UNITED STATES GOVERNMENT
POLICIES TOWARD
NATIVE AMERICANS, 1787-1990:
A GUIDE TO MATERIALS IN
THE BRITISH LIBRARY

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INTRODUCTION

The history of the interaction of the United States Government and Native Americans is long and complex. Its roots can be found in the attitudes and debates of the Europeans who explored and colonised the Americas.

America's Founding Fathers drew upon both this colonial heritage and their own experience when addressing these important relationships, even though most of the details were to be worked out in the years after 1787.

The Constitution gave final authority for Indian Affairs to Congress, although all three branches of the Federal Government have played significant roles in this sphere. Both specific and implied powers have been used to anchor federal authority for Indian Affairs in the Constitution. Specific power can been found in the Commerce Clause (Article I, Section 8); implied power has been found in treaty-making powers (Article II, Section 2); in the war powers (Article I, Section 8 and Article II, Section 2); in the ownership clause relating to territories (Article IV, Section 3) and, most widely, in the general welfare clause (Article II, Section 8).

Early American Indian policy was spelled out in the Trade and Intercourse Acts (1790-1834). Much of the judicial basis and legal theory for subsequent relations were layed down in three key cases heard by the Marshall Court during these same years. In Johnson v. McIntosh (1823), in deciding the question of Indian land tide, the court distinguished between rights of ownership [recognized tide of the Federal Government] and rights of occupancy ["Indian" tide]. In the Cherokee cases the court ruled on (1) what is the status of a tribe and (2) who controls Indian affairs. In the first case, Cherokee Nation v. Georgia (1831), Marshall described the political nature of the tribe as a "domestic dependent nation," having a status as a ward to its guardian, the Federal Government. By so ruling Marshall established the basis for the trust relationship that has determined much of their subsequent relations. In the second, Worcester v. Georgia (1832), Marshall's judicial nationalism give the Federal Government final authority over the states for Indian affairs.

It was the treaty-making power delegated to the President (with the advice/consent of the Senate) that saw hundreds of treaties negotiated. Until 1871, when the practice of making treaties with Indian tribes was discontinued, this was the central avenue for formal Indian-White relationships. More like adhesion contracts than agreements between equal sovereigns, they were, nevertheless, important factors in the westward movement of the American settlers. Treaties were tools of empire as well as vehicles for humanitarian concern.

Federal Indian policy can be divided into a number of chronological periods. Following the formation of the nation, the Trade and Intercourse Acts sought to keep the natives segregated from the rest of the population and to more formerly control the key areas of interaction through a licensing system for trade and the appointment of federal Indian agents to administer and enforce the Acts. But the extensive frontier and the Westward movement were too powerful and broad to control. Thus in 1830 Congress passed the Removal Act which authorized the President to remove (ideally voluntarily) tribes east of the Mississippi River to a large "Indian Country" in the West. During the 1830s and 1840s about 100,000 Natives were moved West. The tragic "Trail of Tears" was part of this era, and so were the first western Indian reservations. The continued westward movement frustrated the attempts of U.S. policy makers to achieve a final and peaceful solution to the Indian problem. And when many of these removed tribes signed military pledges of support for
the Confederacy during the Civil War, further excuses for taking Indian land were now available for the many voices of Manifest Destiny. The Indian Wars after 1865 can be seen from this perspective.

During this period there was a change in policy from segregating Native Americans to assimilating them into the American mainstream, by using the reservation as a school for civilization and Christianity. While some argue this philosophy was implied from the beginning, Federal policy after 1865 and the Dawes Act of 1887 [General Allotment Act] made it a national goal. By breaking up the large reservations to create individual allotments, policy makers and the “Friends” of the Indian were sure they were acting in the best interests of the Natives. The Dawes Act, while the most damaging piece of legislation in Native American history, was thought to be a Homestead Act for the Indian at the time. But it stuck at the tribal, corporate basis of Indian life and not only destroyed most of the tribal land base (from 138 million in 1886 to 48 million acres by 1934), but also demoralised Indian life in general. The terrible consequences were documented in the Meriam Report of 1928.

The Indian New Deal, manifested in the work of John Collier, Franklin D. Roosevelt’s Commissioner of Indian Affairs, was an attempt to halt the destruction caused by the Dawes Act. The Indian Reorganization Act (1934), [Wheeler Howard Act] sought to strengthen the tribal basis of Indian life. In 1946 Congress established the Indian Claims Commission, a special court with power to adjudicate land-loss cases only. It functioned until 1978.

By the 1950s there was a return to the Dawes mentality with Federal legislation which mandated Termination for a number of tribes on federal programs, and Relocation programs which provided the financial means for tribal members to move off the reservations into key American cities where they could receive manual arts training and job assistance. Termination was a failure (most tribes have been reinstated) and the relocation programs created Indian ghettos in urban America, ghettos from which the Red Power movement would emerge in the 1960s.

From the late 1960s, American Indian Policy has been labelled one of Self-Determination—a policy of encouraging the tribes to shape their own destinies. Much of these recent developments have been assisted by a more vocal and active Native American community and by a host of Supreme Court cases as well as a number of pieces of federal legislation. It will be interesting to watch this history unfold as the next century approaches.

BIBLIOGRAPHICAL NOTE

No one studying American Indian policy history can ignore the work of Francis Paul Prucha. His many articles and book-length studies, his monumental 2-volume history [The Great Father, 1984], and his bibliographical volumes are required reading for students of this topic.

This bibliographical guide to material in the British Library has been assembled to assist in locating the more important works on this significant topic. It is not comprehensive, but does call attention to the major studies and sources on American Indian policy history. Almost all of the books cited have their own bibliographies which will lead the serious researcher to additional material. A few items are listed which are not in the British Library.

The researcher should note that for the purposes of federal policy a tribe is defined politically, not ethnologically. Thus to be a tribe for the purposes of American Federal Indian Policy, a tribe must be
recognized by the Federal Government--not all Indian tribes are.

In the 1990 U.S. Census (here excluding Alaska) listed 1.9 million Indians in 542 tribes (most of which have less than 1,000 members). But only 488 tribes are federally recognized tribes. Only 265 tribes have federal reservations, ranging from the Navajo tribe of 160,000 members on 15 million acres to tribes of less than 300 members on less than 1000 acres. Today, over half of American Indians live off-reservation, many in large cities (ex: 70,000 in Los Angeles; 38,000 in Tulsa; 23,000 in Phoenix; 19,000 in San Francisco and 11,000 in Chicago). Thus the study of Indian policy must necessarily broaden to include just about all areas of federal programmes. While not specifically focused on in this bibliography, individual state interaction with tribes as well as Indian Tribal history and the issues of tribal sovereignty are important for the larger picture. In 1953 states with significant Indian populations were given the option by Congress of taking responsibility for the tribes in their boundaries. A few decided to do so.

Clearly the history of the interaction of the U.S. Government and Native American is so much more than western movies where Indians attack wagon trains or battle the U.S. Calvary. Its history is an important part of the fabric of American life. The study of Federal Indian Policy is another avenue to the understanding of American attitudes and values. As with many other areas of American history, the British Library has a rich collection of material on this important topic.

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II. REFERENCE WORKS

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C. SOURCE COLLECTIONS


D. ESSAY COLLECTIONS


E. MAPS AND ATLASES

NOTE: [The British Library has an extensive map collection. For an introduction, see The Map Collections of the British Library (February 1993)]


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G. HISTORIES OF THE AMERICAN WEST


H. HISTORIOGRAPHY


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American Indian Culture and Research Journal (Boston Spa)

American Indian Quarterly: A Journal of Anthropology, History and Literature (P. 901/2012)

Ethnohistory (P. 8006 M S)

The Indian Historian (X 0702/46)

MELUS: Journal of the Society for the Study of the Multi-Ethnic Literature of the United States (P. 901/2081)

Wassaja: The Indian Historian (P. 2000/428)

Western Historical Quarterly (P. 701/404)
III. UNITED STATES' GOVERNMENT PUBLICATIONS


Our focus here is on material relating to Federal Policy and Native Americans. The serious researcher should begin with the first two sections (pp. 3-12) of Francis Paul Prucha, A Bibliographical Guide to the History of Indian-White Relations in the United States (Chicago, IL: University of Chicago Press for the Center for the History of the American Indian of the Newberry Library, 1977). (X.800/26562) A very useful reference work prepared by the U.S. Department of the Interior is Biographical and Historical Index of American Indians and Persons Involved in Indian Affairs 8 volumes (Boston, MA: G. K. Hall, 1966). (Cup.24.bb.5) What follows will assist the researcher in accessing this important topic; the British Library does NOT possess all the items listed, but they are included to provide the researcher with more complete references.

A. GENERAL REFERENCE GUIDES

Biographical Directory of the American Congress, 1774-1971 (OPL 328.73)

Official Congressional Directory (OPL 973.0061 & A.S.25)


Index to U.S. Government Periodicals (OPL 973.0043)

The U.S. Government Manual (A.S.985)

B. CONGRESSIONAL PUBLICATIONS

1. Proceedings

Congressional Serial Set (A.S.10, A.S. 10/2, etc.)
Congressional Serial Set Index, 1789-1969 (OPL 973.0043)


2. Debates


Congressional Record (Washington: Government Printing Office, 1874--)

3. Documents and Reports

American State Papers: Documents, Legislative and Executive of the Congress of the United States 38 volumes (Washington: Gales and Seaton, 1832-1861). Indian Affairs are found mainly in Class 2, 2 volumes (Washington, 1832-34). Covers 1789 to 1838.


Serial Set of Congressional Documents [The serial numbers assigned to congressional documents were devised in 1895 by John G. Ames. He assigned them to documents from 1817 (15th Congress).] Especially useful for finding the serial numbers of documents is a checklist of United States Public Documents, 1789-1909; Congressional: To Close of Sixtieth Congress; Departmental: To the End of the Calendar Year 1909 3rd revised and enlarged edition. (Washington: Government Printing Office, 1911). In general, the publications were divided into four classes: Senate Reports, House Reports, Senate Documents, and House Documents. Their organization in the British Library reflects these groupings. An especially valuable guide for students of Indian Affairs, a listing of over 10,000 documents and reports, is Steven L. Johnson, Guide to American Indian Documents in the Congressional Serial Set, 1817-1899 (New York: Clearwater, 1977). (X.800/31886)
C. FEDERAL LAWS AND TREATIES

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2. Indian Laws and Treaties


Indian Treaties and Laws and Regulations relating to Indian Affairs: to which is added an appendix containing the proceedings of the old Congress, and other important State papers, in relation to Indian Affairs... (Washington, 1826). [529 pp.] (A.S.217/9)

Treaties between the United States of America and the Several Indian Tribes, from 1778 to 1837. New Edition (Washington: Langtree and O'Sullivan, 1837). [Compiled under the supervision of the Commissioner of Indian Affairs, 699 pp.](A.S.216/2)


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Annual Reports of the Board of Indian Commissioners to the Secretary of the Interior, 1869- 1932, 63 Volumes (Washington, DC, Government Printing Office, 1890-1933).


E. COURT DECISIONS

1. Supreme Court

[There have been over 500 cases heard by the U.S. Supreme Court dealing with Indian affairs; specific studies and legal texts are noted in the section on Federal Indian Law]
Union List of United States Legal Literature (1967) (OPL Enquiry Desk 340.01671) [This copy is coded to British Library holdings]

United States Reports. [To 1979: (6622.pp.l); after 1979: (SPR Mic A.S.Ju.3.9)

Decisions of the Federal Courts (below Supreme Court):


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F MISCELLANEOUS PUBLICATIONS

1. Territorial Papers


2. Statistics

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APPENDIX A

MAJOR FEDERAL LEGISLATION: NATIVE AMERICANS

ACTS/STATUTES

1786 - Ordinance for the Regulation of Indian Affairs
1787 - Northwest Ordinance
1790 - Trade and Intercourse Act
1796 - Establishment of Government Trading Houses
1802 - Trade & Intercourse Act
1806 - Superintendent of Indian Trade
1816 - Exclusion of British Traders
1818 - Authorization of Indian Agents
1819 - Civilization Fund Act
1822 - Abolition of the Government Trading Houses
1822 - Act for Regulating the Indian Trade
1824 - Creation of a Bureau of Indian Affairs in War Department
1824 - Authorization of Treaties, Trade Regulations
1830 - Indian Removal Act
1834 - Organization of the Department of Indian Affairs
1849 - Transfer of Indian Affairs to the Department of Interior
1867 - Report of the Doolittle Committee
1867 - Creation of the Indian Race Commission
1868 - Report of the Indian Peace Commission
1869 - Authorization of the Board of Indian Commissioners
1870 - Abolition of Treaty Making
1885 - Major Crimes Act
1887 - General Allotment Act (Dawes Act)
1891 - Amendment to the Dawes Act
1898 - Curtis Act
1901 - Citizenship for Indian in the Indian Territory
1906 - Burke Act
1907 - Lacey Act
1921 - Snyder Act [Authorization of Appropriations & Expenditures for Indian Affairs]
1924 - Indian Citizenship Act
1928 - Meriam Report
1934 - Johnson-O'Malley Act
1934 - Wheeler-Howard Act (Indian Reorganization Act)
1935 - Indian Arts and Crafts Board
1946 - Indian Claims Commission Act
1953 - House Concurrent Resolution 108
1953 - Public Law 280
1954 - Relocation of Indians in Urban Areas
1968 - Civil Rights Act of 1968
1970 - President Nixon--Special Message on Indian Affairs
1971 - Alaska Native Claims Settlement Act
1972 - Indian Education Act
1974 - Indian Financing Act
1975 - Establishment of American Indian Policy Review Committee
1975 - Indian Self-Determination & Education Assistance Act
1976 - Indian Crime Act of 1976
1976 - Indian Health Care Improvement Act
1977 - Establishment of Assistance Secretary--Indian Affairs
1978 - American Indian Religious Freedom
1978 - [Guidelines for] Federal Acknowledgement of Indian Tribes
1978 - Tribally Controlled Community College Assistance Act
1978 - Education Amendments Act of 1978: Title XI--Indian Education
1978 - Indian Child Welfare Act
1979 - Archaeological Resources Protection Act
1983 - Indian Land Consolidation Act
1988 - Amendments to the Alaska Native Claims Settlement Act
1988 - Tribally Controlled Schools Act
1988 - Indian Gaming Regulatory Act

**APPENDIX B**

**SELECT UNITED STATES' SUPREME COURT CASES: NATIVE AMERICANS**

1823 - Johnson & Graham's Lessee v. W in. McIntosh
1831 - Cherokee Nation v. Georgia
1832 - Worcester v. Georgia
1870 - Cherokee Tobacco Case
1879 - Standing Bear v. Crook
1882 - McBratney v. U.S.
1883 - Ex Parte Crow Dog
1884 - Elk v. Wilkins
1886 - U.S. v. Kagwa
1899 - Stephens v. Cherokee Nation
1903 - Lone Wolf v. Hitchcock
1908 - Winters v. U.S.
1959 - Williams v. Lee
1959 - Native American Church v. Navajo Tribal Council
1963 - Arizona v. California
1965 - Warren Trading Post v. Arizona State Tax Commission
1965 - Colliflower v. Garland
1968 - Menominee Tribe of Indians v. U.S.
1974 - Morton v. Mancari
1974 - Oneida Indian Nation v. County of Oneida [NY]
1975 - Passamaquoddy Tribe v. Morton
1975 - Antoine v. Washington
1976 - Bryan v. Itasca County [Minnesota]
1977 - Puyallup Tribe, Inc. v. Department of Game
1978 - Oliphant v. Suquamish Indian Tribe
1978 - U.S. v. Wheeler
1978 - Santa Clara Pueblo v. Martinez
1980 - U.S. v. Nation of Indians
1980 - White Mountain Apache Tribe v. Bracker
1982 - Merrion v. Jicarilla Apache Tribe
1983 - New Mexico v. Mescalero Apache Tribe
1984 - U.S. v. Dann
1985 - County of Oneida [NY] v. Oneida Indian Nation
1988 - Lyng v. Northwest Indian Cemetery Protective Association
“Separate but equal” guided most federal policies toward blacks. The Table 1 Major Laws, Federal Policies, and Supreme Court Decisions regarding American Indians, Blacks, and Hispanics, 1787-1980 Event American Indians 1787 U.S. Constitution 1830 Indian Removal Act 1831 Marshall's Supreme Court: Cherokee Nation v. Georgia, Worcester v. Georgia Blacks Mexican Origin Puerto Ricans Cuban Origin Treaty of Guadalupe Hidalgo Dred Scon v. Sanford Emancipation Proclamation Fourteenth Amendment 1871 Last. This would have ended the unique legal status of Indians and made them “just another minority group” in the United States. A number of tribes were terminated under this resolution.