of the board's plan and to refrain from physical disruption by trespassing on school property. The board stated that the desegregation program did not achieve racial balance, because of geography and population densities; but it denied that the program was in any way discriminatory on the basis of race, creed, or color (The Robesonian, September 23, 1979).

Questions and charges such as illegal boundary lines, alleged discrimination, political power plays, and lack of representation were the basis of the legal action taken by the Lumbee Indians. United States District Judge Algernon Butler refused to order Lumbee Indian parents to sent their children to schools assigned them under the county's desegregation plan. He simultaneously denied a request by the Indians for an injunction to require the Robeson County Board of Education to disregard school district boundaries (Fayetteville Observer, September 13, 1970). The Indian students continued to attend the former Indian schools. They were denied registration, textbooks, and course credit. Over the next several years, as the desegregation pattern stabilized, the majority of the Indian students began attending schools where they were assigned.

Petitions to the Federal Government

As this local version of desegregation was taking affect in Robeson County, a number of Lumbee leaders approached Senator Sam J. Ervin, Jr. and Congressman Charlie Rose about amending the Lumbee Law (P.L. 84-570) of 1965 so as to delete the clause which

made the Lumbees ineligible for federal programs because of their status as Indians. Hearings were held before the U.S. Senate and House of Representatives Subcommittees on Indian affairs. The Department of the Interior recommended that the amendments not be repealed. No action was taken by either committee (Hearings, 1975).

During this period, two hundred Indians in Robeson County organized an Eastern Carolina Indian Organization to establish their identity as Tuscarora Indians. These Indians were interested in becoming Indians "federally-recognized" by the Bureau of Indian Affairs, creating a reservation, and obtaining federal services from the Bureau of Indian Affairs. The Native American Rights Fund represented the Indians and filed a letter of request for twenty-two (22) Indians who had been recognized as half or more Indians under the Indian Reorganization Act of 1935, by the Bureau of Indian Affairs. The letter sought to identify services to which these twenty-two (22) Indians were entitled (Tureen, 1972).

On March 20, 1972, the Deputy Commissioner of Indian Affairs wrote to the Eastern Carolina Indian Organization stating that the Lumbee Act of 1956 had terminated the rights of the twenty-two (22) recognized under the Indian Reorganization Act (Deputy Assistant Secretary of Interior Crow, 1973). The Native American Rights Fund challenged this statement and asked for a solicitor's opinion. The solicitor issued such an opinion November 28, 1972 stating, "the passage of the Lumbee Act, with its final clause reflects congressional intent to terminate all federal services to Lumbees including "22"

because of their status as Indians" (Gordon, 1977). The Eastern Carolina Indian Organization continued to press their case by appealing to the Deputy Assistant Secretary of Interior. This official wrote them as follows on January 10, 1973, "in the absence of corrective legislation or a court order to the contrary, this Department is prohibited by law to give any assistance to Indians in Robeson and adjoining counties as defined in the Lumbee Act, 1956" (Deputy Assistant Secretary of the Interior Crow, 1973).

A member of the Eastern Carolina Indian Organization, Lawrence Maynor, filed a lawsuit against Secretary of the Interior Rogers B. Morton. The suit claimed that Mr. Maynor was not a Lumbee Indian but one of the original "22" recognized by the Bureau of Indian Affairs. He further stated that his entitlement to Bureau of Indian Affairs services had not been affected by the passage of the Lumbee Act of 1956 (Maynor vs. Morton, 1975).

On April 4, 1975, the opinion in the Maynor vs. Morton case was that the Indians, as defined in section 19 of the Indian Reorganization Act, were not affected by the Lumbee Act of 1956. The Bureau of Indian Affairs was instructed by the federal court to send officials to explain to the descendents of the "twenty-two Indians" the agency's new position as well as the benefits they were entitled to as Indians. A team of Washington, D.C. headquarters, as well as Eastern area office officials, were dispatched to explain potential resources available to "the twenty-two." This task force described the following services which were available from the Bureau of Indian

Affairs. These were vocational training, educational, scholarships, housing, and economic development loans. As of June 1978, the only resource made available to the "22" Indians were Bureau of Indian Affairs subsidized housing for "the 22" (Gordon Interview, 1971). This organization currently is enrolling members as tribal members, researching background and history of the Tuscarora Tribe, and preparing to file a petition with the Bureau of Indian Affairs to have all their members recognized as "federally-recognized" Indians (Locklear, 1978).

Federal Aid for Educating Indians

The U.S. Congress passed the Indian Education Act in 1972. Although the Congress appropriated related money in 1973, the Nixon administration impounded the funds and had to be sued by Indian parents before they were released. This law authorized the provision of federal funds to local education agencies which had ten or more Indian students enrolled. The Robeson County administrative unit had 7,616 Indian students enrolled. The county and its city units all applied to receive their entitlements under the law. Thus, the same federal agency which in 1970-71 had insisted that the Indian schools be desegregated in Robeson County was granting money three years later, in 1974, to that same county Board of Education to meet the special educational needs of Indian children.

For the first time since the Removal Act of 1824, the federal government acknowledged needs of all Indian children attending the

public schools! Robeson County's educational unit received $900,000 of federal assistance for the education of Indian children. The county has received increased amounts each year since 1974. In 1978, $996,000 was being received from the USOE, Indian Education Office. The Indian Education Act authorizes funds for local education agencies in its Part A, to Indian tribes and organizations in Part B, to state and local education agencies, colleges and universities in Part C, and for fellowships to Indian students in Part D. The Lumbees receive money under each of these sections (Interview with Ruth Woods, 1978).

Indian Curriculum Encouraged

Not until passage of the Indian Education Act in 1972 did the federal government directly encourage the development and use of a curriculum which would reflect Indian history and culture in the classroom. Although the Lumbee Indians for many years attended separate Indian schools which were taught and administered under the direction of Indian principals, teachers, and school committee members, their school curriculum was totally patterned after the accepted American school curriculum based on state requirements. The Indian teachers followed the traditional classroom organization and methods and used the lists of textbooks selected by the State Department of Public Instruction. After the state began supplying free textbooks in the 1939-1940 school year, all the teachers in Robeson County used the same adopted textbooks.

State Hires Supervisor of Indian Education

A supervisor of Indian education was added to the county staff in 1949. This position was provided by the county board of education and the Indian specialist coordinated classroom subjects and procedures between the elementary and secondary school teachers (Minutes Robeson County Board of Education, 1949). Mrs. Grace Epps served as the second Indian education supervisor for Robeson County. She indicated that her job was to act as a resource to principals, teachers, and students and then to interpret the work of the school to the various Indian communities. This position is still maintained in the Robeson County system and, interestingly enough, the incumbent does not work with activities financed under the Indian Education Act in the schools (Interview with Grace Epps, 1977).

Indian Teachers and Principals Certified by the State

Although the majority of the Indian teachers and principals were educated at the normal school and college at Pembroke, there is no evidence of a special "Indian" curriculum at this school. The prospective teachers and administrators at Pembroke studied the standard courses required for this profession by the state of North Carolina and sought to be certified based on those studies. By 1950, all the Indian teachers were teaching with state certificates (Thompson, 1951). All the Indian school principals had a Master's Degree in 1970 (Robeson County Board of Education Personnel Budget, 1970).

Indian Involvement In Decision-Making

As the decade of the 1970's progressed, Indian schools were desegregated and Indian faculty and administrators were placed in schools throughout the county. In 1975, several Indian parents sued the Robeson County Board of Education as an illegally constituted body because of the manner of their election. That is, these members were elected by persons living in both the county and city school districts. The federal district court upheld their claim and declared that persons living in the city district could not vote in the county school district elections (Locklear vs. Robeson County Board of Education, 1975).

In the November 1976 county school board election, for the first time, five Indians, one Black and one white person were elected. The following year, Indians began to appear in a number of county education administration positions, e.g., Title I ESEA coordinator and associate superintendent. By August 1977, the school board had appointed a local Indian as the county superintendent. The following November, a new school board election was held and five Indians, one Black, and one white person were returned to the board (Barton, 1977).

For the first time in the history of Robeson County, the Lumbee Indians have a majority of the school board members as well as the school board chairman and superintendent. The State University at Pembroke is under the direction of an Indian Chancellor. Indian leadership dominates elementary, secondary, and higher education in Robeson County. It will be interesting to see if the policy goal of

education will remain predominately one of assimilation or whether Indian leaders will exercise a more sensitive and humane policy of acculturation with an appreciation for the multi-cultural society and different people who live in Robeson County.

CONTEMPORARY FEDERAL ACTIVITIES

The 94th Congress passed special legislation, P.L. 94-580, creating an American Indian Policy Review Commission. The Commission was established for two years and was to review the policies of the United States toward Indian people and make recommendations concerning future policies.

The Commission was composed of six national legislators and five Indian leaders. The work of the Commission was carried out through eleven investigating task forces. One such task force was directed toward non-federally recognized Indians.

In 1977, the American Indian Policy Review Commission filed its final report and the report of its various task forces with the U.S. Congress. The report called for the "establishment of an affirmative policy, including a specific procedure and set of criteria, within the Department of the Interior for the acknowledgement of the existence of such tribes" (American Indian Policy Review Commission, Final Report, 1977).

Over one hundred tribes were identified who were either Indians recognized by their respective state or living in identifiable communities. The Lumbee Indians of North Carolina were one of these groups.

One of the Commissioners serving on the American Indian Policy Review Commission was Professor Adolph Dial, a Lumbee Indian. In addition, two of the task force chairpersons were Lumbee Indians, directing the investigations on non-federally recognized Indians and Education, respectively. Joint hearings by the two task forces were convened in Pembroke, North Carolina. Indian leaders from North and South Carolina presented testimony highlighting discrimination in education and health and calling for legal recognition of their members by the federal government.

As a result of the American Indian Policy Review Commission's work, a bill to establish administrative procedures and guidelines for federal recognition was introduced in the 95th Congress. Congressman Charlie Rose sponsored H.R. 12996 in the House of Representatives, and Senator James Aborezek introduced a similar bill, in the U.S. Senate. Hearings were convened on both bills but no further action was taken.

In August 1978, the Bureau of Indian Affairs published "Procedures For Establishing That An American Indian Group Exists As An Indian Tribe," followed in December by "Guidelines For Preparing A Petition For Federal Acknowledgement As An Indian Tribe." In each publication there is a presumption of heavy burden of proof that non-reservation Indians must assume if they are to become "federally recognized Indians" (Hearings Before the Subcommittee on Indian Affairs and Public Lands of the Committee on Interior and Insular

Affairs, U.S. House of Representatives, 95th Congress, 2nd Session, on H.R. 1372 and H.R. 12996, August, 1978, pp. 80-153).

Lumbees Testify in Washington, D.C.

Lumbee leaders travelled to Washington to testify on the federal recognition procedures bills before the U.S. Senate and House of Representatives Subcommittees. They appealed for a procedure to recognize them legally as "federally-recognized Indians" and to entitle them to the same services and programs as reservation Indians. No action was taken on the bills by the Congress (Hearings, 1978).

The Bureau of Indian Affairs informed the Congress that forty-five petitions were pending for the federal recognition of various Indian groups. The Tuscarora Indians of Robeson County, North Carolina, also filed a petition for recognition under the new procedures. However, the Lumbee Indian Tribe has not filed a petition for such recognition. Their leaders do not believe they would receive an objective hearing on their petition. In fact, they believe there is an anti-Lumbee attitude in the agency.

Currently, the Lumbee Indians are receiving funds from the Federal Government through the Lumbee Regional Development Association. Funds for education, economic development, nutrition, and manpower training total $4.2 million dollars in earmarked program money. In addition, the Robeson County Board of Education receives $958,000 in direct aid under the Indian Education Act for the special needs of Indian students. The local school board also receives aid from Title

I, of the Elementary and Secondary Education Act for compensatory education, in direct proportion to the number of Indian pupils in the county (Swett, 1977).

From their initial petitions to the Federal Government in 1887 through today, the Lumbee Indians have sought affirmation of their identity as Indians and educational opportunities for their children. It appears that they are succeeding in obtaining money for increasing educational opportunities for their children, primarily as a result of the Civil Rights Acts and their identity both as members of a minority group and as Indians. Funds from the federal government have made these opportunities available. State and local governments now view Indian children as a "valued asset" to have in their school system because of the federal interest. However, on the question of federal recognition or affirmation of their Indian identity, the Lumbees continue to be thwarted by the Bureau of Indian Affairs, which insists in order to be federally recognized that Indian Tribes have both a tribal governing body and an earlier treaty or agreement with the federal government. Thus, "federal recognition" may continue to elude the Lumbees.

Chapter 5

AFTER 250 YEARS, THE DILEMMA REMAINS

From colonization through the founding of the Republic, the United States has been unable or unwilling to recognize or acknowledge the diversity and differences among American Indian peoples and tribes. United States government policies and programs have viewed the American Indians as one homogeneous people or tribe with many names who eventually would be assimilated into the majority culture. The consistent overarching policy of the United States concerning the American Indians has been their assimilation into the mainstream of American life. However, implementation of that policy has been erratic and incomplete.

American Indians are also a part of the continuing "American Dilemma" which Gunnar Myrdal described in 1942 as a moral dilemma operating on two levels, e.g., the highest national values under the American Creed, and the individual and group values of economic and social jealousies and group prejudices. In many instances, these moral values operate at variance with each other. The federal government has manifested a remarkably consistent and persistent policy in favor of assimilation or emancipation of American Indians throughout the nation's history. There has been a consistent pursuit of integration for Indians into the greater American society by the federal government, and a basic resistance to segregating Indians or treating

them as second-class citizens. The federal government's first course of action was to integrate Indians into the towns and cities of various states. Only when this failed, and the population pressures became so intense that constant warfare ensued, did the federal government move to protect the Indian by establishing federal reservations. However, Indians, themselves, resisted this policy of assimilation. They wished to maintain their original homelands and separate cultures. Some tribes were successful in achieving this, others were not. Many were presumed to be absorbed in the dominant society, when in fact they were isolated and discriminated against by the very society which was to have absorbed them into the "American patchwork."

Education was a major instrument which the federal government used to implement its policy to assimilate the American Indians. The analysis in this dissertation illustrates how easy it was for the federal government to enunciate a policy and finance it, but not administer it. Because of the diversity among Indian tribes and communities, there was need for great diversity and flexibility in administering federal policy--a flexibility not easily achieved by the federal bureaucracy. Each tribe and community might be different and have a different attitude towards their own cultural preservation, heritage, economic and political assimilation. Each of these desires supposedly would be respected in the American Creed. Yet 250 years later, the dilemma remains: how best to assimilate the American Indian into American life. The national pledge for assimilation is still viable. At the state and community level, as illustrated by

North Carolina and the Lumbee Indians, the policy is a double-edged sword. State and local attitudes held Indians to be people of color, hence segregated. When desegregation became the law of the land, its implementation was denounced and long in coming to many areas in North Carolina. However, with this movement came new assertions of rights by the Lumbees. Soon, they were moving into the economic and political arenas of local American life in North Carolina. The Lumbees were an exception in this regard. Their emergence as a viable Indian group in the political, social, and economic life of the county and state is still tentative at best. However, for the great majority of American Indians, the dilemma continues to remain as to how best to bridge between the two ways of life: maintaining their heritage, as they wish to do, and being assimilated into the majority American society.

SUMMARY OF FINDINGS

From its inception, the federal government dealt with Indian groups with whom there already was contact. These were almost exclusively the Indians along the Eastern Seaboard, namely: the Iroquois and Powhatan confederacies, among others. As white settlers moved westward and the Indians along the Eastern Seaboard were removed to the west, "new tribes" further west soon were in contact with the federal government. These included the Chippewa, Sioux, Blackfeet, Nez Perce, Apaches, and Navajos. By 1835, the general assumption in the federal government was that all Indians had been removed beyond

the Mississippi River and into a designated Indian Territory. Remaining Indians were presumed to have been absorbed into the general citizenry of their respective states.

The "new tribes" soon were engaged in protecting and negotiating for their homelands. These negotiations resulted in treaties and executive orders that located Indian reservations throughout the United States. From the treaties and various federal statutes, certain general services were granted to Indian tribes and individuals. Education was one of the primary services that grew from this relationship. It soon became a major instrument of the federal government's policy of assimilation.

Labels for Assimilation

Assimilation was and continues to be the cornerstone of the federal government's policy towards American Indians. Assimilation has been carried out under a number of different names and services in education. In discussion of federal services in Chapter 2, mention is made of the several labels attached to the policy goal of assimilation. Initially, it was called "Christianizing and civilizing the Indian." Missionaries, mission schools, federal boarding and day schools adhered to this theme in the schools' academic and vocational teachings. Later the public schools joined this effort. In each instance, schools for Indians substituted the culture of the American mainstream for that of the Indian tribes and communities.

"Citizenship" became the next label for assimilation. Through the passage of the Dawes Act, Indian tribes and communities were to be broken up and land allotted to individual Indians. They were to homestead and become farmers much like the rest of agrarian America.

Indian "reorganization and cultural preservation" became the next label for assimilation. Although the Indian Reorganization Act was enacted to give self-government to the Indians, in fact it created tribal governments as an instrument for the federal government to use in negotiations. This law also defined the powers of the tribal government and of the Bureau of Indian Affairs--the executive agent of the federal government. Just as the tribes began to understand and utilize their new powers, a new label and program called "termination" was introduced.

Termination was an approach to assimilation that called on the federal government to get out of the Indian business as rapidly as possible, and to turn the governmental responsibility for Indians over to the states. This approach caused outrage among the Indians and discontent among the various state governments. States were indignant because of the potential costs of public services for Indians. Indians were outraged because they felt the federal government was sidestepping its solemn obligation to maintain the trust lands for Indians and to continue needed social services.

"Self-determination" is the current label for activities to promote assimilation. Under this approach, Indian tribes are encouraged to operate their own social services and to provide their

own education. Federal funds are underwriting Indian activities and services, modeled after those of the state and federal governments, to further enhance the accommodation of Indians in the American society.

The primary federal agency that was established to implement the federal government's policy of assimilation has been the Bureau of Indian Affairs. This agency was established under the Secretary of War, and later transferred to the Department of the Interior. The Bureau remains in that department. It relies upon an Indian superintendent to enforce and implement federal policy at area and tribal levels.

The decade of the 1960's, with its emphasis on the "culturally disadvantaged" and minorities, saw other federal agencies begin to provide support for various social services for American Indians. These included the departments of Commerce; Health, Education and Welfare; Housing and Urban Development; Labor; Justice; and the Office of Economic Opportunity. Each of these entities either directly financed special services for Indians, or subsumed them under their general services to minorities. As noted in Chapter 2, the U.S. Office of Education soon joined the Bureau of Indian Affairs in becoming a major funding source for the education of American Indians.

As the financing of special educational services have expanded since 1965 to include all Indians, so has the tension increased between the various Indian groups living on Indian reservations and those living off reservations in urban and rural areas. The tension

stems from the differences among the several Indian groups as to whom may be defined as "Indian" for purposes of Federal largesse. The Indian Education Act, perhaps, provides the broadest definition of Indians for purposes of eligibility for services. But, the high degree of tension among Indian groups on this issue has resulted in a recent Congressional mandate for the Assistant Secretary of Education to conduct a study and to recommend options to them concerning proper definitions. Thus, in the drive for assimilation it appears that the U.S. Congress might possibly accept the views of the traditional Indian bureaucracy on this issue. This could lead to the demise of the very programs that have been most involved in bringing diverse non-reservation Indian children and their parents into a direct relationship with the public schools.

Who Is An Indian?

This research describes the federal as well as the state government's role in defining who is an Indian. Neither level of government has been willing to define who is an Indian. The federal government has defined special criteria relating to Indians who receive services from the Bureau of Indian Affairs. These Indians must be members of tribes recognized by the Secretary of the Interior and of one-quarter degree Indian blood, except in certain situations. Such recognition entitles them to special services from the Bureau of Indian Affairs. Programs in other agencies of the federal government also are available to Indians--defined only in that general

manner, or to categories of Indians such as those recognized by the state, urban Indians or members of Indian organizations. The research indicates that although states such as North Carolina may recognize Indian groups or tribes, they do not exercise a role in defining who is or is not a member of that group or tribe. Thus each level of government has had separate and independent policies in this area. Because of the traditional role of the federal government as trustee of the western tribes, reservation Indians received all of the educational services that were available for Indians from the federal government until the decade of the 1960's. Since that time, other federal agencies have expanded their educational services to all minorities, including Indians living on the reservations and those who live in urban and non-reservation areas--both classes in the majority of cases are poor and powerless. However, both the federal and state governments have left to the local tribes and communities the decisions about membership in their own local tribes, groups, and communities.

Recurring Questions

In this research the policies relating to the public education of American Indians at the federal and state levels were analyzed. Policies at both levels were the same--the assimilation of the American Indians. Although the policy has been consistent through the years, governmental practices relating to it have varied from isolation, segregation, to desegregation. The policy analysis has raised a

number of particular questions that have recurred throughout the study. Among these are the following:

- Should there be a separate Indian policy in public education?

- If so, who should develop such a policy?

- What should be the federal government's role in support of public education for Indians?

- What should be the role of the states?

- What should be the role of the local government?

- What should be the role of the Indians themselves?

- What is the appropriate kind of education for Indians?

In addition, there are a number of critical questions which must be resolved in terms of educational alternatives for American Indians in the decade of the eighties. These are as follows:

- Who determines which Indians shall participate in federally financed educational programs in the public schools?

- Should all Indians attending public schools be eligible for special federally financed educational programs or should the eligibility of Indians be restricted to specific tribes or groups for specific purposes?

- Should Indian eligibility for federal educational assistance be based on race, culture, economic need, the federal trust responsibility, their degree of assimilation, or a combination of these factors?

- Who should determine which Indians should qualify for what federal aid?

Ruminations about these questions will be included in the section on Speculations and Suggestions.

CONCLUSIONS

The great majority of American Indians still remain at the bottom of the economic ladder in America. They continue to be ill-housed, ill-clothed, and ill-educated. The overarching and consistent policy of the United States towards American Indians was and continues to be their assimilation into the dominant American society. The major instrument used by this policy is public education. At best, its success to date can be described as erratic and incomplete.

However, based on the findings of this study, the following general conclusions seem warranted. They are as follows:

(1) Federally sponsored education of reservation Indian students, independently of their parents, tribes, and communities--while a historic practice--does not appear to have resulted in a greater degree of assimilation, cultural identification, or adjustment in the American society.

(2) The majority of American Indian people continue to be isolated from the dominant stream of American society. This condition exists to some extent for all Indians, including those recognized by the Secretary of Interior and those recognized by various states as living in urban and rural areas.

(3) State sponsored education of Indians--as illustrated by North Carolina and the Lumbees in this study--indicates a failure to achieve assimilation or cultural adjustment of the Indian into the dominant culture of that state.

(4) The federal and state public educational institutions educated Indians in essentially segregated schools that merely copied the prevailing state school curricula and practices. In neither instance were the Indians educated as Indians.

(5) Federal activities concerning the public education of Indians concentrated primarily on the education of reservation Indians, until the decade of the 1960's, where programs relating to minorities were applied to all Indians.

(6) As long as federal money was limited to the education of reservation Indians, states such as North Carolina, simply subsumed their programs for Indians under their general education requirements and/or their particular minority activities.

(7) Recent federal initiatives which prescribe both Indian parental involvement and special programs to meet the cultural and academic needs of Indian students are a major departure from traditional educational practice and an essential requirement to insure future relevance and acceptance of public school education by Indians.

(8) The Brown decision appears to have had only minimal impact on the desegregation of schools for Indians, except in a few areas of the southeastern United States. However, the federal programs

resulting from this decision have had profound impact and brought needed financial resources to the public schools attended by Indian students.

Underlying these conclusions are several other factors that relate to the continuing American dilemma concerning American Indians.

Almost four decades ago, Gunner Myrdal pointed out the American dilemma in his classic study of American race relations primarily by viewing the struggle between blacks and whites. This struggle is more poignant in the case of the American Indian. At issue is the preservation of the Indian way of life with its diversity of languages and cultures and its accommodation or adjustment to the social, economic and political aspects of American life. The dilemma arises from the national creed of freedom, equality, brotherhood, and cultural diversity for the nation in contrast to the local attitudes of prejudice, fear, and discrimination against Indians or people who are different. This dilemma is most evident in the public schools of the nation. Historically the schools have been used as the instruments for Americanizing all the diverse immigrants and giving them basic skills for participating in both a democratic and increasingly technological society. The schools were the great equalizers and Americanizers. Education and the schools were to equalize and Americanize the Indians. Yet in reality, the local people in control of these schools were hostile to the Indians and the federal government's educational programs for them. The Indians, themselves, were in turn hostile to these same programs because they viewed them as an

effort to de-Indianize them. In both instances, each side viewed the other with great suspicion. These institutions also were charged with reflecting the diverse cultural heritage and Indian differences in the American society. While they taught the students the concepts of the American creed of respect, equality, and brotherhood, they also taught "the American Way' and urged all groups to assimilate into it as soon as possible.

IMPLICATIONS FOR FURTHER RESEARCH

This analysis pointed up a dearth of material concerning the public education of American Indians. The majority of the studies regarding the education of American Indians related to particular education laws and specific Indian tribes and general surveys of the activities of the federal government. Virtually nothing has been done on the public policy aspects of educating American Indians.

The subject of this dissertation, "Education, Public Policy and the American Indian," has many ramifications for further research. The following are areas in critical need of research.

(1) Studies of educational policies concerning the public education of Indians in the various states. Individual state by state analysis as well as comparative analysis would be valuable.

(2) Tribal educational histories and the public educational policies of the states where these tribes live. The tribal oral histories need to be undertaken soon or the rich sources in those tribes will be lost.

(3) Ethnic and religious educational histories need to be researched for possible clues to policy approaches which might be applicable to American Indians. The Chinese Americans, Amish, and Hassadich Jews are of possible similarity.

(4) Preservation of the cultural heritage of American Indians where segregation is not at issue and where segregation is at issue should be undertaken. This research would reveal the possible impact of segregation on cultural change in various Indian communities.

(5) Relevance of the literature of developing countries needs to be reviewed for possible educational models applicable to American Indians.

(6) Review of the trust relationship between the United States and Indian tribes and people for its application to educational services.

SUGGESTIONS AND SPECULATIONS

It would seem to be imperative for the eighties that public education remain one of the major instruments available to American Indians as they seek as individuals, tribes, and communities, relevant assimilation patterns. The federal government must continue to play an active role in financing the public education of Indian students. In absence of such support, there is no convincing evidence that the states will provide the special effort needed to pursue assimilation on other than a segregated basis. Such activities should continue through the Bureau of Indian Affairs, in the Department of the

Interior, and the U.S. Office of Education, soon to become the newly created Department of Education.

With the overwhelming educational needs of Indian peoples and the long years of neglect, it is critical that a wide range of services be available for their education. The growth, development, and expansion of Indian educational services will require a partnership between the federal, state, and local educational agencies and the Indian students, parents, tribes, organizations, and communities.

There were a number of recurring questions which came to the forefront during this inquiry. Comments on each of these are included, based on past and present circumstances.

Should Indians be integrated into the larger society or supported in one or another segregated condition? Indians live on federal reservations, in towns and cities, and rural and urban areas throughout the United States. By virtue of long standing practices, American Indians find themselves integrated into the society, and yet, segregated in various areas. Indians, in both these situations, view their current places of abode as home. Those on reservations see the lands as the last vestige of a solemn obligation between the federal government and their tribes. A great majority of Indians living in rural towns and communities own their own lands, pay taxes, and are moving toward economic viability. Indians in the cities either moved there voluntarily or were relocated by the federal government. In each instance, a flexible policy for human socio-economic development is needed. This policy should stimulate programs and services that

will prepare Indian people to participate significantly in the economic and political activities of American society. Their identity and heritage should be respected. Social services, education, and employment opportunities should be available to them.

Should education for Indian children and youth be an integral part of public education for all children and youth in the several states or supported in one or another special or segregated condition? At this stage in the education of Indians, many types of educational settings seem justified. Presently there are public schools, boarding day and off-reservation schools, tribal and contract schools, and mission schools. Because of the isolation, lack of roads and transportation, on Indian reservations, boarding schools became the primary institution for educating Indian students in remote locations. The major policy considerations for the education of Indians should be, first, accessibility of the school, and second, where possible, education in the Indian community. The federal government has provided funds for the education of Indians. These funds were provided as supplements to other support for groups educating Indian students. When there was no other avenue for educating Indians, the federal government would operate schools for those students. Historically, the states have reluctantly provided education for Indian students, usually because of federal assistance or other pressures for educating them as minorities. Public school education as a part of the Indian community should be the policy encouraged and developed.

Who should decide which individuals or groups shall be considered Indians for purposes of education: government, tribes, individuals? What criteria should be applied in making these determinations? Until the 1960's the federal government operated schools in tandem with the Indian tribes then under the jurisdiction of the Secretary of the Interior were the primary recipients of federal educational aid. The federal government based its commitment to education for Indians on previous treaties and special statutes. As a result of the Civil Rights movement, the federal government also discovered many Indian people who had not been absorbed into the American mainstream. The majority of these Indians were living in poverty and ignorance and clearly were the victims of prejudice and discrimination. Their price for absorption and assimilation was an invisible identity and segregation. Because of the long history of neglect, prejudice, and discrimination, educational opportunities, programs and services from the federal level should continue to be provided to all Indian children. Local tribes, communities, and organizations should identify those members who should receive such services and their authority on this question should be respected by all levels of government. Criteria for such determination should entail items such as the following: knowledge of tribal and community elders concerning the individual;s background; recognition as Indian in tribe or community; general recognition of Indianess of area by various levels of government, etc.

Should the traditional federal role in the public education of Indians be extended to all Indians, regardless of status or location, or should the federal government relinquish its involvement to state governments or tribal governance? The federal role in the public education of Indians has been the catalyst for getting states and local government to bring the Indian child into the classroom. Without federal initiatives the picture for Indian youngsters in the public schools would be very grim. The federal role needs to be continued and extended to all Indian children regardless of status or location. This role should be built upon a cooperative and responsible partnership between states and local educational agencies, and tribes and Indian organizations.

As the new Department of Education is being organized, a current debate continues about reducing the federal role and expenditures in education and maximizing state and local authority and resources. The new department will be watched closely to see that the federal role remains one of coordination and not control in public education.

Based on the findings of this study, American Indians have been forced to look to the federal government for educational initiatives. Past public educational policies indicate, both historically and in the case study of North Carolina, that reservation and non-reservation Indians can expect no special educational initiatives concerning the education of Indian children by the various states. At best, the states appear to take initiatives on behalf of Indians when there is federal money involved or when federal or state action is taken on

behalf of minorities. Revervation Indians can expect no state initiative unless a federal subsidy for their education is granted. Non-reservation Indians can expect state initiatives toward them only when it is a minority educational service, in spite of the fact these Indians usually are tax-paying citizens.

The public policy of the federal government toward all American Indians is assimilation of the Indians into the mainstream of American life. This policy has been pursued consistently throughout the nation's history. As Indians were absorbed, they were presumed to be integrated into the mainstream of American life and the policy focus then shifted on to the next group of Indians. The role of the federal government in educating Indians was to find someone else to do the job, partially subsidize their efforts and when necessary, operate a school system themselves. The federal government acted as the negotiator and partial financer between state, local, educational agencies, and private schools for the education of Indians. In regard to non-reservation Indians, the federal government's role again consisted of supplementing on-going activities and financing special efforts for Indians as "culturally-disadvantaged" and as Indians.

Indians can expect the public policy of federal and state governments to continue this thrust toward assimilation, with over-tones of self-determination and pluralism. The federal government will continue to push assimilation of Indians into the mainstream of socio-economic life in America. However, the decade of the eighties will continue to see the federal government stimulating special efforts

at cultural pluralism in curriculum, involvement of parents, and stress on basic academic skills. If inflation continues and federal dollars become tighter, a greater stress on accountability and achievement will also accompany these programs. State governments will continue to maintain the status quo. They must constantly be prodded by the federal government and by organized Indian groups to provide equal educational opportunity and quality education. States will need to be pushed to promote desegregation and special program services for minority children. Left to their own devices, states would maintain the status quo along with inferior segregated institutions and activities.

The major concerns raised in this study relate to the sociological and cultural issues facing American Indians and the American society. Historically, education has been used as the great "Americanizer and homogenizer" of all groups. The federal government has long promoted assimilation for American Indians. States, while paying lip-service to this concept, have promoted segregation for American Indians. The real issue at work is how American Indians can utilize the educational system to survive as a people and preserve their cultures and traditions where they wish to do so.

Based on the federal, state, and tribal research and findings, the following requirements are evident:

(1) Federal initiative and financing must continue to support educational opportunities and services for all Indian children.

(2) A major program effort to locate or make accessible public schools in the Indian community should be undertaken between the states and federal governments, along with a full complement of training and technical assistance for Indian parents, students, administrators, and faculty members.

(3) The focus in the newly established Department of Education should be concerned with the opportunities and services for Indian children attending the public schools. Supplemental and compensatory educational funds should be maintained. Cultural, academic, and parental involvement programs should be continued.

(4) The Bureau of Indian Affairs schools should be converted to a system for "children with special educational problems or handicaps." These schools should be organized to address the educational needs of those students. The Bureau should continue to provide as a financing mechanism for local educational agencies educating reservation Indian students.

(5) Expanded appropriations for scholarships should be consolidated and organized in post-secondary school training for all Indian students. The dearth of trained Indian man/womanpower makes this a critical need.

American Indians must begin to view education as a means to an end. That end being: obtaining basic skills and knowledge of the American society. Public schools and education must be viewed in this context. Schools possibly can teach some Indian history and traditions, but basically cannot be, nor should they be viewed, as a place

principally for teaching Indian cultures. Furthermore, if the Lumbee experience is an example, American Indians can only protect their identity and cultures by participating aggressively in the economic and political processes of the nation. For it is in this arena that the future decisions affecting their lives and the education of their children are made.

APPENDIX A

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October 15, 1977. John Gordon. Chairman, BIA Task Force to "Original 22 Indians Living in Robeson County, North Carolina." Washington, D.C.

October 24, 1977. Alan Lovsee. Counsel, Subcommittee on Elementary, Secondary, and Vocational Education and Advisory Study on Indian Education. U. S. House of Representatives. Washington, D.C.

September 15, 1978. Herbert Jacobsen. Planning Officer, Office of Indian Education, U.S.O.E. Washington, D.C.

August 17, 1978. Ed Merrick. Budget Officer, Office of Indian Education Programs, Bureau of Indian Affairs. Washington, D.C.

State Officials

September 9, 1977. Mrs. Pauline Bullard. Former Director, Native American Resource Center, Pembroke State University. Pembroke, N.C.

August 12, 1977. Dr. James B. Chavis. Ombudsman to Governor Jim Hunt. Raleigh, N.C.

September 15, 1977. Mr. Adolph Dial. Professor of History, Pembroke State University and Local Author. Pembroke, N.C.

August 5, 1977. Mr. Rufus Edmistem. Attorney General, State of North Carolina. Raleigh, N.C.

July 12, 1977 and September 8, 1977. Mr. A. Bruce Jones. Director, N.C. Commission on Indian Affairs. Raleigh, N.C.

August 12, 1977. Mr. Dudley Flood. Director, Human Relations Division, State Department of Public Instruction. Raleigh, N.C.

August 15, 1977. Dr. William Peak. Administrative Assistant to State Superintendent of Public Instruction. Raleigh, N.C.

July 12, 1977. Dr. Paul Hoffman. Director, Archives/History/ Cultural Division, Department of Human Resources. Raleigh, N.C.

July 14, 1977. Nathaniel Boykin. Document Search Room, Division of Archives and History, State of North Carolina, Raleigh, N.C.

July 15, 1977. Doris Halloway. Document Search Room, Division of Archives and History, State of North Carolina, Raleigh, N.C.

July 20, 1977. H. G. Jones. Curator of N.C. Collection at the University of North Carolina, Chapel Hill, N.C.

September 1, 1977. Junita Oxendine. Librarian, Pembroke State University. Pembroke, N.C.

Lumbee Indian Officials and Individuals

August 22, 1977. Mr. Bruce Barton. Editor, Carolina Indian Voice. Pembroke, N.C.

September 12, 1977. Mrs. Mattie Bell. Graduate, Cherokee Indian Normal School and First Teacher in Indian School of Sampson County, N.C. Route 1, Clinton, N.C.

September 15, 1977. Mr. John David Brewington. Retired Letter Carrier, Student in First Indian School of Sampson County, N.C. Pembroke, N.C.

October 11, 1977. Dexter Brooks. Local Attorney who researched "double voting case." Pembroke, N.C.

September 20, 1977. Mr. John L. Carter. Retired Registrar, Pembroke State University and local historian on development of College into a university. Pembroke, N.C.

September 22, 1977. Mr. Jim Chavis (dec.). Former Secretary, Siouian Tribal Council and retired school teacher. Pembroke, N.C.

July 28, 1977. Mr. Herman Dial. County Commissioner. Pembroke, N.C.

October 4, 1977. Mr. Tommie Dial. Former Director, Lumbee Regional Development Association and Baltimore Indian Center; Attorney and Civil Rights Leader. Baltimore, Maryland.

September 26, 1977. Mrs. Grace Epps. Second Supervisor, Indian Education, Robeson County Schools. Lumberton, N.C.

September 26, 1977. Mr. Albert Hunt. Federal Aid Coordinator, Robeson County Schools. Lumberton, N.C.

October 3, 1977. Ms. Jo Jo Hunt. Former Chairperson, Task Force on Terminated and Non-Federally Recognized Indians, American Indian Policy Review Commission and first Lumbee female attorney. Washington, D.C.

September 27, 1977. Mr. James A. Jacobs. Former Secretary to the Indian Eligibility Committee for Robeson County Schools and retired college professor. Route 1, Pembroke, N.C.

September 24, 1977. Rev. C. E. Locklear. Retired Minister and founder of Indian Churches in Bladen, Columbus, Sampson, Halifax, and Warren Counties. Pembroke, N.C.

September 22, 1977. Ms. Janie M. Locklear. Director, Lumbee Learning Center, Lumbee Regional Development Association. Pembroke, N.C.

September 22, 1977. Mr. Carnell Locklear. Member, Carolina Indian Organization. Route 1, Pembroke, N.C.

September 21, 1977. Mr. Claudie Lowery. Former interpreter for Commissioner Collier's Indian Enrollment Committee and retired school teacher. Pembroke, N.C.

July 5, 1977. Rev. D. F. Lowery (dec.). First graduate of Indian Normal School, active in Indian Affairs and legal name changes for Lumbees. Pembroke, N.C.

September 15, 1977. Mr. E. T. Lowery. Retired principal of first Indian High School in Pembroke. Pembroke, N.C.

August 20, 1977. Rev. Weldon Lowery. Minister and Teacher in Indian Schools of Bladen, Columbus, Hoke and Robeson Counties. Pembroke, N.C.

September 16, 1977. Rev. Dawley Maynor. Former Member, Indian Eligibility Committee for Robeson County Schools. Pembroke, N.C.

October 15, 1977. Mrs. Elizabeth Maynor. Retired Teacher and member second graduating class Indian Normal School. Pembroke, N.C.

August 21, 1977. Mrs. Lacy W. Maynor. Member third graduating class Indian Normal School. Pembroke, N.C.

September 3, 1977. Mr. Clifton Oxendine. Retired history professor, Pembroke State University, Pembroke, N.C.

September 26, 1977. Mrs. Dorothy Oxendine. Social Worker, Robeson County Church and Community Center. Lumberton, N.C.

October 10, 1977. Mr. Hughes Oxendine. First Indian Member, Board of Education. Raeford, N.C.

August 20, 1977. Mrs. Bessie Ransom. Retired Elementary Teacher in Indian Schools of Robeson County. Route 1, Pembroke, N.C.

July 19, 1977. Chief W. R. Richardson. Chief, Haliwa Indians. Hollister, N.C.

September 6, 1977. Mr. Claude Sampson. Retired Principal of last one room Indian School which closed 1960. Route 2, Pembroke, N.C.

September 12, 1977. Mr. Purnell Swett. First Indian Superintendent, Robeson County Schools. Lumberton, N.C.

August 24, 1977. Mr. V. R. Thompson. Principal, Pembroke Senior High School; Author of thesis and dissertation on Lumbee Indian Schools, Robeson County. Pembroke, N.C.

September 22, 1977. Rev. Harold Woods. Chairman, Lumbee Regional Development Association. Pembroke, N.C.

September 12, 1977. Ms. Ruth D. Woods. Director, Indian Compensatory Education Program, Robeson County Schools. Lumberton, N.C.

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APPENDIX B

List of Important Federal Actions Affecting The Public Education of American Indians: 1800-1978

Chronological Table of Federal Indian Laws Affecting Indian Education

Date	Description
1794	First Indian treaty providing for education (7 Stat. 47-48).
*1802	Act "to promote civilization among the aborigines" (2 Stat. 139, 143).
1803	Treaty with Kaskaskia Indians providing for instruction (7 Stat. 78-79).
*1819	Civilization Act establishing an annual fund of $10,000 for education of the frontier tribes (3 Stat. 516).
*1824	U.S. Office of Indian Affairs established and placed with the War Department (3 Stat. 679).
1830	Indian Removal Act to transfer eastern tribes to territory west of the Mississippi River (4 Stat. 411).
1832	Office of Commissioner of Indian Affairs created (4 Stat. 564).
1834	Office of Indian Affairs reorganized as a Department (4 Stat. 735-738).
*1849	Department of the Interior created. Renamed Office of Indian Affairs transferred to this Department (9 Stat. 395).
1867	Amendment XIV excludes "Indians not taxed" from Congressional representation (U.S. Constitution).
1869	Congress authorized President U. S. Grant to appoint a ten-member Board of Indian Commissioners (16 Stat. 40).
*1870	First General Appropriation Act for Indian education providing a fund of $100,000 to be used primarily for boarding schools (16 Stat. 490).
1871	Amendment to Appropriations Act ending treaty-making between Federal Government and Indian tribes (16 Stat. 544, 566).
*1873	Act repealing the Civilization Act fund (17 Stat. 437, 461).

Date	Description
1879	Captain Richard H. Pratt founded Carlisle Indian School--the first off-reservation boarding school.
*1882	Act providing for the education of 100 Indian pupils in industrial schools and for the appointment of an Inspector or Superintendent of Indian Schools (22 Stat. 68, 70).
*1888	Dawes Severalty Act or General Allotment Act providing for division of tribal lands to individual Indians (24 Stat. 388).
1888	Act appointing a Superintendent of Indian Schools, subject to U.S. Senate confirmation, and defining his duties (25 Stat. 238-239).
1890	First codification of rules for Indian Schools, and First Indian pupils received in public schools (Annual Report, Commissioner, 1890, p. CLVI-CLX).
1891	First act imposing compulsory education on Indians of school age (26 Stat. 1014).
1893	Act authorizing the withholding of rations from Indian parents failing to send their children to school (27 Stat. 628, 635).
1894	First act establishing per capita rate allowances for Indian pupils, and declaring children of Indians taking lands in severalty not excluded from educational benefits (28 Stat. 308, 311).
1895	Act announcing the government's intention to phase out contract schools (28 Stat. 904-906).
1896	First act declaring government policy to end appropriations to sectarian schools (29 Stat. 345). Act also prohibited removal of Indian children to another State without written consent of parent (29 Stat. 348).
1897	Act prohibiting further appropriations for sectarian schools except in special cases (30 Stat. 62, 79).

Date	Description
1908	Act repeating per capita rate limits for boarding schools receiving Federal subsidies (35 Stat. 72).
1910	Act repealing per capita rates for off-reservation Indian schools (37 Stat. 520).
1917	Act ending Federal subsidies to religious groups (39 Stat. 988).
1918	Act restricting Federal educational services to children of one-quarter or more Indian blood (40 Stat. 564).
1919	Act revising upward per capita allowances (41 Stat. 6).
1920	Act recapitulating compulsory education policy, and limiting tuition allowance to public schools (41 Stat. 410-411).
1921	Act defining minimum attendance for operation of boarding schools (41 Stat. 410).
*	Snyder Act authorizing appropriations and expenditures for the administration of Indian affairs including general support and civilization, including education, and other purposes.
1923	Act defining minimum attendance for day schools (42 Stat. 562).
*1924	Citizenship Act which conferred citizenship on all Indians not previously U.S. citizens.
1925	Act revising upward per capita allowances for Indian pupils (43 Stat. 958).
*1928	Meriam Report which surveyed extensively Federal Indian administration filed with Federal Government and U.S. Congress.
1929	Act authorizing State officers to inspect schools in Indian territory within State boundaries (45 Stat. 1185).
	Act repealing per capita allowance limits for Indian pupils (45 Stat. 1534).

Date	Description
1929 (Cont.)	Act setting minimum attendance limits for Federal Indian schools (45 Stat. 1576).
1931	Report of the National Advisory Committee on Education.
1933	Board of Indian Commissioners established by President U. S. Grant in 1869 dissolved.
*1934	Johnson-O'Malley Act providing for contracts for health, education, and welfare for Indians between states and Federal Government enacted (48 Stat. 596).
	Indian Reorganization Act or Wheeler-Howard Act to establish tribal governments with Constitutions and By laws, if agreed upon by a majority of the tribe; establishes a tribal loan fund for students, etc. (48 Stat. 984).
1938	Act establishing a revolving educational loan fund for worthy Indian youths (52 Stat. 303). Loans discontinued by administration in 1952.
*1950	Public Laws 815 and 874 (Impact Aid) enacted to benefit local educational agencies with heavy impact of Federal lands and personnel. Amended in 1953 to include Federally reserved Indian lands (64 Stat. 967-978, 1100-1109).
1953	Public Law 47 providing for transfer of Federal Indian school property to local school districts (67 Stat. 41).
*	House Concurrent Resolution 108 declared government policy of special Federal provisions for Indians to be terminated as rapidly as possible (67 Stat. B132).
1954	Brown vs. Board of Education, Topeka, Kansas declared segregated educational facilities unconstitutional.
1956	Adult Vocational Training Act (P.L. 959) provided relocation and skill training for Indians who would agree to leave the reservation and move to urban areas.
1957	Act providing for conveyance of Federal school properties to public schools or public agencies (71 Stat. 29).
1963	Act conveying Federal school properties to local school districts or public agencies amended (76 Stat. 33).

Date	Description
1964	Civil Rights Act passed with later amendments in 1968 which indicates compliance in education.
*1965	Economic Opportunity Act (P.L. 452) to launch the war on poverty through Community Action and other social programs. Indian tribes were listed as eligible grantees (78 Stat. 508-520).
*	Elementary and Secondary Education Act and subsequent amendments for assistance to local education agencies for education of children from low income families, with specific set-asides to the Department of the Interior for Indian schools operated by the Bureau of Indian affairs, for compensatory education; library resources, textbooks, and other instructional materials; supplementary education centers; libraries, and bilingual education. Rural and urban Indian children from low income families were eligible to participate in this Act through their local school districts.
*1972	Indian Education Act, an amendment to the Impact Aid Law, for the improvement of educational opportunities for American Indian students attending local educational agencies; or through grants to tribal councils, Indian organizations and urban centers, state education agencies, colleges, and universities for innovative educational programs. Special educational programs relating to adult education for Indians were included as well as grants for training teachers of Indian students. A program division was created in the U.S.O.E. for Indian education under a deputy Commissioner of Indian education and a national advisory council was established.
*1974	Indian Education Act was extended through 1977 and a graduate fellowship program for Indian students was established.
*1975	Indian Self-Determination and Educational Assistance Act declared a policy of self-determination for Indian tribes and authorized contracting of various services between Indian tribes and the Secretary of Interior and HEW at the option of the tribe. In addition the Johnson-O'Malley Act was amended to authorize contracts between tribes and the Bureau of Indian Affairs for educational services.

*Indicates significant legislation.

Date	Description
*1978	Education Amendments 1978, Title XI deals with Indian education. The Bureau of Indian Affairs education office is given line authority and reports directly to the Assistant Secretary of the Interior for Indian Affairs. School boards are authorized and given hiring and budget setting authority. Numerous studies are mandated to look at the type of students in the Bureau schools, the curriculum is to be reviewed, and standards set for the boarding schools. Johnson-O'Malley funding formula also is to be established. The Indian Education Act is extended through 1983 and a study of the definition of Indian as used in that law is mandated. Such study is to be directed by the Assistant Secretary of Education in DHEW. The study is to be filed with the U.S. Congress May 30, 1980.

APPENDIX C

Laws Affecting Public Education of American Indians (with specific provisions for Federal Reservation Indians)

Laws Affecting Public Education of American Indians (with specific provisions for Federal Reservation Indians)

Date	Law and Its Description	Eligible Grantee				
		State	Local Educational Agency	College or University	Tribe	Mission Society
1819	Civilization Fund					X
1934	Johnson-O'Malley	X	X	X		
1953	Impact Aid		X			
1964	ESEA and Amendments Civil Rights Act	X	X	X		
1965	Economic Opportunity Act	X	X	X	X	
1972	Indian Education Act	X	X	X	X	
1975	Indian Self-Determination and Education Assistance Act	X	X		X	
1978	Educational Amendments	X	X	X	X	

APPENDIX D

Laws Affecting Public Education of American Indians (Specific Provisions for Indians Not Living on Reservations)

Laws Affecting Public Education Which Particularly Benefit Indians Not Living on Federal Reservations

Date	Law and Its Description	Eligible Grantee			
		State	Local Educational Agency	Indian Organization	College or University
1964	Civil Rights Act--to enforce desegregation of educational institutions				
1964	Economic Opportunity Acts--to develop comprehensive programs to combat poverty through Community Action and educationally related programs.		X	X	X
1965	Elementary and Secondary Education Act and subsequent Amendments (Titles I, II, III, IV, VII)--innovative educational programs to enrich culturally disadvantaged child, etc.	X	X	X	X
1972 1974	Indian Education Act (and subsequent amendments)--programs to meet special educational needs of American Indians.		X	X	X
1978	Educational Amendments extends Title IV, the Indian Education Act	X	X	X	X

APPENDIX E

North Carolina Laws Affecting Public Education of Indians Not Living On Reservations

1885 - Recognized Indians of Robeson County as Croatan Indians, designated separate schools for the Indian children, school committees of their own race who will select teachers. County board of education to carry out act and conduct census of such Indian children between ages of six and twenty-one and to establish school districts. County treasurer to apportion school fund belonging to Indian race. Where there are no separate schools, Indian children may attend Indian school in any district. (N.C. Session Laws, 1885, ch. 51, pp. 92-94).

1887 - Established a Croatan Normal School in Robeson County, N.C. by constituting a three member board of trustees, authorized them to appoint additional trustees from Croatan race, purchase land, employ teachers, appropriated $500 for two years to be paid out of the general educational fund, stated students to be admitted must be 15 years of age and agree to teach the youth of the Croatan race for a stated period of time. (N.C. Session Laws, 1887, Ch. 400, pp. 699-701).

1889 - Amended above laws to provide that all children of the Negro race to the fourth generation are excluded from separate schools for Croatan Indians. Age of children to be admitted to normal school was changed from 15 to 10 years. (N.C. Session Laws, 1889, Ch. 60, p. 72).

1903 - Appropriated $100 to repair and furnish the Croatan Normal School building, in Robeson County, N.C. (N.C. Session Laws, Ch. 643, p. 1030).

1909 - Provided that all children of Indian blood, other than Croatan Indians shall be taught in the public schools of Scotland County provided for the Indian race in said county; children of Croatan Indian Board shall attend public schools provided for them exclusively; Board of Education of Scotland County also can provide schools for children of mixed blood, such board's finding of fact concerning the right of children to attend such schools will be considered prima facie correct. Board is authorized and empowered to borrow monies to construct such schoolhouses. (N.C. Session Laws, 1909, Ch. 720, p. 1110-1111).

1911 - Empowered trustees of the Indian Normal School, Robeson County to transfer title to property of the school by deed to the State Board of Education. Terms of trustees were set out as well as their powers which included: employed and discharged teachers, prevented Negroes from attending said school, and exercised usual functions of control and management of the school. (N.C. Session Laws, 1911, Ch. 168, pp. 324-325).

1915 - Appropriations Act for state institutions lists $2,750 annual support and maintenance of the Cherokee Indian School in Robeson County and also $2,000 for a dormitory. (N.C. Session Laws, 1915, Ch. 98, p. 147).

1917 - Authorized the State Board of Education to turn over to the county Board of Education of Robeson County, $1,000 of the sum appropriated to the Cherokee Normal School of Robeson County for the establishment of an Indian Training School at Union Chapel. (N.C. Session Laws, 1917, Ch. 163, p. 312).

1917 - Empowered the Board of Education of Sampson County to provide separate schools for the Croatan Indians of Sampson County. Two school districts are created for Indians in the County and Croatan trustees are named in the act and their powers are defined as selection of teachers, general control and supervision over the schools and regulations, and general supervision of county superintendent and county Board of Education. Funds are to be apportioned on a pro rata share of public school funds from county and state sources. School census is to be taken of Croatan Indian children between 6 and 21 years old and Negroes are excluded from Croatan schools. The trustees of these schools will determine who will be admitted or excluded from their schools. Their decision is final unless taken to the proper state courts. (N.C. Session Laws, 1917, Ch. 509, p. 605-607).

1921 - Established a committee composed of Indians who are residents of Robeson County to protect public schools in this county for the education of the Indian race only. All questions concerning the race of those applying for admission to public schools for Indians in Robeson County will be referred to this committee. Committee has original, exclusive jurisdiction to hear and determine these questions. Only appeal from the committee's decision is to the Superior Court of Robeson County. Committee is given power to subpoena witnesses and compel their attendance. Committee members are named in the law and are to serve until further notice. (N.C. Session Laws, 1921, Ch. 426, pp. 574-575).

1923 - A general act relating to organization and administration of school system throughout the state. Two sections note that decendants of Croatan Indians in Robeson, Sampson, and Richmond counties will have separate schools for their children. A later section lists the following counties in which county board must provide separate schools for Indians with their own school committees. These counties are: Robeson, Richmond, Person, Scotland, Cumberland, and Sampson. Negroes are excluded from these schools. (N.C. Session Laws, 1923, Ch. 136 pp. 311-322).

1925 - Appropriations for maintenances of the state's institutions included $24,000 for Cherokee Normal School. (N.C. Session Laws, 1925, Ch. 275, p. 529).

1927 - Provided for separate schools for the Cherokee Indians in Columbus County. Act sets out area where Indians live and sets up school committees for the Indian schools. County board is to set up Indian school districts, conduct a census, levy a special tax on Indians to support their schools as well as give them their pro rata share out of the general school fund. Indians are to be designated as such on the census and tax rolls. (N.C. Session Laws, 1927, Ch. 213, pp. 194-196).

1929 - Provided for consolidating laws relating to racial qualifications of those seeking admission to Cherokee Normal School and common schools in Robeson County for Indian race. Committee of nine Croatan residents are to determine all questions concerning the education of Indians of Robeson County. Only appeal from their decision is in the Superior Court. Committee is established in perpetuity. (N.C. Session Laws 1929, Ch. 195, pp. 249-253).

1931 - Records are to be kept by County Superintendent of Schools for Cherokee Indians of Robeson County. Records are to disclose operation of such schools, separate and apart from record of operation of school for other races. (N.C. Session Laws, 1931, Ch. 141, p. 181).

1941 - Changed name of Cherokee Indian Normal School to Pembroke State College for Indians. (N.C. Session Laws, 1941, Ch. 323, p. 457).

1941 - Authorized establishing a vocational and normal school for the Indians in Sampson, Hoke, Scotland, Cumberland, Bladen, Person, and Harnett counties. Forty-five thousand dollars was appropriated to establish the school and the State Board of Higher Education was to select site, appoint the school committee, and to authorize selection of teachers. (N.C. Session Laws, 1941, Ch. 370, pp. 558-560)

1941 - Provided that Harnett County Board of Education organize separate schools for Croatan Indians in Overasboro and Duke Townships in Harnett County. (N.C. Session Laws 1941, Ch. 422, p. 442).

1943 - Provided emergency funds for Pembroke State College. (N.C. Session Laws 1943, Ch. 626, p. 732).

1949 - Name of Pembroke State College for Indians changed to Pembroke State College. (N.C. Session Laws, 1949, Ch. 58, p. 49).

1953 - Appropriated $45,000 to the East Carolina Indian Training School in Sampson County for a water and sewage system, a central heating system, and for construction of two additional classrooms. (N.C. Session Laws, 1953, Ch. 1170, p. 1125).

1953 - Recognized former Croatan, Cherokee, Robeson County Indians as Lumbee Indians of North Carolina. (N.C. Session Laws, 1953, Ch. 51).

1956 - Recognized Indians living in Halifax and Warren counties as Haliwa Indians. (N.C. Session Laws, 1956, Ch. 254, pp. 285-286).

1956 - U.S. Congress recognized the Indians living in Robeson and adjoining counties as Lumbee Indians but stated they would not be entitled to any federal services due to their status as Indians.

APPENDIX F

List of Significant Actions Regarding Lumbee Indians of North Carolina

1888 - Petition to U.S. Congress from Croatan Indians for aid in educating their children. Petition referred to Commissioner of Indian Affairs, then referred to Mr. J. W. Powell, Director, Bureau of American Ethnology for comment. He did not comment on theory of White's Lost Colony but said, "it is probable that the greater number of the colonists were killed; but it was quite in keeping with Indian usages that a greater or less number, especially women and children, should have been made captive and subsequently incorporated into the tribe."

1890 - August 10, the Commissioner answered the petition as follows: "While I regret exceedingly that the provisions made by the State of North Carolina seem to be entirely inadequate (for the education of these people), I find it quite impracticable to render any assistance at this time. The Government is responsible for the education of something like 36,000 Indian children and has provisions for less than one-half this number. So long as the immediate wards of the Government are so insufficiently provided for, I do not see how I can consistently render any assistance to the Croatans or any other civilized tribes."

1911 - N.C. changed name of Croatan Indians to Indians of Robeson County.

1912 - N.C. changed name of Indians of Robeson County to Cherokee Indians of Robeson County.

1912 (Continued)

-S. 3217 introduced as a bill providing for acquisition of a site and erection of a school for Indians in Robeson County, North Carolina, and appropriating $50,000 for same with continuing appropriations of $10,000 annually. Such school to be under supervision of Secretary of the Interior. (Introduced Feb. 1912, passed Senate, Aug. 8, 1912).

-H.R. 20728 introduced in House of Representatives as an amendment to the Bureau of Indian Affairs appropriations for $50,000 for the Department of Treasury to acquire a site and erect a school for Indians living in Robeson and surrounding counties and for $10,000 to be appropriated annually for conduct and maintenance of said school under supervision of Secretary of the Interior in accordance with the provision of law for conduct and maintenance of schools for the Indians by the U.S. Government. (Introduced Feb. 26, 1912 -- No action reported.)

-March 2nd - report of Charles F. Pierce, Supervisor of Indian Schools, Fifth District, Pipestone, Minnesota to Commissioner of Indian Affairs regarding visit to Croatan Indians, Pembroke, N.C. Pierce described the Croatans and their school and suggested, "In regard to giving federal aid to this institution, no doubt it would be of great benefit, at the same time it appears to me that it would be taking a backward step in our Indian school policy. It is the avowed policy of the Government, to require the states having an Indian population to

assume the burden and responsibility for their education as soon as possible."

"North Carolina, like the state of New York, has a well organized plan for the education of Indians within her borders, I can see no justification for any interference or aid, on the part of the Government, in either case."

-March 30 - First Assistant Secretary, Department of the Interior letter to Sen. Robert J. Gamble, Chairman, Committee on Indian Affairs stated, "it is firmly believed it will be unwise and unnecessary to appropriate for the establishment of a school for Croatan Indians."

1914 - June 30, S. Res. 410 authorized the Secretary of the Interior to investigate the condition and tribal rights of the Indians of Robeson and surrounding counties.

1915 - Jan. 5 - report on condition and tribal rights of Indians of Robeson and adjoining counties in North Carolina by special agent O. M. McPherson.

1916 - Feb. 11, letter from Assistant Commissioner E. B. Meritt to O. H. Lipps, Superintendent, Carlisle Indian School noted "with the present attendance at the Carlisle School of approximately 500 and an enrollment far below its capacity, there seems no reason why there should not be enrolled those of the Cherokee children from North Carolina who will be eligible in

1916 (Continued)

accordance with the course of study. I will request you give this matter your special attention and report to me how far you can cooperate in getting these children to Carlisle."

1916 - March 2nd, the new Secretary, Franklin K. Lane replied to the Chairman of Senate Committee on Indian Affairs, "Whether this information would justify an appropriation by the Federal Government to supplement the educational facilities afforded these people is, of course, a position for determination by Congress, but I doubt the wisdom of the Government's assuming this burden."

1923 - Dec. 11, report from James Henderson, Superintendent, U.S. Indian Service, Cherokee, N.C., on conditions existing among Croatan Indians of Robeson County, N.C. He made a number of recommendations: (1) that state of N.C. revise its 1884 roll of Croatan Indians; (2) that graduates of Pembroke Normal School who wish to prepare themselves as teachers, attend Haskell Institute until state puts normal training courses at Pembroke Normal School; (3) that further investigation be made concerning Indians unable to send children to district schools and to Pembroke because of lack of funds. If this is so, Congress should pay board at Pembroke Normal School of those who have graduated from the district schools.

1924 - Feb. 10, H.R. 8083 introduced to change name Croatan to Cherokee Indians of Robeson and adjoining counties in North Carolina. The bill did not confer upon such Indians any Cherokee tribal rights to lands or money and stated, "nothing herein shall be construed as prohibiting the attendance of children of said Croatan Indians in Government Indian schools."

1924 - March 18th, Sec. Hubert Work transmitted an amendment on Croatan Indians as follows: "Provided however that nothing herein shall be construed as prohibiting the attendance of children of said Croatan Indians in Government Indian schools." Letter to Hon. H. L. Lyons, U. S. House of Representatives. -April 11, letter from Sec. Hubert Work to Congressman Homer P. Snyder on H.R. 8083 bill to designate Croatan Indians of Robeson and admoining counties in North Carolina as Cherokee Indians. "Department notes first section of bill already accomplished by General Assembly of N.C. March 11, 1913; second proviso intended to allow children of Croatan Indians to attend the Government Indian schools and receive benefits of an education. Department sees no objection to a change in the designation of the Croatan Indians, and recommends enactment of the measure."

1926 - January 10, H.R. 5365 (73rd 1st Sess.) introduced providing that the name Croatan be changed to Cherokee and that these Indians should be recognized and enrolled as such. The bill also noted

1926 (Continued)

that "such designation, recognition, and enrollment shall not in any manner affect the present status or property rights of any such Indians or prohibit the attendance of children of such Indians at Government schools. The provisions of this act shall not be construed to give such Indians any rights in or to the tribal lands or moneys of other bands of Indians in the United States."

1926 - March 10, S. 1632 identical to H.R. 5365 introduced. The Secretary of the Interior wrote to Chairman of Senate Committee on Indian Affairs as follows: "As the Federal Government is not under any treaty obligation to these Indians, it is not believed that the United States should assume the burden of the education of their children, which has heretofore been looked after by the State of North Carolina. In view of the foregoing, I do not favor the bill in its present form. However, I do believe that legislation to clarify the status of these Indians is desirable." He recommended that the bill be limited to designating a name for these Indians, with the proviso "that nothing contained herein shall be construed as conferring federal wardship or any other governmental rights or benefits upon such Indians." Bill was not reported out of committee.

1926 (Continued)

-May 26th, a brief was filed with Commissioner of Indian Affairs on behalf of Cherokee Indians, Robeson County, N.C., by Ellwood P. Morey, Attorney.

-June 1, response by Commissioner Charles Burke stated, "the United States is in no way indebted to them and that their claims for assistance, etc., have no merit other than that which would attach to ordinary needs of citizens.

1932 - May 24 (72nd Cong. 1st Session) S. 4595 introduced in the Senate. It was identical to H.R. 8083 described above. Commissioner of Indian Affairs wrote to Secretary of Interior as follows: "We believe that the enactment of this legislation would have the effect of providing educational facilities for some of them at the expense of the Government. Since the Federal Government does not have any responsibility for these people, it is not for us to say whether or not they should be classed as Cherokees."

1933 - April 22, Delegation of Robeson County Indians referred to Dr. John Swanton, Bureau of American Ethnology, by Commissioner John Collier. Swanton recommended that a proper designation for these people might be Cheraw or Siouan Indians of the Lumbee River.

1934 - Jan. 10th letter from Secretary Harold Ickes to Senator Burton K. Wheeler, Committee on Indian Affairs, reporting on S. 1632 which provides for the enrollment of the Croatan Indians of North Carolina as Cheraw Indians, and would permit their children to attend government Indian schools. Secretary Ickes indicated he did not favor the bill in its present form. He suggested legislation to clarify the status of these Indians. His suggestion was as follows: "That those Indians in Robeson and adjoining counties, North Carolina, who were formerly known as Croatan Indians, shall hereafter be designated Siouan Indians of Lumbee River, and shall be so recognized by the United States government: Provided that nothing contained herein shall be construed as conferring Federal wardship or any other governmental rights or benefits upon such Indians."

1934 - April 3, Memorandum on Indian groups in the southern states appeared in files from Director of BIA education W. Carson Ryan which stated: "We have never had, as I understand it, a definite office policy regarding the numerous groups of Indians in the southern states. During the Wilson administration an attempt was made to round up these various groups and find out whether anything should be done for them by the Federal Government. It is chiefly from this period that our

1934 (Continued)

present work with the Seminoles of Florida and the Choctaws of Mississippi dates.

"It is customary to refer to these Indian settlements as small, scattered groups. As a matter of fact, however, there are between 5,000 and 9,000 people of Indian blood in the group usually known as 'Croatans' (in and around Pembroke, North Carolina . . . ."

"In view of the pending Wheeler-Howard Bill (which interests many of the Indians in these groups very much), and the present difficulties securing educational and other services for people of Indian blood in the southern states, it seems especially important to have some data on hand as a basis for a policy. In any recommendations that appear in the following statements, I have assumed as an Indian Service policy that, while we do not desire unduly to interfere with an existing situation, particularly with a satisfactory situation, the Federal Government has an obligation to all people of at least one-fourth Indian blood who have a diminished social, health, and educational service in the communities in which they are living as a result of the fact that they are Indian. We sometimes refer to Indians as adequately adjusted when what we really mean is that they are resigned to a discrimination that is neither fair or socially desirable."

1934 (Continued)

In Dr. Ryan's accompanying report, he described Indians and their educational conditions in North Carolina, Louisiana, Mississippi, Florida, and South Carolina. The report said this about the Croatans of North Carolina:

"Estimates of the number of these Indians (formerly called Croatans, but more exactly known as Cheraw Indians of the Siouan stock) vary, but there must be at least 5,000, or possibly as many as 9,000, located mostly in Robeson County, North Carolina. These Indians have been officially recognized as Indians by the State of North Carolina. They have an Indian teachers' college (accredited) furnishing two years of training beyond the high school, 42 schools, of which four are high schools, two being accredited. With a few exceptions all the teachers in the elementary schools are Indians trained in their own state teachers' college and one of the high school teachers is also Indian. The Indians feel especially the need for some advanced training so that one or two of their better qualified people may have university work and prepare for high school teaching and other positions requiring university training.

There are two things the Indian Service can do in this matter, (1) we can pay instruction costs for a few Indian students who without such aid would not be able to attend the State Normal School at Pembroke; (2) we can furnish scholarship, loan, instructional costs, or residence for university

1934 (Continued)

training of one or more qualified individuals. The representatives of the tribe have agreed to submit candidates for this and they have been assured that we would give very careful consideration to any well qualified candidate with the requisite degree of Indian blood."

1934 - October 15, letters from J. E. Sawyer, Superintendent, Cherokee Indian Normal School, Pembroke, North Carolina to Dr. W. Carson Ryan, Director, Education Bureau of Indian Affairs regarding assistance from Federal funds in paying instructional costs of several students at your institution. "We have authorized the following amounts:

James Bell, Jr. $38.00

Stella Graham $38.00

Gertrude Locklear . . . $18.00

This money is to be disbursed through Superintendent Harold W. Foght of Cherokee Agency, Cherokee, North Carolina . . .
Our reason for asking Mr. (Joe) Brooks for recommendations is that Mr. Brooks has been generally recognized in Washington as representing the interests of the Indian group in Pembroke area . . .

"As to the use of the name 'Siouan' or 'Cherokee', this would have nothing to do with the granting of aid. The only questions for us in connection with Federal aid are as to of

1934 (Continued)

blood and sufficient ability to indicate service to Indian people. So far as I know, Mr. Brooks has never indicated to us that Indians applying as Siouans were to be preferred over any others; as a matter of fact the applications presented to us carried both names. My own understanding of the situation regarding the name was that ethnologists who are acquainted with the North Carolina groups had indicated that some other name than Cherokee would be more accurate but I assume that is something for the Indian group itself to determine so far as its own affairs are concerned."

"We shall be very glad to have your recommendations for any future action on scholarship aid, but may I suggest it will be very much easier for us if you folks will agree on some policy and present a united front."

1934 - Dec. 5th, Dr. W. Carson Ryan, Director of Education, BIA, was given a briefing paper on the Indians of Robeson County, North Carolina, no recommendations were contained.
-December 10, Letter to Superintendent J. E. Sawyer, Cherokee Indian Normal School, Pembroke, North Carolina from BIA Education Director, W. Carson Ryan which stated, "We have . . . given our word, both to you and Mr. Brooks, as to help for three students this year and if you are sufficiently interested in the welfare of these three students to have us do it, we will

1934 (Continued)

be glad to change the designation in the applications to North Carolina Indians in order that you and your board may be able to accept."

1935 - Feb. 18th, Commissioner Collier wrote Solicitor Felix Cohen a memorandum indicating Mr. Joe Brooks of the Siouan Indians of North Carolina had asked the following questions--can Indians, half or more bloods, members of a tribe not under U.S. jurisdiction, organize under the Wheeler-Howard Act to receive a constitution, charter, etc.? Or would the benefits to them be exclusively individual ones, such as land purchase and scholarship loans, predicated on their showing half or more blood?
-Feb. 19th letter from James E. Hillman, Division of Curriculum Instruction, State Department of Public Instruction, Raleigh, North Carolina to Dr. W. Carson Ryan, Director of Education BIA, regarding the Indian Normal school at Pembroke, North Carolina which stated:

"We recognize the institution as a standard two-year Normal School. While this is true, there are evident weaknesses which need to be overcome. In general the quality of work would not quite measure up to work of a similar nature in our other institutions. It has been necessary to be somewhat lenient in our interpretation of and in the enforcement of the standards with reference to accrediting this institution. In

1935 (Continued)

spite of this concession, however, graduates of the institution are generally allowed full credit for work done there when they attend a senior college. I would say that any institution would be justified in allowing a conditional rating for those students who graduated from Indian Normal School at Pembroke.

I am quite certain the Federal Government would be justified in allowing a small payment toward meeting the instructional cost for Indians planning to teach and who would attend the Normal School. The opportunities which Indians have for education are quite limited. They should be given such encouragement as possible, consistent with a sound Federal program.

As far as I know the State Department of Public Instruction has no immediate plan for changing the type of work in which the Normal School engages. We are anxious, however, to strengthen this school in every way possible. This would involve, among other things, an improvement in the qualifications of the faculty. If the Federal Government could assist Indians who are now on the faculty to attend a University and acquire graduate degrees, it would hasten the day when the faculty would be in a position to render a high order of teaching service. The school does not seem to attract outstanding white teachers. We believe that improvement in the faculty would involve securing properly qualified Indian teachers. Any financial assistance which could be afforded to carefully

selected Indians to prepare themselves for teaching in this institution would hasten the day when it could be manned by well-qualified Indian teachers."

-April 8th response of Solicitor Felix Cohen stated "these Indians could participate in the benefits of the Wheeler-Howard Act only insofar as individual members may be of one-half or more Indian blood. Such members may not only participate in the educational benefits of Section II of the Wheeler-Howard Act, in the Indian preference rights for Indian Service employment granted by Section 12 of the Wheeler-Howard Act, but may also organize under Sections 16 and 17 of the Wheeler-Howard Act, if the Secretary of the Interior sees fit to establish for these eligible Indians a reservation."

-April 10th letter regarding Cohen opinion to Secretary of Interior Ickes from Joe Brooks, Siouan Indian Robeson County.

-April 25th response from Secretary Ickes stating that he fully concurred with Solicitor Cohen's opinion.

-July 9, Indian agent Fred A. Baker from Sisseton Indian Agency, South Dakota, was sent to Robeson County, N.C. to report on suitability of establishing a land purchase and rehabilitation project among those Indians. Baker stated "as an official of the government I give it (the project) my unqualified approval." He recommended individual farms of 40 acres and a neighborhood plan where each family had their land and their homes and all shared a community building.

1935 (Continued)

Agent Baker said this about federal assistance to these Indians: "We feel strongly that the United States is justified in coming to the aid of a people already recognized by the laws of the State of North Carolina as Indians. It is true that they have no treaty or other legal relationship with the United States Government. Under many handicaps and beset with many difficulties they have, up until now, made their own way. I would not have the Government assume that measure of control which is now exercised over many Indian tribes, as I feel that this would tend to bring about a spirit of dependence which would tend to destroy that sturdy spirit of self-reliance which now prevails. But the measure of relief recommended herein, if properly carried out, will not, in any way bring this to pass. This plan is intended to give Work Relief and to take Indians off the rolls by giving them employment at reasonable wages."

-October report compiled by John Pearmain, for the Resettlement Administration on history, background, and socio-economic status of the Siouan Indians of Robeson County, N.C. Pearmain combined his finding with those in Baker Report described above. No recommendations were included in report to the Resettlement Administration.

1936 - Jan. 2 letter from L. C. Gray, Assistant Administrator, Resettlement Administration, Washington, D.C. to H. B. Mask, Regional Director, Resettlement Administration, Raleigh, N.C.: indicates authorization for land acquisitions on Pembroke Indian Resettlement Project and notes this project will be handled as a resettlement project.

-April 22 memorandum from the Commissioner of Indian Affairs regarding policy of various folk groups in southeastern and northeastern United States. The memorandum notes, "The problem is whether these peoples should be treated as Indians under the Reorganization Act and therefore be brought under the guardianship of the Federal Government. These groups have never had an explicit relationship to the Federal government. It is even doubtful whether they are recognized by prior colonial governments. They have lived amidst the general population for hundreds of years--and have made their social and economic adjustment as human beings and as citizens not under the guardianship of the United States . . . . The budgetary allowance for these Indian groups, about whose legal status and rights there is no question, are and will continue to be insufficient to meet their needs. Adding further strains on the Indian Bureau budget would either jeopardize the work with those Indians already under Federal guardianship or arouse hopes with newly-made guardians that could not be met . . . . For these reasons the conclusions reached by the Indian office

1936 (Continued)

is that these folk groups should not be brought under Federal guardianship."

-June 2, Commissioner John Collier appoints an Enrolling Committee to go to Pembroke, N.C. to investigate the claims of Indian blood of a group of people in Robeson County, N.C. Purpose of the claim was to see if group could qualify under Section 19 (one-half Indian blood or more) of the Indian Reorganization Act of 1934. A physical anthropologist was included to determine scientifically whether any applicants were one-half or more Indian blood. Report submitted January 26, 1937.

1938 - February 24, letter from Commissioner John Collier to Joe Brooks, Pembroke, N.C. informing him of the 209 examined by Dr. Carl Selezer, some 22 were found to be one-half or more Indian blood. Collier states he does not know whether these findings will be enough for the Secretary of Interior to rule on whether "22" can be declared Indians under the Indian Reorganization Act.

-November 8, letter from General Council of Siouan Indians, Pembroke, N.C. to Commissioner of Indian Affairs, John Collier, urging that 22 Indians be accepted to participate in benefits of Indian Reorganization Act and seeking advice on how other Indians should organize.

1938 (Continued)

-December 12, letter from Assistant Commissioner, William Zimmerman, Jr. to Joe Brooks, Pembroke, N.C. informing him that Secretary Ickes had recognized 22 out of 209 applications from Robeson County Indians as eligible for enrollment as persons of one-half or more Indian blood. These persons are entitled to benefits established by the Indian Reorganization Act and no other rights. Mr. Zimmerman states he is preparing notices to individuals so approved. These benefits were tuition loans, economic development loans, Indian preference in BIA employment and right to petition the Secretary to take land in trust and organize as a group.

1941 - June 14, letter from Commissioner of Indian Affairs, John Collier to Mr. D. J. Brooks, Route 3, Maxton, N.C. gives long history of attempts to organize Indians in Robeson County, North Carolina under the Indian Reorganization Act. Collier states, "it is our conclusion, after careful study, that the Indian Reorganization Act does not afford a solution to your problems, and that organization under that Act would intensify rather than solve your problems." He also observed, "The Robeson County Indians have a special status under state law, with special schools and a special normal school. For the Federal Government to recognize as Indians only a small fraction of this group might weaken the special status of the great

1941 (Continued)

majority. I think it is right and proper for the state to give this special recognition. The fact that the Federal Government is debarred by law from so recognizing the whole group merely means that the Siouan people have gone so far along the road of social assimilation and of self-support that they do not need the special guardianship of the Federal Government that is still being given to tribal Indians living on reservations. The lack of such Federal recognition does not imply that the Robeson County Indians are not Indians, but merely that they are not eligible for the special protection afforded to Indians who have not been sufficiently assimilated into the predominant culture."

1951 - Robeson County Indians voted 2,169 to 35 to change their name from Cherokee Indians of Robeson County to Lumbee Indians of North Carolina.

1953 - April 20, North Carolina passed a law recognizing this group as Lumbee Indians of North Carolina.

1956 - January 18, H.R. 4656 a bill to recognize and designate certain Indians as the Lumbee Indians of North Carolina was reported out of the House Committee on Interior and Insular Affairs. The Department of the Interior recommended against enacting the bill and requested that the bill "be amended to

1953 (Continued)

indicate clearly that it does not make these persons eligible for services provided through the Bureau of Indian Affairs to other Indians." Bill became Public Law 570, 84th Congress, June 7, 1956.

1970 - April 20, Office of Native American Programs/DHEW ruled Lumbees could receive money based on their status as Indians from Economic Opportunity Act.

1971 - December 4th S2763 bill introduced to repeal clause in Lumbee Law of 1956 which makes them ineligible for federal programs because of their status as Indians. S. 2763 would repeal this disclaimer.

1972 - March 20, letter from Deputy Commissioner of Indian Affairs to Eastern Carolina Indian Orgainzation stating Lumbee Act of 1956 had terminated rights of 22 Indians recognized under the Indian Reorganization Act.

- November 28, Opinion from Associate Solicitor, Indian Affairs, Department of Interior, stating that passage of Lumbee Act, with its final clause reflects congressional intent to terminate all federal services to Lumbees including the "22" because of their status as Indians.

1973 - January 10, Deputy Assistant Secretary of Interior stated "in the absence of corrective legislation or a court order to the

1973 (Continued)

contrary, this Department is prohibited by law any assistance to Indians in Robeson and adjoining counties as defined in Lumbee Act, 1956."

1974 - April 5, H.R. 12216 introduced to repeal disclaimer clause in Lumbee bill. No action.

1974 - September 30, Indian Education Act granted money for Lumbee students, because they are Indians, to Robeson County schools and Lumbee Regional Development Association.

1975 - April 4, Maynor vs. Morton case held that Indians as defined in Section 19 of Indian Reorganization Act unaffected by Lumbee Termination Act of 1956.

-August 5, Bureau of Indian Affairs sent officials to explain agency's new position as a result of case cited above and what benefits "22" are entitled to from the agency.

1977 - January-June, Bureau of Indian Affairs builds houses for remaining "22" and informs them they are entitled to scholarships, vocational training, housing, and economic development loans.

1978 - February and July, hearings on S. 2037 a new procedure for recognizing Indians by Federal Government.

1978 - Education Amendments of 1978 extend the Indian Education Act until 1983. Mandates a "definition of Indian" study to look at options contained in Title IV, Indian Education Act.

1979-
1980 - Indian Definition Study convened.

Recommendations due to Congress May 30, 1980.

APPENDIX G

Glossary of Terms

GLOSSARY OF TERMS

Accommodation - Adaptation of one culture to another.

Acculturation - Process of intercultural borrowing marked by continuous transmission of traits and elements between diverse people, resulting in new and blended patterns.

Allotment - Dividing Indian tribal lands into individual parcels of 160 acres. Word was used to describe activity relating to implementing the Dawes Act.

Annuity - Money or goods paid to Indian tribes by the federal government. These monies or goods were pledged for the use or exchange of Indian lands.

Appropriation - Money set aside to carry out the provisions of a law by the U.S. Congress or a state legislature.

Assimilation - to make similar or alike, to absorb into a cultural tradition or a population.

Authorization - The sanctioning of specific activities by statute.

Blood Quatum - Term used by the Bureau of Indian Affairs to indicate percentage of Indian blood.

Christianize - Term used to describe converting one (Indian) to the belief in Jesus Christ and the religion founded by him, known as Christianity. Used to describe converting American Indians from "heathenism to Christianity."

Civilization - A relatively high level of cultural and technological development, in particular the stage of cultural development at which writing and the keeping of written records are evident. Used to describe the difference between American Indians and Western European culture and society.

Colored - Of a race other than white, or of a mixed race.

Croatan Indians - Indians who lived on Roanoke Island, subsequently intermarried with Sir Walter Raleigh's Lost Colony, and have descendants among the Lumbee Indians of North Carolina.

Culturally-disadvantaged - Legal term associated with the Elementary and Secondary Education Act of 1964 which describes children whose parents are at the lower socio-economic level and not a part of the "middle class" American mainstream.

Desegregation - To eliminate segregation in and to free of any law, provision, or practice requiring isolation of the members of a particular race in separate units.

Discrimination - Difference in treatment or favor on a basis other than individual merit. To treat various minority groups unfairly.

Education - Acquiring all knowledge tending to train and develop the moral, intellectual, and physical being of an individual. May be formal instruction in a classroom setting and informal in everyday living.

Fee-simple - Used to describe conveying land from tribal to individual taxable status.

Five Civilized Tribes - Historical name applied to Cherokee, Creek, Choctaw, Chickasaw, and Seminole Indians. Name derives from their tribal development which was patterned after American society.

Goal - Aim or end result.

Impact Aid - Term applied to Public Laws 815 and 874 which grants money to local education agencies educating Indian children living on reservations (known as federal impact lands).

Incompetent Indians - Administrative term used by the Bureau of Indian Affairs to describe Indians whose land the agency holds in trust, manages, then pays to them the lease money.

Indian Desk - Refers to administrative unit advocating for Indians in the Interior Department of the federal government outside of the Bureau of Indian Affairs. These units usually have no program budgets and are not authorized by law.

Indian Office - Term used to describe the Bureau of Indian Affairs at the national, area (regional), and local levels.

Indians - Aboriginal inhabitants of North America. See various types described below:

Federally-recognized - Indians living on reservations under the jurisdiction of the Secretary of the Interior. Such recognition may be based on treaties, executive orders, or statutes.

Non-federally recognized - Indians living in identifiable communities, towns and cities not under the jurisdiction of the Secretary of the Interior. However, some of these

groups may be recognized by the U.S. Congress and various states.

Non-reservation - Indians not living on federal reservations. Some of these Indians may live on state reservations in towns, cities, and identifiable Indian communities.

Reservation - Indians living on federal reservations. See definition under federally-recognized.

State-recognized - Indians who are identified as such by state statute.

Terminated - Indians who were formerly recognized and lived under the jurisdiction of the Secretary of the Interior. Services for these Indians were terminated in the 1950's as a result of House Congressional Resolution 108. These Indians may or may not be recognized as such by their states.

Urban - Indians living in a city. Some are federally-recognized reservation Indians, some are terminated, and some are non-reservation and non-federally recognized Indians.

Indian School Enrollment Committee - Committees created by state statute in North Carolina as a group to decide who would be enrolled in North Carolina Indian schools.

Indian Reservation - Lands set aside for Indian tribes and held in trust by the Secretary of the Interior for the federal government.

Indian Territory - Present state of Oklahoma.

Indian Tribe - Economic, social and political grouping of Indians recognized as a tribe by the federal government.

Indian Self-determination - Political concept which encourages Indian determination of how their social services, tribal governments, and communities will operate.

Integration - To end the segregation of and bring into common and equal membership in the society and organization.

People of Color - People who are not white.

Policy - General principles by which a government is guided in its management of public affairs with respect to certain issues.

Program - Organized body of activities funded by federal government to implement various pieces of legislation.

Relocation - Federal government activity which moved reservation Indians to the cities for employment opportunities in the decade of the 1950's.

Schools - An institution or place for instruction and education. See various types below:

Boarding - Schools operated by the Bureau of Indian Affairs which board and lodge students for the entire year.

Bureau of Indian Affairs - Schools which are operated and staffed by that agency. These institutions may be day, boarding, or community schools.

Common - Term used for the prerunners of the present public schools.

Consolidated - District where two or more existing schools have come together into a single district.

Contract - Agreement to operate school between tribe and private individual; government and religious group; or tribe and religious group.

Graded - Term for an elementary school.

Industrial - Term used to describe vocational curriculum of the Bureau of Indian Affairs boarding schools off the reservation.

Mission - Private school operated by religious organizations, supplemented with federal funds.

Normal - Two-year training school for teachers.

Tribal - School operated by Indian organization or tribe and chartered by the state and tribe.

School District - A public and quasi-municipal corporation, organized by legislative authority or direction, comprising a defined territory, for the erection, maintenance, governance, and support of the public schools. Such district is in accordance with laws of the state, invested, for these purposes only, with powers of local self-government and generally of local taxation, and administered by a board, usually elected by voters of the district.

Segregation - Separation or isolation of a race, class, or ethnic group by enforced or voluntary residence in a restricted area, barriers to social intercourse, divided educational facilities or other discriminatory means.

Siouian Tribal Council - Group of Indians in Robeson County organized to participate in the Indian Reorganization Act of 1934.

Socialization - Process by which a human being beginning at infancy acquires the habits, beliefs, and accumulated knowledge of his society through his education and training for adult status.

State Jurisdiction - Exercising of the various state laws as opposed to federal laws operative on Indian reservations.

State Recognition - Term used to describe state's method for identifying Indians in its borders as opposed to federal government's methods of identifying Indians under the jurisdiction of the Bureau of Indian Affairs. This term usually means that Indians have been recognized by state statute.

Title IV - Abbreviated name for the Indian Education Act of the Educational Amendments of 1972.

Title VII - Abbreviated name for the Bilingual Education Act.

Tribal Census - Population count used by various tribes to identify their members.

Tribal Government - Administrative governing body of an Indian tribe under the jurisdiction of the Bureau of Indian Affairs for general governmental purposes.

Tribal Lands - Lands held in trust by the Secretary of the Interior for Indian tribes.

Tribal Rolls - Method used by various tribes to indicate who their members are by tracing their ancestry back to original documents of federal government identifying persons receiving Bureau of Indian Affairs goods and services.

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EDUCATION: PUBLIC POLICY AND THE AMERICAN INDIAN

by

Helen Maynor Scheirbeck

(ABSTRACT)

The subject of this dissertation is the public education of American Indians. Such education is analyzed from the perspective of public policies and actions of federal, state, and local governments towards American Indians.

Assimilation into the American society is revealed as the cornerstone of all federal, state, and local policies. Basic to such a policy is the definition of who is an Indian for purposes of federal, state, and local services. Determination of such eligibility for federal services has been defined generally by the federal government. Until the decade of the 1960's, such educational services were available to Indians living on federal reservations. This created problems of legal recognition concerning the identity of Indians not living on federal reservations and restricted their accessibility to public services, particularly the public schools.

During that decade, general services for the "disadvantaged" were extended to all minorities, including Indians. As these services extended outside of the Bureau of Indian Affairs, they created a

growing undercurrent of tension among the Indians living on federal reservations and those living in rural and urban communities.

This dissertation also analyzes the effects of state education policy on one Indian tribe and that tribe's activities both with the state and the federal government to protect its identity and obtain an educational system for its people.

Although assimilation is clearly identified as the motivating force for federal and state policies and education was its key instrument, its implementation appears to be both inconsistent and erratic.