

Commissioner Browning reports in detail on the leasing of Indian lands. The Act of February 28, 1891,²⁴³ authorized the leasing of unallotted or tribal lands, and allotted lands where age or disability of allottee warrants it. By Act of August 15, 1894,²⁴⁴ and later acts these leasing statutes were broadened.

On this point, Commissioner Browning stated:

* * * the indiscriminate leasing of allotments will not be permitted. * * * the indiscriminate leasing of allotments would defeat the very purpose for which they were made. * * *

Commissioner Jones, like his predecessor, reports progress in all fields, follows a statistical pattern of summarizing, and offers accompanying papers in support. The activity of the Bureau of Indian Affairs centered mainly about education; allotment and the problems arising therefrom—leasing, homesteading, surveying; the sale of liquor; railroads; and disturbances on reservations.

E. THE PERIOD FROM 1905 TO 1923

Commissioner Francis E. Leupp, in his first-report in 1905, presents his outlines of an Indian policy as " * * * one of the fruits of my twenty years' study of the Indian face to face: and in his home, as well as of, his past and present environment * * *."²⁴⁷

The Indian, says Commissioner Leupp,

* * * 'will never be judged aright till we learn to measure him by his own standards, as we whites would, wish to be measured if' some more powerful race were to usurp dominion' over us.²⁴⁸

Commissioner Leupp has various recommendations for a new Indian policy—in education, in individualizing Indian land and money, in weaning the Indian from the licensed trader, in making him a part of his community.²⁴⁹

To carry out this policy,

* * * our main hope lies with the youthful generation * * *. The task we must set ourselves is to win over the Indian children by sympathetic, interest and unobtrusive guidance. It is a great mistake to try, as many good persons of bad judgment have tried, to start the little ones in the path of civilization by snapping all the ties of affection between them and their parents, and teaching them to despise the aged and non-progressive members of their families. * * *

²⁴³ Sec. 3, 213 Stat. 794, 795 partly embodied in 23 U. S. C. 397. See Chapter 15, sec. 19, Chapter 11, sec. 6.

²⁴⁴ 28 Stat. 286, 305. See Chapter 15, sec. 19, Chapter 11, secs. 1C and 5.

*Rep. Comm. Ind. Aff., 1895, p. 34.

²⁴⁶ Rep. Comm. Ind., Aff., 1897.

²⁴⁷ Rep. Comm. Ind. Aff., 1905, p. 1. Many of Commissioner Leupp's views on Indian affairs are set forth in *The Indian and His Problem* (1910).

²⁴⁸ *Ibid.*, p. 1. To illustrate his point, Commissioner Leupp goes on to say:

Suppose, a few centuries ago, an absolutely alien people like the Chinese had invaded our shores and driven the white colonists before them to districts more and more isolated, destroyed the industries on which they had always subsisted, and crowned all by disarming them and penning them on various tracts of land where they could be fed and clothed and cared for at no cost to themselves, to what condition would the white Americans of today have been reduced? In spite of their vigorous ancestry they would surely have lapsed into barbarism and become pauperized. No race on earth could overcome, with forces evolved from within themselves, the effect of such treatment. That our red brethren have not been wholly ruined by it is the best proof we could ask of the sturdy traits of character inherent in them. (P. 2.)

²⁴⁹ *Ibid.*, pp. 3-5.

²⁵⁰ *Ibid.*, p. 2.

Manual training is the basis of Commissioner Leupp's educational policy. He would limit the ordinary Indian boy scholastically to enough of the "3 R's" so that

* * * he can read the simple English of the local newspaper, can write a short letter which is intelligible though maybe ill-spelled, and knows enough of figures to discover whether the storekeeper is cheating him. * * *

Of the policy of individualizing the Indian through division of tribal lands and tribal funds, Commissioner Leupp says:

* * * it is our duty to set him upon his feet and sever forever the ties which bind him either to his tribe, in the communal sense, or to the Government. This principle must become operative in respect to both land and money. * * * Thanks to the late Senator Henry L. Dawes of Massachusetts, we have for eighteen years been individualizing the Indian as an owner of real estate by breaking up, one at a time, the reservations set apart for whole tribes and establishing each Indian as a separate landholder on his own account. Thanks to Representative John F. Lacey of Iowa I hope that we shall soon be making the same sort of division of the tribal funds."

In order that the Indian might rapidly become a member of his community instead of a "necessary nuisance," Commissioner Leupp would encourage him to trade in local market towns; he would have Indian money deposited in local banks; he would teach him to shop competitively instead of with the obsolescent licensed trader.

In 1908, commissioner Leupp reports the success of his plan

* * * for systematic cooperation between various departments and bureaus of the Government, so as to get rid of the "wheels within wheels" which are so grave a source of waste in administration.²⁵⁵

The Reclamation Service, Geological Survey, and Forest Service in the Department of the Interior, and the Bureaus of Plant Industry and Animal Industry in the Department of Agriculture cooperated with the Bureau of Indian Affairs on specific projects of common interest.²⁵⁶

In 1911, Commissioner Valentine reports individual Indian money as a source of both good and harm. It had been used for houses, farm repairs, etc., helping to quicken industrial development of the Indians.²⁵⁷ It had also caused traders to inculcate extravagant habits in the possessors of funds, and caused a great increase in indebtedness. He recommends a continuance of the policy of "liberal supervision" over Indian funds by superintendents.²⁵⁸

²⁵¹ *Ibid.*, p. 3. Commissioner Leupp would have a girl trained in the domestic arts necessary for frontier life—cooking, sewing, washing, and ironing (p. 3).

²⁵² *Ibid.*, p. 3.

²⁵³ *Ibid.*, p. 4. Two years later Congress enacted legislation providing for the breaking up of tribal funds. Act of March 2, 1907, 34 Stat. 1221, 25 U. S. C. 119. See Chapter 16, sec. 23B; Chapter 10, sec. 4; Chapter 9, sec. 6.

²⁵⁴ *Ibid.*, p. 4.

²⁵⁵ Rep. Comm. Ind. Aff., 1908, p. 2. See sec. 3, *infra*, for a discussion of the extensive cooperation between bureaus and departments that has been effected.

²⁵⁶ *Ibid.*, pp. 2-9. The joint projects were the result either of direct approach between departments, or specific legislation. *E. g.*, the Act of May 30, 1903, 35 Stat. 558 directed the Secretary of the Interior to cause an examination of the lands on the Port Peck Reservation to be made by Reclamation Service and Geological Survey (p. 3). See sec. 3C, *infra*, and Chapter 12, sec. 7.

²⁵⁷ Reo. Comm. Ind. AL., 1911. p. 21.

²⁵⁸ *Ibid.*, p. 22.

²⁵⁹ *Ibid.*, p. 21.

Various amendments²⁶⁰ to the Allotment Act permitting alienation had been passed, some causing difficulty. The Act of June 25, 1910,²⁶¹ requiring that the Secretary determine the heirs of deceased allottees and issue patents in fee entailed

* * * a vast amount of work; many allotments are now of 20 years' standing: estates are contested: and the questions of law, and particularly of fact, become extremely difficult, largely through difficulty in obtaining Indian testimony of value. As allotments have been made on 55 reservations, and upon the Winnebago Reservation alone—one of the smaller reservations—there are 600 heirship cases, the work to be done under this act will become one of the greater tasks of the office. * * *

The leasing system, in general operation since 1891 " * * * raises some of the gravest questions of policy with which the Indian Office has to deal."²⁶² Commissioner Valentine analyzes the cases where leasing has been of real value to the Indian—where the Indian is already farming as much as his capital and help permit; where the Indian has chosen some other industrial pursuit than farming; where he is ill or otherwise incapacitated.—For the most part, however, " * * * leasing as it has been practiced is * * * a positive detriment to the Indians. * * * a steady rental from his land is one of the strongest incentives not to begin to work."²⁶³

Commissioner Valentine reports the result of investigation into the status of "State" Indians—Indians who have long been more or less independent of the Federal Government.²⁶⁴

* * * It is noteworthy that in many cases these Indians have worked out for themselves, with some assistance from their States, problems which the service has still to meet in other parts of the field.²⁶⁵

Although, by the Act of May 8, 1906,²⁶⁶ the Secretary of the Interior was given the power, before the expiration of the 25-year trust period, to issue a patent in fee "whenever he shall be satisfied that any Indian allottee is competent and capable of managing his or her affairs * * *," a conservative policy was followed.—Each application had to be considered on its merits, and was accompanied by a report of the superintendent. However, even with this conservative policy, during the first 3 years of the law's operation, 63 percent of the patentees disposed of their land and its proceeds.²⁶⁷

Commissioner Valentine, therefore, inaugurated a policy of requiring more rigid proof of competency, and superintendents were required to answer more specific questions.²⁷¹ In his report for 1911, he sums up his policy thus:

* * * I am opposed to granting patents in fee unless circumstances clearly show that a title in fee will be of undoubted advantage to the applicant. * * *

²⁶⁰ See Chapter 5, secs. 11B and 11C. And cf. Rep. Comm. Ind. Aff., 1911, p. 26.

²⁶¹ 36 Stat. 856. See Chapter 5, sec. 11C.

²⁶² Rep. Comm. Ind. Aff., 1911, p. 26.

²⁶³ *Ibid.*, p. 26. See Chapter 11, sec. 5 and Chapter 15, sec. 19.

²⁶⁴ Rep. Comm. Ind. Aff., 1911, pp. 26–27.

²⁶⁵ *Ibid.*, p. 27.

²⁶⁶ *E. g.* the Catawba Indians of South Carolina, over whom the State of South Carolina had assumed sovereign rights without federal objection. It had treated with the Indians since 1763, had granted them a reservation and had attempted to extinguish their title in 1840. The Alabama Indians in Texas lived on land granted to them conditionally by the state about 1850. Rep. Comm. Ind. Aff., 1911, pp. 46, 47.

²⁶⁷ Rep. Comm. Ind. Aff., 1911, p. 46.

²⁶⁸ 34 Stat. 182, 183, generally known as the Burke Act. See Chapter 5, sec. 11B.

²⁶⁹ Schmeckebler, *op. cit.*, pp. 150–151.

²⁷⁰ *Ibid.*, p. 151.

²⁷¹ According to Schmeckebler (*op. cit.*, p. 151), between 1909 and 1912, 3,400 applications for patents were approved, and approximately 2,000 denied.

face of existing evidences of carelessness and incompetence any liberal policy of giving patents in fee would be utterly at cross-purposes with the other efforts of the Government to encourage industry, thrift, and independence.²⁷²

In 1917, under Commissioner Cato Sells,²⁷³ a more drastic policy was inaugurated.

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

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

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

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

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

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

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

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

This is a new and far-reaching declaration of policy. It means the dawn of a new era in Indian administration. It means that the competent Indian will no longer be treated as half ward and half citizen. It means reduced appropriations by the Government and more self-respect and independence for the Indian. It means the ultimate absorption of the Indian race into the body politic of the Nation. It means, in short, the beginning of the end of the Indian problem.²⁷⁴

Competency commissions were set up, and superintendents were requested to furnish—

* * * a list of all Indians of one-half or less Indian blood, who are able-bodied and mentally competent,

²⁷² Rep. Comm. Ind. Aff., 1911, pp. 22–23.

²⁷³ Cato Sells was Commissioner of Indian Affairs for 8 years under President Wilson (from 1913 to 1921), the first Commissioner to hold office for that length of time.

²⁷⁴ Report of the Commissioner of Indian Affairs, 1917, pp. 3–4, declaration of policy of April 17, 1917. (Schmeckebler, *op. cit.*, pp. 152–153.) From 1917 to 1920, 10,936 fee simple patents were issued, as compared with 9,894 from 1906 to 1916. (Schmeckebler, *op. cit.*, p. 164. Also Rep. Comm. Ind. Aff., 1920, p. 8.)

twenty-one years' of age or over, together with a description of land allotted to said Indians, and the number of the allotment. It is intended to issue patents in fee simple to such Indians.²⁷⁵

The question of Indian citizenship became prominent after Indian participation in the World War.²⁷⁶ In reply to critics, Commissioner Sells wrote in 1920:

I have, however, gone further and taken the position that the citizenship of Indians should not be based upon their ownership of lands, tribal or in severalty, in trust or in fee, but upon the fact that they are real Americans, and favorable report has been made on a bill introduced in Congress having for its purpose the conferring of citizenship on all Indians, but retaining control of the estates of incompetents.²⁷⁷

Commissioner Sells adopted the policy with respect to individual Indian money of paying it directly to competent adult Indians without deposit, or having it disbursed in large sums by the superintendents from funds deposited under their supervision.²⁷⁸

In 1921, with a change in administration, the new commissioner²⁷⁹ declared:

This practice, however [of issuing patents in fee to Indians of one-half or less Indian blood without any further proof of competency], has been discontinued, and in all cases involving the issuance of patents to Indians, the practice is now to require a formal application and proof of competency.²⁸⁰

The result of the shift in policy is clear from the following tabulation of patents issued from 1921 to 1926:²⁸¹

Fiscal year :	
1921	1,692
1922	911
1923	625
1924	913
1925	451
1926	322

In his brief report for 1922, Commissioner Burke devotes a considerable portion to education.

In the education of the Indian youth lies the hope of the future generations of the American Indian. In this time, when it is so essential, to practice economy in every possible way, 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.²⁸²

An industrial survey of all the-reservations, based on a house-to-house canvass of Indian families, was inaugurated

* * * to ascertain their condition, needs, and resources, with the view to organizing the work of the reservation

²⁷⁵ Letter of March 7, 1919, to superintendents in Schmeckebier, op. cit., pp. 153-154. This liberal policy of Commissioner Sells under the secretaryship of Franklin K. Lane has resulted in litigation based on forced allotments and sale of land for taxes, which is still one of the chief concerns of the Department of Justice. See Chapter 11.

²⁷⁶ By Act of November 6, 1919, 41 Stat. 350, 8 U. S. C. 3, citizenship had been made available to Indian participants in the World War, honorably discharged, on declaration of courts of competent jurisdiction. See Chapter 8, sec. 2.

²⁷⁷ Rep. Comm. Ind. Aff., 1920, p. 8. By Act of June 2, 1924, c. 233, 43 Stat. 253, 8 U. S. C. 3, 173, such general citizenship was granted. See Chapter 8, sec. 2.

²⁷⁸ Rep. Comm. Ind. Aff., 1920, p. 50.

²⁷⁹ Charles H. Burke became the new Commissioner of Indian Affairs, and served for more than 8 years under 2 Presidents. The reports again become brief summaries as they were at the beginning of the Bureau of Indian Affairs in 1824.

²⁸⁰ Rep. Comm. Ind. Aff., 1921, p. 23.

²⁸¹ Schmeckebier, op. cit., p. 154.

²⁸² Rep. Comm. Ind. Aff., 1922, p. 7.

service so that each family will make the best use of its resources. * * *

The industrial survey was to form the basis of a more comprehensive one for each reservation, embracing the needs-for health, education, housing, sanitation, social welfare on the one hand, and the resources—both tribal and individual on the other. The purpose of such a survey would be "to formulate for each reservation a definite program or policy which may be followed for such term of years as will place the Indians on a self-supporting basis."²⁸⁴

Increasing cooperation with Federal health agencies, as well as with state, local, and voluntary agencies, is noted during Commissioner Burke's administration.²⁸⁵

It is hoped that closer cooperation may be established between States having Indian populations and the Federal Government in dealing with questions of education, health, and law enforcement. Probably States should ultimately assume complete responsibility for the Indians within their borders, but pending that time, there is much to be done by the Federal service.²⁸⁶

F. THE PERIOD FROM 1929 TO 1939

The survey of the social and economic conditions of the Indians, begun at the invitation of the Interior Department in 1926 by the Institute for Government Research,²⁸⁷ was completed in 1928.

The publication of this report helped to inaugurate a new era in the Indian Service. The criticisms and recommendations contained in the report commanded the attention of the Bureau,²⁸⁸ as well as the general public. The report raised serious doubts as to the wisdom of such established Indian policies as that which had developed around the allotment problem. Of the policy of individual allotment, the report declared:

* * * Not accompanied by adequate instruction in the use of property, it has largely failed in the accomplishment of what was expected of it. It has resulted in much loss of land and an enormous increase in the details of administration without a compensating advance in the economic ability of the Indians. The difficult problem of inheritance is one of its results. . . . (P. 41.)

Even more serious doubts were raised as to the efficiency and adequacy of the public services rendered by the Indian Bureau. On the question of health, the survey reported:

The health of the Indians as compared with that of the general population is bad. (P. 3.)

* * * For some years it has been customary to speak of the Indian medical service as being organized for public health work, yet the fundamentals of sound public health work are still lacking. (P. 190.)

²⁸³ *Ibid.*, p. 11.

²⁸⁴ *Ibid.*, p. 11. That program was later followed in the establishment of a unit of the Soil Conservation Service, known as Technical Cooperation, Bureau of Indian Affairs (TC-BIA), in November 1935. The purpose of the TC-BIA is to make such surveys and recommendations for each reservation, in collaboration with the Soil Conservation Service.

²⁸⁵ Rep. Comm. Ind. Aff., 1928, p. 1.

²⁸⁶ *Ibid.*, 1928, p. 7.

²⁸⁷ Meriam, Problem of Indian Administration (1928). In a publication of the American Indian Defense Association (American Indian Life, Bulletin No. 12, June 1928, p. 6) the survey was evaluated.

The report of the Institute for Government Research is the most important single document in Indian Affairs since Helen Hunt Jackson's "The Century of Dishonor" published 45 years ago. It contains three sections which intrinsically are very fine. (Health, Education, and Women and Family and Community Life.) Its 847 pages of text are a result of team-work between ten specialists. The studied moderation of its language; the avoidance of a suggestion even as to where responsibility shall be placed; the omission (save in regard to health and education) of most of the facts which give a quality of sinister deliberateness to the wrongs suffered by Indians; its nearly total avoidance of those skeleton closets, the handling of individual Indian trust moneys and reimbursable indebtedness; these qualities of the report increase its convincingness and usefulness.

²⁸⁸ Rep. Comm. Ind. Aff., 1928, pp. 4-7.

Special hospital equipment, such as X-ray, clinical laboratory, and special treatment facilities is generally lacking. (P. 282.)

No sanatorium in the Indian Service meets the minimum requirements of the American Sanatorium Association. (P. 287.)

The hospitals, sanatoria, and sanatorium schools maintained by the Service, despite a few exceptions, must be generally characterized as lacking in personnel, equipment, management, and design. (P. 9.)

On the subject of education, the survey was scarcely less critical.

The work of the government directed toward the education and advancement of the Indian himself, "as distinguished from the control and conservation of his property, is largely ineffective." (P. 8.)

The survey staff finds itself obliged to say frankly and unequivocally that the provisions for the care of Indian children in boarding schools are grossly inadequate.

(P. 11.)

On the economic problems of the Indians, the survey did much to overthrow the popular impression, based largely on the publicity given to a few "oil" Indians, that the Indians generally occupied a favored economic position:

An overwhelming majority of the Indians are poor, even extremely poor, and they are not adjusted to the economic and social system of the dominant white civilization. (P. 3.)

The prevailing living conditions among the great majority of the Indians are conducive to the development and spread of disease. (P. 3.)

Even under the best conditions it is doubtful whether a well rounded program of economic advancement framed with due consideration of the natural resources of the reservation has anywhere been thoroughly tried but; The Indians often say that programs change with superintendents. Under the poorest administration there is little evidence of anything which could be termed an economic program. (P. 14.)

Of the general social objects of Indian administration, the survey had this to say:

The Indian Service has not appreciated the fundamental importance of family life and community activities in the social and economic development of a people. The tendency has been rather toward weakening Indian family life and community activities than toward strengthening them. (P. 15.)

On the question of law and order, the survey reported:

Most notable is the confusion that exists as to legal jurisdiction over the restricted Indians in such important matters as crimes and misdemeanors and domestic relations. The act of Congress providing for the punishment of eight major crimes applies to the restricted Indians on tribal lands and restricted allotments, and cases of this character come under the unquestioned jurisdiction of the United States courts. Laws respecting the sale of liquor to Indians and some other special matters have been passed, and again jurisdiction is clear: For the great body of other crimes and misdemeanors the situation is highly unsatisfactory. (Pp. 16-17.)

The positive recommendations of the survey, which have greatly influenced the policy of the Indian Bureau since 1923,²⁸⁰ stressed the need for a comprehensive educational program designed to meet the problems of reservation life, the need for sustained and coordinated economic planning and development, the need for a strengthened, more efficient and better paid personnel, the encouragement of Indian use of Indian lands, the strengthening of Indian community life, the clarification of con-

fusions in the Indian law and order situation, and the final settlement of outstanding legal claims.²⁸⁰

Commissioner Rhoads,²⁸¹ like his predecessor, devotes a good part of his reports to education, particularly to federal-state relations.²⁸² In 1929 he reports:

* * * The States and the local public-school districts appear to be generally in sympathy with the plan of education by the States, conditioned, however, upon such financial assistance as they need and as the Federal Government can offer. * * *

In 1931 Commissioner Rhoads reiterates:

* * * Indian education is in no sense solely a Federal problem, but a State and local problem as well. When Congress in 1924 made all Indian citizens it served notice that Indians could no longer be overlooked in the citizenry of any State.²⁸⁴

In 1932, Commissioner Rhoads states:

The most significant feature of the year in Indian education was the determined effort to make the change from boarding school attendance to local day or public school attendance for Indian children.

This was in keeping with the new educational policy of providing the Indian's education " * * * in his own community setting."²⁸⁶

Throughout the reports²⁸⁷ of recent commissioners appears the title "Additional lands for Indian use," one result of the Allotment Act. In some cases tribal funds are used on a reimbursable plan for such purchases.²⁸⁸

Commissioner Collier in his first report in 1933 discusses the four main lines along which his policy is to be directed: Indian lands, Indian education, Indians in Indian Service, and reorganization of the Indian Service.

(1) *Indian lands.*—The allotment system has enormously cut down the Indian landholdings and has rendered many areas, still owned by Indians, practically unavailable for Indian use. The system must be revised both as a matter of law and of practical effect. Allotted lands must be consolidated into tribal or corporate ownership with individual tenure, and new lands must be acquired for the 90,000 Indians who are landless at the present time. A modern system of financial credit must be instituted to enable the Indians to use their own natural resources. And training in the modern techniques of land use must be supplied Indians. The wastage of Indian lands through erosion must be checked.

(2) *Indian education.*—The redistribution of educational opportunity for Indians, out of the concentrated boarding school, reaching the few, and into the day school, reaching the many, must be continued and accelerated. The boarding schools which remain must be specialized on lines of occupational need for children of the older groups, or of the need of some Indian children for institutional care. The day schools must be worked out on lines of community service, reaching the adult as well as the child, and influencing the health, the recreation, and the economic welfare of their local areas.

(3) *Indians in Indian Service.*—The increasing use of Indians in their own official and unofficial service must

²⁸⁰ It will be noted that most of these recommendations had been made from time to time in commissioners' reports.

²⁸¹ Charles J. Rhoads, 1929-33.

²⁸² See, for example, Rep. Comm. Indian AR', for 1929, pp. 4-7; for 1930, pp. 7-13; for 1931, pp. 4-13; for 1932, pp. 4-9.

²⁸³ Rep. Comm. Ind. Aff., 1929, p. 5.

²⁸⁴ *Ibid.* 1931, p. 7.

²⁸⁵ *Ibid.*, 1932, p. 4.

²⁸⁶ *Ibid.*, 1932, p. 5.

²⁸⁷ See e. g., Rep. Comm. Ind. Aff., 1928, p. 23, 1929; p. 10, etc.

²⁸⁸ See e. g., Rep. Comm. Ind. Aff., 1925, p. 23, 1931, pp. 30-31, etc. See Chapter 15, secs. 6, 8.

²⁸⁹ For an account of the effect which this report had on Indian education, for instance, see Chapter 12, sec. 2.

be pressed without wearying. To this end, adjustments of Civil Service arrangements to Indian need must be sought: but in order that standards may not be lowered, opportunities for professional training must be made genuinely accessible to Indians. With respect to unofficial Indian self-service, a steadily widening tribal and local participation by Indians in the management of their own properties and in the administration of their own services must be pursued.

(4) *Reorganization of the Indian Service.*-A decentralizing of administrative routine must be progressively attempted. The special functions of Indian Service must be integrated with one another and with Indian life, in terms of local areas and of local groups of Indians. An enlarged responsibility must be vested in the superintendents of reservations and beyond them, or concurrently, in the Indians themselves. This reorganization is in part dependent on the revision of the land allotment system; and in part it is dependent on the steady development of cooperative relations between the Indian Service as a Federal agency, on the one hand, and the States, counties, school districts, and other local units of government on the other hand.²⁹⁰

Commissioner Collier's major policies found statutory expression in the Wheeler-Howard (Indian Reorganization) Act of June 18, 1934.²⁹⁰ The extent to which they have been embodied in existing law and practice will be one of the principal inquiries of the substantive chapters that follow.

G. HISTORICAL RETROSPECT

Recent trends in our national Indian policy are set forth against the background of history in a statement prepared by the Office of Indian Affairs in 1888, at the request of the Department of State:²⁹¹

* * * The chief issue around which Indian policy revolved prior to 1933 was whether this transfer of ownership [of land and resources] could best be brought about through peaceful treaty, through force of arms, or through the usual legal forms of patent, deed and mortgage. Indian policy and Indian administration, even today when this motive has been reversed, is underlaid with strata of the earlier policies, and can be understood only as these earlier policies are understood.

During the years when the rivalries of England, France and Spain on the continent gave the various Indian tribes positions of strategic power, negotiations with these tribes were carried on by the Colonies and later by the United States on the basis of international treaties. These treaties acknowledge the sovereignty of Indian tribes and implied the acknowledgement of a possessory right in the soil that the tribes occupied. After the cession of Louisiana by France in 1808, the termination of the war with Great Britain in 1814 and the cession of Florida by Spain in 1819, there developed an increasing tendency to deny the sovereignty of Indian tribes and to deal with them by force of arms.²⁹²

The use of military force to control Indians was a dominant factor in United States policy from the 1810's until the 1850's and did not wholly disappear with the last of the Indian wars in the 1890's. This warfare materially handicapped the settlement of the West and proved costly to the Federal Government. It was officially estimated with probable correctness about 1870 that Indian wars had

cost the Government in excess of \$1,000,000 for every dead Indian.²⁹³

While treaties and wars had failed to break down the internal organization and culture of the Indian tribes, the allotment policy brought with it a growing roster of white superintendents, farm agents, teachers, inspectors and missionaries who superseded Indian leaders and to a large extent succeeded in destroying Indian culture. There was developed a system of closed reservations ruled autocratically by the Indian Bureau, which in 1849 had been transferred from the War Department to the Department of the Interior. This autocratic rule was carried out under an ever-increasing number of uncorrelated statutes; a never codified and vast body of administrative regulations; and the personal government of Indian agents who were politically appointed. Misery became extreme upon the reservations, graft became notorious and led to more Indian outbreaks, and as a measure of relief, President Grant, in his first term, placed Christian mission bodies administratively in charge of Indian affairs in numerous parts of the country. This official identification of missionary bodies with Indians gradually was brought to an end in later years, but the political identification of the mission bodies with the Indian Bureau had not been dissolved until very recent times. * * * it was not acknowledged that Indians were entitled to the constitutional guarantees of liberty of conscience.²⁹⁴

The guiding concepts in what may be called the autocratic phase of the Federal policy toward Indians were the destruction of all Indian tribal bonds, the effacing of Indian languages and cultural heritages, the forcing of the Indian as an individual to become identified with and lost in the white life, and the breaking of tribal, communal and even family landholdings into individual allotments of farm, timber and grazing lands.²⁹⁵

In the autocratic phase of Indian policy, a uniform pattern of administration and of program was imposed throughout the Indian country.*

Against the above background the present phase of governmental Indian policy can be better understood. The present policy continues the Federal guardianship over Indians and trusteeship over Indian property while seeking to establish individual and group liberty within the guardianship.²⁹⁷ * * * In the new phase, the stress is against uniformity and in the direction of the maximum of local adaptation, both of method and of goal.²⁹⁸

In all of these phases of the present-day government policy toward Indians, an underlying factor is the realization that the Indian is no longer the "vanishing American," but is actually increasing in numbers. During the past eight years the growth in population as reported by Indian agencies in the United States has been at the rate of over 1 per cent per annum. As with various other peoples during periods of development, the birth rate has been decreasing, but the decline in the Indian death rate has been even greater.

To help Indians in making adjustments to the drastic changes in their way of life made necessary by the overwhelming invasion of the alien white race, and yet to foster the perpetuation of much of their cultural heritage, to train and stimulate them for complete economic self-sufficiency, looking toward a better standard of living for this vital race, are the ultimate goals of the present Administration.

Although only slightly over a third of a million in population in a nation of approximately 130 million people, the Indians of the United States will become an even greater factor in its cultural, social, and economic life.*

²⁹⁰ Annual Report of The Secretary of the Interior. 1933, Rep. Comm. Ind. Aff., pp. 63-69.

²⁹¹ 48 Stat. 984. 25 U. S. C. 461 et seq. See Chapter 4, sec. 16.

²⁹² "A Brief Statement on the Background of Presentday Indian Policy (submitted November 21, 1938).

This statement was for the use of the American delegation at the Eighth International Conference of American States, at Lima, Peru December 9, 1938.

²⁹³ *Ibid.*, pp. 1-2.

²⁹⁴ *Ibid.*, p. 2.

²⁹⁵ *Ibid.*, p. 3.

²⁹⁶ *Ibid.*, pp. 3-4.

²⁹⁷ *Ibid.*, p. 8.

²⁹⁸ *Ibid.*, p. 6.

²⁹⁹ *Ibid.*, p. 9.

³⁰⁰ *Ibid.*, p. 9.

SECTION 3. ADMINISTRATION OF THE INDIAN SERVICE TODAY

A. ORGANIZATION AND ACTIVITIES

The organization and functions of the Office of Indian Affairs today are pictured in the accompanying chart."

The Commissioner of Indian Affairs is, the titular and functioning head of the entire office, both in Washington and in the field. He has directly under him the Assistant Commissioner, who shares the duties of office and acts in his place. Those duties are: General management of and promulgation of policies covering all matters relating to Indians and to the natives of Alaska, including economic development ; organization of tribes ; education ; health activities ; land acquisitions, leases, sales ; forest and grazing management ; construction, maintenance, and operation of irrigation facilities ; construction and upkeep of roads and bridges on Indian reservations ; conservation work ; and relief activities ; and the interpretation of the needs of the Indian Service in legislative and budgetary terms.

²⁰ Chart on Organization and Functions prepared by the Office of Indian Affairs as of May 1946. All the descriptions of duties contained in this section are based on information supplied by the Indian Office. The chart appears also in Blanch, Educational Service for Indians (President's Advisory Committee on Education, Staff Study No. 18, '939), p. 28.

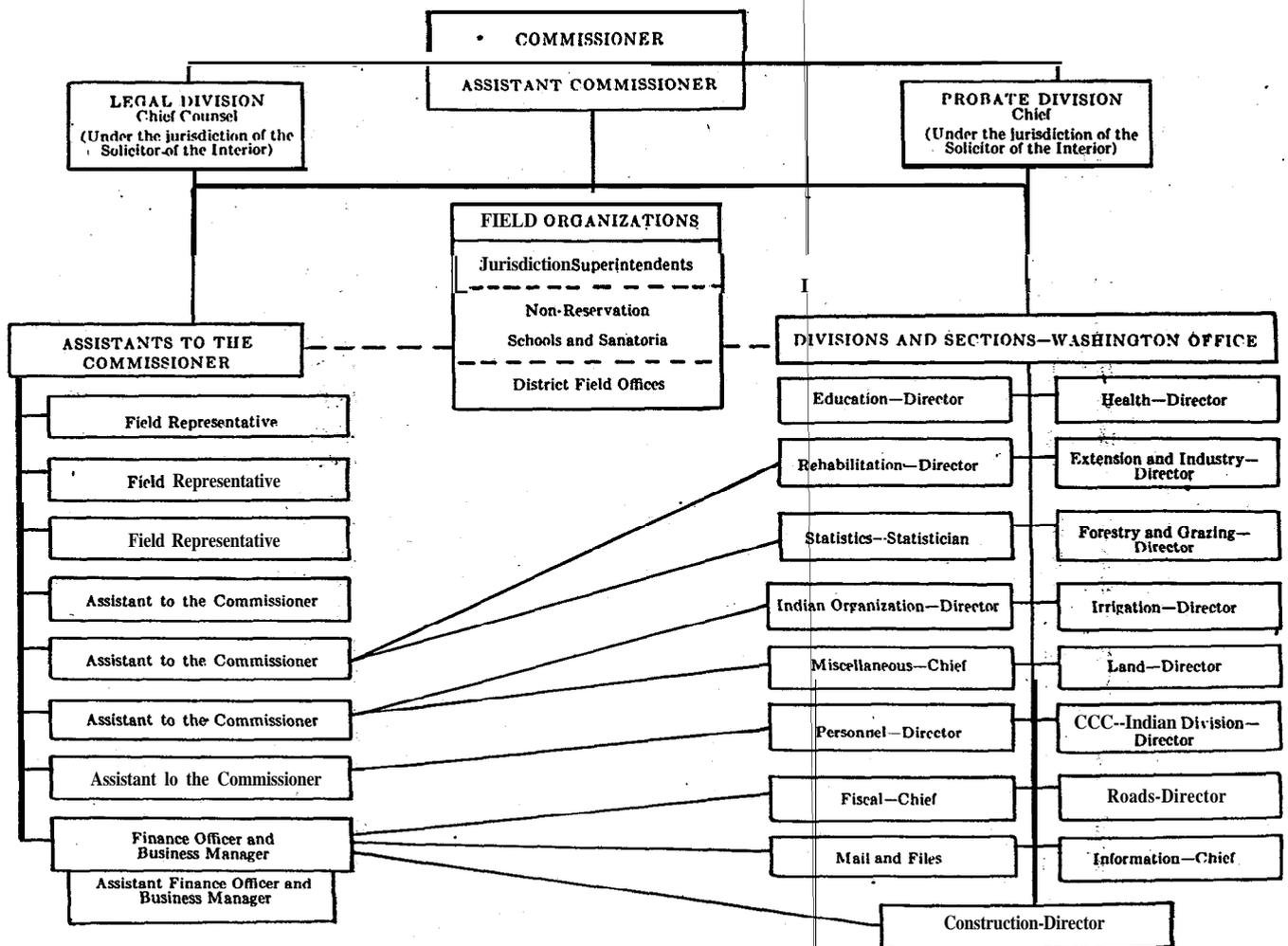
The Probate Division and the Legal Division are jointly under the Office of the Commissioner of Indian Affairs and under the Solicitor for the Department.

The Probate Division ²¹ determines heirs and probates wills of all deceased Indians outside the Five Tribes and Osage Nation ; reviews the work of the Probate Attorneys of the Five Tribes, and the probate recommendations of the Osage Tribal Attorney and Superintendent ; and handles income and inheritance tax matters of Five Tribes.

The Legal Division reviews matters covering legal and other questions affecting the Indians, including reviewed reports on Congressional bills affecting Indians, and passes on a host of other legal matters involving Indians or their property, rights-of-way, condemnation, taxation, irrigation ; determination of heirs, etc.

The Assistants to the Commissioner are the Commissioner's immediate staff officers. They are assigned from time to time numerous duties which devolve upon the Commissioner's Office. In general the Assistants to the Commissioner serve to coordinate the diverse functions of the Service and to stimulate cooperative planning. There are at present three field representatives, four

²¹ See Chapter 11, sec. 6.



ORGANIZATION CHART OF THE OFFICE OF INDIAN AFFAIRS.
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special assistants, and two finance officers. One field representative is in charge of contacts with Indian tribes; the second, in charge of conferences and the relating of educational, health, and other facilities to new projects and management problems; the third, in charge of cooperation with other agencies. Of the four special assistants, one is in charge of land use, consolidation, and heirship problems. A second coordinates projects involving land use and resettlement and works chiefly with the Statistics Section and the Rehabilitation Division. A third handles all matters relating to Indian tribal organization, Indian delegations, law and order, individual Indian moneys, field investigations, and works chiefly with the Indian Organization Division and the Miscellaneous Section. A fourth is in charge of personnel policies and works with the Personnel Division. The finance officer and his assistant are in charge of all fiscal matters for the Office of Indian Affairs—its budget, expenditure of funds under appropriation acts, and legislation.

In the Washington office, organizational functions are broken up into 17 divisions and sections directly under the Office of the Commissioner. At the head of each division is a director. The division directors are responsible to the Commissioner for the general development of policies and programs and the professional direction of activities within the spheres of their several interests. They work through the agency superintendents and in cooperation with each other and the assistants to the Commissioner. Each division director collaborating with the finance officer prepares estimates of needed funds, presents these to the Bureau of the Budget and the committees of Congress. They advise the finance officer in the allotment of funds to agencies. They collaborate with the personnel officer in the preparation of civil-service examinations and in the selection, placement, in-service training, transfer, and separation of personnel.

The Education Division has professional direction of the educational program of Indian schools in the United States and of schools for the natives of Alaska; handles all matters relating to the attendance of Indian children in public schools; administers educational loan funds; coordinates social welfare services.

The Civilian Conservation Corps, Indian Division, administers C. C. C. funds allocated to the Indian Service and gives general direction to work projects, safety measures, and the enrollee program of welfare, instruction, and recreation.

The Irrigation Division has general direction of the construction, operation, and maintenance, including power service of irrigation projects, together with the development of subsistence gardens and domestic and stock water supplies on Indian reservations.

The Roads Division develops and directs policies and programs of road and bridge work on Indian reservations, including construction and maintenance, prepares specifications, and purchases all road machinery, equipment, and trucks.

The Health Division develops policies and programs of health conservation and gives professional supervision to all medical, dental, nursing, and sanitation activities.

The Division of Forestry and Grazing encourages conservation practices, exercises professional direction of the general forestry and grazing program.

The Division of Extension and Industry stimulates and aids the development of agricultural and livestock enterprises and home improvement.

The Land Division is responsible for protection and proper handling of all Indian-owned land, and for acquisition of additional lands needed for tribal, individual, school, hospital, or other purposes; and reviews or initiates legislation pertaining to Indian lands, mineral rights, and tribal claims.

¹¹² See Chapter 12, sec. 3.

The Statistics Section collects, tabulates, and analyses data obtained from the field on population, health, Indian income, land, agricultural, and other activities of Indians needed in dealing with Indian problems and Indian development; and coordinates statistical needs, improves statistical records, and designs forms for use in the field and by divisions of the Washington office.

The Rehabilitation Division applies for allotments of emergency relief funds, and in consultation with other divisions and with field superintendents, allots to agencies these funds for approved rehabilitation projects.

The Indian Organization Division assists Indian tribes and lands to draft constitutions, bylaws, and charters of incorporation under authority of the Act of June 18, 1934,¹¹³ the Oklahoma Indian Welfare Act¹¹⁴ and the Alaska Reorganization Act;¹¹⁵ conducts educational work and supervises elections in connection therewith; assists tribes to make intelligent use of the powers acquired through organization and incorporation; reviews ordinances and resolutions adopted by tribes and presented for departmental review or approval; and determines the tribal status of individual Indians or groups of Indians.

The Miscellaneous Section initiates correspondence on the following: maintenance of law and order, individual Indian money, claims for withdrawal of pro-rata shares and Sioux benefits, traders, dance and ceremonies, Indian monuments, delegations to Washington, and a variety of miscellaneous subjects.

The Personnel Division develops personnel policies, stimulates and coordinates in-service training, discovers employment opportunities in private industry for Indians, and provides records and procedures for the orderly and efficient management of personnel.

The Fiscal Division directs and supervises bookkeeping and accounting matters; examination of accounts and claims; requisition of funds for advance to disbursing agents; investment and deposit of Indian funds; and property accounting.

The Service Section provides services such as a stenographic pool, mail room for handling of incoming and outgoing mails, and organized files of all pertinent correspondence for the orderly and efficient handling of the business of the office.

The Construction Division in cooperation with the superintendents and the several division directors, prepares plans and specifications, estimates costs, and supervises the construction of all Indian Service buildings; gathers engineering data and prepares engineering reports on buildings, utility services, and plant maintenance.

The Information Division advises on articles for publication and public speeches by employees of the Office of Indian Affairs; assembles and interprets to the public pertinent facts concerning Indians and the work of the Indian Office; and has editorial supervision over the office publication "Indians at Work."

Directly under the Office of Indian Affairs, and solely responsible to it are field organizations covering 64 superintendents and 25 independent units—6 sanatoria, 10 schools, and 9 district offices.

The superintendent is responsible directly to the Commissioner of Indian Affairs for the orderly and efficient administration of governmental affairs relating to the Indians of his jurisdiction, including moneys, property, and personnel. He coordinates the work of his staff and utilizes all available technical and professional aid from the Washington and district offices in developing and administering a program that serves the needs of the Indians of his jurisdiction.

¹¹³ See Chapter 4, sec. 16.

¹¹⁴ See Chapter 23, sec. 13.

¹¹⁵ See Chapter 21, sec. 9.

An examination of the regulations under which the Indian Service operates will illustrate its manifold activities. The codified regulations cover Alaska; antiquities; attorneys and agents; Civilian Conservation Corps, Indian Division; credit to Indians; education of Indians; enrollment and reallocation of Indians; forestry, grading; heirs and wills; hospital and medical care of Indians; irrigation projects; law and order; leases, permits, and sale of minerals on restricted Indian lands; moneys, tribal and individual; patents in fee, competency certificates, sales, and reinvestment of proceeds; records (Oklahoma Indian tribes); relief of Indians; rights-of-way; roads and highways; trading with Indians; wild and roadless areas; Wildlife. In addition to the regulations contained in the Code of Federal Regulations there are many special regulations.³¹⁶

B. PERSONNEL

The Act of July 9, 1832,³¹⁷ which provided for the appointment of a Commissioner of Indian Affairs at a salary of \$3,000, made no provision for specific clerical assistance or contingent expenses of the office. The Appropriation Act of June 18, 1834,³¹⁸ provided for the first time, in addition to \$3,900 for salary of the Commissioner of Indian Affairs, \$5,000 for salary of clerks in the office of the Commissioner, \$700 for salary of the messenger, and \$800 for Contingent expenses.³¹⁹

Provisions for various increases, and new offices gradually appeared in the appropriation acts.

The Commissioner of Indian Affairs³²¹ and the Assistant Commissioner³²² are appointed by the President with the consent of the Senate. All other employees³²³ are appointed by the Secretary of the Interior after certification by the Civil Service Commission, with the exception of specified field personnel and certain

³¹⁶ This list is taken from title 25 of the Code of Federal Regulations (1940) pp. 1-3. The major subjects covered by these regulations are discussed in other chapters of this book.

³¹⁷ 4 Stat. 564, 26 U. S. C. 1. R. S. § 462, 25 U. S. C. 2, R. S. § 463.

³¹⁸ 4 Stat. 677.

³¹⁹ This is the budget for the Office of the Commissioner only, and does not include the field. There were separate appropriations for the "Indian Department."

³²⁰ By the Act of June 15, 1880, 21 Stat. 210, the Commissioner's salary was raised to \$3,500 and the budget for the office raised to \$77,950. By the Act of August 5, 1882, 22 Stat. 219, the Commissioner's salary was raised to \$4,000. By the Act of July 31, 1886, 24 Stat. 172, the Office of Assistant Commissioner was created at a salary of \$3,000. The Assistant Commissioner also performed the duties of chief clerk. The Commissioner's salary was raised to \$5,000 by the Act of April 28, 1902, 32 Stat. 120, 158. Under the Appropriation Act of June 18, 1940, 76th Cong., 3d sess., Pub., No. 640, the Commissioner's salary is \$9,000 annually and the Assistant Commissioner's \$7,500. By the Act of February 26, 1907, 34 Stat. 935, 936, the Chief Clerk's Office was separated from that of Assistant Commissioner and by the Act of June 17, 1910, 36 Stat. 468, the Chief Clerk's title was changed to Second Assistant Commissioner. By the Act of May 10, 1916, 39 Stat. 66, 100, the Second Assistant Commissioner's Office was abolished and the title of Chief Clerk reinstated. This act also provided compensation for forester, financial clerk, chiefs of divisions, law clerk, examiner of irrigation accounts, draftsman, etc.

³²¹ Act of July 9, 1832, 4 Stat. 564, 25 U. S. C. 1. R. S. § 462.

³²² Act of July 31, 1886, 24 Stat. 172.

³²³ On June 30, 1926, Schmeckebier reported 5,002 employees in the entire service, 190 in Washington office, with a total salary of \$6,198,313 (Schmeckebier, op. cit., p. 293). There were, according to the 1940 budget, 9,173 employees in the Bureau of Indian Affairs (including emergency and conservation employees), of which 388 were in Washington with a total salary of \$14,781,927. (Figures from Office of Indian Affairs May, 1940.)

³²⁴ The Civil Service Commission has to some extent recognized the specialized problems that exist in the Indian Service, and has held examinations for the purpose of filling specific positions in the Indian Service such as those for teachers and nurses. (Annual Report of the Secretary of the Interior (1937), p. 241; *ibid.* (1936), p. 203.) Annual reports of the Secretary of the Interior comment on the extreme diversity in the types of personnel needed, and on the need for persons with ability to handle human relation problems, in addition to their particular training

administrative offices in the Washington office.³²⁵ The salaries are fixed basically by the Classification Act of March 4, 1923.³²⁶ The extent to which Indians themselves are employed is elsewhere discussed.³²⁷

Up to 1893 officers in immediate control of Indians were known as "agents." They were appointed by the President with the consent of the Senate. To remove this office from politics the Act of March 3, 1893, "authorized the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, to devolve the duties of agent upon the superintendent of the school located at the agency."

With the closing of Government schools many "superintendents" were left without schools. "Agency" has again become the term for units of administration, but officers in charge are still called "superintendents."³²⁸

The superintendent of an agency is a bonded officer, responsible for all expenditures.³²⁹ The superintendent is authorized to acknowledge deeds, administer various paths, take depositions.³³⁰ He instructs new employees in their duties and the statutory limitations or prohibitions.³³¹ He may not serve as a guardian of an Indian under appointment by a local court?

No employee of the United States Government may have any interest or concern in any trade with the Indians, except for and on account of the United States; and any person offending is liable to a penalty of \$5,000 and removal from office.³³² The purchase of articles from Indians for home use by Government employees is not held to constitute trade.³³³

According to Commissioner Collier,

*The major principle of field administration is that the Superintendent of a jurisdiction is the responsible officer in that jurisdiction. He is responsible directly to the Commissioner of Indian Affairs. There is no intervening administrative authority between him and the Commissioner, nor is there any intervening administrative authority between him and the employ- under his jurisdiction. * * **³³⁷

Commissioner Cato Sells expressed the same idea in 1916:

Inspecting officers should impress superintendents with the fact that they are held responsible for every activity

(Annual Report of the Secretary of the Interior (1937), pp. 240-242; Annual Report of the Secretary of the Interior (1935), p. 256.)

The need for such peculiarly equipped employees was voiced by Commissioners for more than 100 years. See sec. 2, *supra*. Also Schmeckebier, *op. cit.*, pp. 296-299.

³²⁵ See Schmeckebier, *op. cit.*, pp. 293, 294, for a list of such exceptions.

³²⁶ 42 Stat. 1488. Amended by the Act of May 28, 1928, 45 Stat. 776 (Welsh Act); Act of July 3, 1930, 46 Stat. 1003 (Brookhart Act); and by Executive Order No. 6746, June 21, 1934.

³²⁷ See Chapter 8, sec. 4B.

³²⁸ Schmeckebier, *op. cit.*, p. 282.

³²⁹ 27 Stat. 612, 614, 25 U. S. C. 66. This provision was carried in later Indian appropriation acts up to March 1, 1907, 34 Stat. 1016, 1020.

³³⁰ Schmeckebier, *op. cit.*, pp. 282-284.

³³¹ Department of the Interior, U. S. Indian Field Service Regulations (1939), Section A—Administration, p. A-8. The superintendent is bonded in such amount as the President or Secretary of the Interior may require.

³³² *Ibid.*, pp. A-11, A-12.

³³³ *Ibid.*, p. A-9.

³³⁴ *Ibid.*, p. A-9. See Chapter 12, sec. 2.

³³⁵ *Ibid.*, p. A-52. Based on R. 8, § 2078 (derived from Act of June 30, 1834, 4 Stat. 735, 738), 25 U. S. C. 68; Act of June 22, 1874, 18 Stat. 146, 177, 25 U. S. C. 87. See letter of Attorney General dated February 15, 1840, holding that an employee of the Indian Service may not accept employment after hours as salaried manager of an Indian community store. And see Memo. Sol. I. D., November 7, 1939, holding Indian Service employee may not lease land from Indian for home site.

³³⁶ *Ibid.*, p. A-52. (Order of Secretary of the Interior, September 30, 1912.) See also Act of June 19, 1939, 53 Stat. 840, 25 U. S. C. (Supp.) 87a.

³³⁷ Office of Indian Affairs, Order No. 481, Field District Plan, June 21, 1937, p. 2.

relating to Indians within their jurisdiction, from "saving the babies" to taking care of old Indians. (Department of Interior, Office of Indian Affairs, "Methods and Suggestions for Inspecting Officers of the United States Indian Service," February 23, 1916, p. 7.)

C. COOPERATION WITH OTHER AGENCIES

Some decentralization of administrative control over Indian life" has been effected in recent years by the distribution of governmental powers among the federal, state, and tribal governments. In earlier decades, cooperation, where it has existed, has been primarily between the Indian Bureau and other federal agencies,³³⁹ not between the Indians and the agencies. In recent years various federal agencies have been in direct contact with the Indians. They include the Soil Conservation Service, the Farm Security Administration, the Social Security Board, the Civilian Conservation Corps,³⁴⁰ the National Youth Administration, the Public Works Administration, and the Works Progress Administration.

The General Land Office assists the Indian Office in the sale of land which the Indian tribes cede to the United States.³⁴¹ It also adjudicates or administers Indian allotments and Indian homesteads,³⁴² and issues allotments on certification by the Commissioner of Indian Affairs,³⁴³ who must also consent to the granting of various licenses by the Federal Power Commission" and other agencies for irrigation, right-of-way, power development, and other land use.

In the field of conservation the Indian Service often unites for common action with one or more state or federal bureaus. The Interdepartmental Rio Grande Board, composed of representatives of the Indian Service, Grazing Service, and the Bureau of Reclamation of the Department of the Interior, and the Soil Conservation Service, the Forest Service, the Farm Security Administration and the Bureau of Agricultural Economics of the Department of Agriculture, seeks to determine how a native rural population of Indians and Spanish Americans can subsist permanently through the utilization of the Rio Grande watershed in central and northern New Mexico.³⁴⁴

A survey and planning unit was created by the Soil Conservation Service to study Indian reservations and prepare plans for proper land use and conservation for the Indian Service.³⁴⁵ This unit (TC-BIA) has supplied a new type of integrated administrative procedure in which two services are functionally integrated, though preserving technical and organizational distinct-

³³⁹ See Chapter 5. See also sec. 2F, *supra*, for a statement of policy regarding decentralization by Commissioner Collier in 1933.

³⁴⁰ E. g., the Bureaus of Plant and Animal Industry of Agriculture and the Reclamation Service, Geological Survey and Forest Service of Interior had cooperated with the Indian Bureau under Commissioner Leupp in 1908. (See sec. 2 *supra*. Also see Rep. Comm. Ind. AU: 1908, pp. 2-9.)

³⁴¹ The Indian Office has a special division devoted to the C. C. C. See sec. 3A *supra*.

³⁴² Conover, *The General Land Office (1923)*, p. 76.

³⁴³ *Ibid.*, p. 68.

³⁴⁴ *Ibid.*, pp. 61-62.

³⁴⁵ Since the primary responsibility for administering an Indian reservation is in the Commissioner of Indian Affairs and the Secretary of the Interior, it has been urged that the Federal Power Commission must decline to issue a permit if the Secretary believes that a proposed power development would be inconsistent with the purposes of the reservation (Letter of Assistant Commissioner of Indian Affairs to Chairman, Federal Power Commission, February 19, 1935.)

³⁴⁶ National Resources Planning Board, General Land Office, and Reconstruction Finance Corporation are consulting members. (Annual Report of the Secretary of the Interior (1939) p. 64.)

³⁴⁷ Annual Report of the Secretary of the Interior (1938), p. 253.

³⁴⁸ Annual Report of the Secretary of the Interior (1936), p. 188. The unit is commonly designated as TC-BIA, Technical Cooperation, Bureau of Indian Affairs.

ions.³⁴⁸ The TC-BIA works with and through the Indian superintendents, their local staffs, and Indian governing bodies. They are consulted in its surveys, they comment on its findings, and they are expected to carry out its program.³⁴⁹

Section 4 of the Act of March 10, 1934,³⁵⁰ provides:

The Office of Indian Affairs, the Bureau of Fisheries, and the Bureau of Biological Survey are authorized, jointly, to prepare plans for the better protection of the wild-life resources, including fish, migratory waterfowl and upland game birds, game animals and fur-bearing animals, upon all the Indian reservations and unallotted Indian lands coming under the supervision of the Federal Government.

It also empowers the Secretary of the Interior to promulgate such plans and to make rules for their enforcement.

Because there is danger of depletion of fish and animals, particularly in the case of spawning salmon, where fox or mink farmers may exploit small local runs, the Office cooperates with the Alaska Game Commission, and the Division of Alaskan Fisheries, Bureau of Fisheries, in settling problems affecting the rights of Indians.

An interesting cooperative enterprise is the joint operation by the Indian Service and the Bureau of Animal Industry of a sheep genetics laboratory at Fort Wingate, New Mexico."

The Indian Service has always cooperated with the Department of Justice in enforcing prohibition laws and suppressing liquor traffic with the Indians, and generally in litigation affecting Indians.

Other cooperating agencies³⁵¹ include the Extension Service of the Department of Agriculture, the Bureaus of Mines, Standards, Animal Industry, and Plant Industry, the Public Health Service,³⁵² the Children's Bureau of the Department of Labor, state agricultural colleges, and education and welfare bureaus of various states.³⁵³

Mr. Joseph C. McCaskill, one of Commissioner Collier's four assistants, has summed up the recent trend in Indian administration:

Thus we see the Indian Office divesting its authority into three directions: first among other agencies of the Federal Government which have specialized services to render; second among the local state and county governments, which are much more closely associated with the problems in some areas than Washington can be; and finally among the tribal governments which have organized governing bodies, and which expect eventually to take over and manage all of the affairs of Indians. Perhaps thus, but not at once, it may be found possible to cease special treatment, special protective and beneficial legislation for the Indians, and they shall become self-supporting, self-managing, and self-directing communities within our national citizenry. (P. 76.)³⁵⁴

³⁴⁹ Annual Report of the Secretary of the Interior (1936), p. 188.

³⁵⁰ Indian Office Order 483, United States Indian Field Service, Rules and Regulations (1939), section A-Administration, pp. A-5, A-6.

³⁵¹ 48 Stat. 401, 402.

³⁵² See Annual Report of the Secretary of the Interior (1938), p. 253.

³⁵³ Annual Report of the Secretary of the Interior (1936), pp. 169-172, 180-183.

³⁵⁴ The United States Public Health Service, since 1926, has detailed personnel to the Indian Service, for health and medical work on reservations. *Ibid.*, p. 179.

³⁵⁵ Under the Johnson-O'Malley Act of April 16, 1934, 48 Stat. 596, amended by Act of June 4, 1936, 49 Stat. 1453, state educational and health services were made available to certain Indian tribes by contract between the State and the Federal Government. As of 1939, California, Washington, and Minnesota have contracted for the education of Indian children, Wisconsin for child-welfare services, and Arizona for limited educational services. (Annual Report of the Secretary of Interior (1939), p. 64.) See Chapter 12, sec. 1.

³⁵⁶ Joseph C. McCaskill, *The Cessation of Monopolistic Control of Indians by the Indian Office, in Indians of the United States, April 1940*, pp. 69-76. This paper was prepared for the First Inter-American Conference on Indian Life, held at Patzcuaro, Mexico, in April 1940.