

**Dual Citizenship and the Struggle for American Indian Voting
Rights in the Southwest in the 1940s**

by

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For presentation at the Western Social Science Association Meeting, 19-22 April 2006. Please do not quote from paper without permission of the author.

In 2005, the National Congress of American Indians (NCAI) announced that it had completed planning for its “Native Vote 2006 Campaign.” The stated goal of this campaign of the NCAI – a national advocacy organization that represents 250 American Indian tribes - is to encourage Native Americans to vote in elections in order to protect distinct Native interests. In particular, the NCAI declared that Indian peoples must “ensure that Natives’ right to vote is never threatened again.” The statement highlights the fact that numerous state laws openly denied Indians the right to vote even after obtaining United States citizenship. The NCAI played a role in the abolition of at least some of those laws and continues to play a role in the ongoing struggle to insure that Indian voting rights in the twenty-first century are protected.ⁱ

There is an irony in the NCAI’s efforts to use mainstream tactics – voting – to protect interests stemming from the unique status of indigenous peoples in America. Indians have historically been politically and culturally different from the rest of mainstream American society and many have sought to preserve that distinction, as evidenced by widespread Native resistance (or at least reluctance) to the extension of United States citizenship – generally a prerequisite for voting rights - to Indians. Legal scholar Robert B. Porter (Seneca) has argued that Indian voting and other forms of participation in the mainstream political system erode Native nations’ distinct political status and rights; thus, tribal citizenship and United States citizenship are in conflict.ⁱⁱ

The founders and early leaders of the NCAI offered a different conception. To them, part of what made Indians distinct was their dual status as citizens of their nations **and** as citizens of the United States. The organization’s leaders held that Indians were entitled to rights stemming from both, and that defending both sets of rights would help thwart assimilationist efforts to eradicate tribal societies that were picking up steam in the 1940s. This paper explores the early NCAI leaders’ conception of Native Americans as dual-citizens and how they sought to implement that conception in the area of voting rights in the

1940s. The paper begins with a brief summary of the complicated legal and political status of Indian tribes in the United States, and how government policies have both upheld and undercut that status over time. Attention is given to the fact the Indian Citizenship Act of 1924 recognized Indians as possessing a dual-citizenship (tribal and United States). Despite or because of that, many states denied that such citizenship enfranchised Indians. Then, the founding of the NCAI is discussed as an effort – inspired by World War II and pre- and post-war government policies - to preserve Indian distinctiveness while protecting Indians’ rights as United States citizens. To achieve its ends, the NCAI became involved in two court cases designed to challenge Arizona and New Mexico’s denial of voting rights to Indians. The cases helped to enfranchise Southwestern Indians, with the support of the United States, thereby affirming their rights as United States citizens; but, ironically, did so in a way that also affirmed Indians’ rights and status as separate and distinct nations.

In 2002, political scientist David Wilkins (Lumbee) wrote that “Indian Peoples Are Nations, Not Minorities.” As he explained, the “situation of ... indigenous polities in North America is and always has been distinctive” in part because Native Americans are part of politically sovereign and culturally distinct nations with ties to a particular territory and with a unique legal status.ⁱⁱⁱ One affirmation of the existence of tribal sovereignty came in 1832, with the Supreme Court ruling in *Worcester v. Georgia*. In that case, Chief Justice John Marshall concluded that United States classified Indians as “distinct political communities, having territorial boundaries within which their authority is exclusive and having a right to all the lands within those boundaries which is not only acknowledged, but guaranteed, by the United States.”^{iv}

Further affirmation of tribal sovereignty and the distinctive status of Indian peoples comes from treaties and agreements entered into between the United States and indigenous nations. Treaties are by definition between separate sovereign nations, thus affirming tribal rights of self-government. Treaties and agreements also recognize and reserve certain rights

to the signatory tribes (such as title to certain lands, hunting and fishing off-reservation without being subject to state jurisdiction, and the like).^v

A critical component of indigenous peoples' unique legal status is the "trust doctrine." The basic premise of the trust doctrine was that the creation of the United States was predicated on the cession of lands (voluntarily or not) by Indian tribes. In exchange, the United States assumed certain moral and legal responsibilities to insure the well-being of Native peoples. A key legal foundation of the trust doctrine is *Cherokee Nation v. Georgia*, an 1831 case in which the Supreme Court concluded that Indian tribes were not foreign nations but rather "domestic dependent nations." The relationship between Native nations and the United States "resembles that of a ward to his guardian" in that the former depended on the latter for protection and various needs. Among other provisions, the doctrine places Indian lands in a federal trust, requires the United States to safeguard Indian sovereignty, and involves a legal or moral obligation to provide certain services (such as health care and education) to the tribes. Such services were not charity or "social welfare" per se, but rather constituted payment to the tribes for ceding lands to the United States. Because of the trust status of tribal lands, state governments generally had no taxation or regulatory authority over such lands (some exceptions exist, particularly in some eastern states and in cases where the federal government granted some jurisdiction to states).^{vi}

However, federal policymakers and their agents did not always respect the rights of Indian peoples. The national government, through the Bureau of Indian Affairs (BIA) and other agencies, all too often used the trust doctrine to rationalize paternalistic and/or exploitive policies that undercut Indian sovereignty and distinctiveness. Such policies sought to strip tribes of their lands, their rights, and their political and cultural identity. Such policies included the allotment of reservation lands, the sale of reservation lands to non-Indians, bans on Native religions and cultural practices, and the placement of Native children in boarding schools. Such policies contributed to widespread poverty among Indian nations and left many boarding school graduates in a cultural limbo—neither

accepted by their tribes nor by mainstream society. The Supreme Court further eroded tribal sovereignty in *Lone Wolf v. Hitchcock* (1903) by ruling that the federal government possessed plenary (that is, complete) power over tribes and thus Congress could unilaterally abrogate treaty provisions.^{vii}

Another mechanism supported by the advocates of Native Americans' assimilation has been the extension of United States citizenship.^{viii} Such citizenship did not come to Native Americans through the Fourteenth Amendment, since Congress specifically declared that the Amendment did not apply to tribal peoples.^{ix} Instead, naturalization had been granted to various Indian individuals and groups haphazardly over the course of the nineteenth and early twentieth centuries, through various treaties and statutes such as the Allotment Act of 1887. Eventually, the Indian Citizenship Act of 1924 naturalized the roughly one-third of the Indian population in the United States that already had not been granted citizenship by some other means.^x While a few Native Americans favored the granting of citizenship, the overwhelming sentiment was that the act constituted a threat to Native sovereignty and nationhood. The Iroquois Nations of New York – Seneca, Cayuga, Onondaga, Oneida, Mohawk, Tuscarora - rejected the law, arguing that it would “qualify our standing as Iroquois” and “inevitably lead to the termination of our Treaty relationships.” For those reasons, legal scholar Robert B. Porter (Seneca) described the 1924 act as “genocidal.”^{xi}

The act, however, did not embody a wholesale integration of Indians into the American body politic. It stated

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all noncitizen Indians born within the territorial limits of the United States be, and they are hereby, declared to be citizens of the United States: Provided, That the granting of such citizenship shall

not in any manner impair or otherwise affect the right of any Indian to tribal or other property.^{xii}

In the words of scholar Kevin Bruyneel, the act “affirmed dual citizenship status as well as a citizen-ward status.” Why did Congress not simply terminate Indians’ tribal status, given the plenary power it supposedly had over Native Americans? Because by the early twentieth century, according to historian Fred Hoxie, a growing number of non-Indians had become increasingly skeptical that Indians had the capacity to fully assimilate into American society. Thus, Congress concluded that Indians deserved “partial citizenship,” one that allowed for the partial integration into the mainstream American polity, the continuation of paternalistic federal control over Indians, and for the maintenance of tribal citizenship.^{xiii} Perhaps the clearest evidence that Congress only intended to extend partial citizenship is that the act’s sponsor, Congressman Homer P. Snyder, stated that he did not intend that the law would “have any effect upon the suffrage qualifications [of Indians] in any State.” Given that several states denied suffrage to all or at least some indigenous persons at that time (see below), Snyder’s statement is telling.^{xiv}

Citizenship was and is commonly associated with the right to vote. In practice, however, for Indians (and others), that has not always been the case. In *Elk v. Wilkins* (1884), the Supreme Court denied that John Elk had the right to vote in Nebraska elections, even though he had separated himself from his tribe (the Omaha) and had integrated himself into Nebraska society. (Under Nebraska law at that time, a demonstrated intention to become a state citizen was sufficient to allow an individual the right to vote, assuming other qualifications were met.) As late as 1937, thirteen years after the Indian Citizenship Act, the states of Arizona, Colorado, Idaho, New Mexico, North Carolina, Utah, and Washington openly denied the franchise to most or all Indians. Some state and local

officials declared Indian ineligible to vote because they were under federal “guardianship.” Others argued that Indians living on reservations were not residents of a state or were not subject to state laws and taxes; either way, opponents said, they should not be able vote. Some anti-suffragists said Indian voting would allow for Native Americans to “take over” local and county politics in areas with relatively large Indian populations. (Some Indians feared that voting would result in their lands being taxed, although that view may have been encouraged by those opposed to Native American voting.)^{xv}

Numerous states continued to disenfranchise Indians while the rise of the “Indian New Deal” policies and programs of the 1930s challenged, at least somewhat, the thrust of pro-assimilation policies by ending allotment and restoring at least some political self-determination and economic opportunity to Native peoples through the Indian Reorganization Act of 1934.^{xvi} The results of the Indian New Deal, however, often fell far short of expectations; tribal self-government remained limited, and poverty widespread, for example. As a result of that and previously harmful policies, a growing number of non-Indians and some Native Americans concluded that continued federal supervision of Indian affairs meant continued poverty and segregation. Lessening or abolishing such jurisdiction would be, some believed, the first step on the path to greater self-determination and economic opportunity.^{xvii} By 1943, for example, Senate Report 310 proposed abandoning the Indian New Deal, abolishing the trust status of tribal lands, and granting states jurisdiction over such lands.^{xviii}

Partly in response to such efforts to do away with the Indian New Deal and the trust doctrine, roughly eighty Native Americans gathered in Denver, Colorado in November 1944 to create a new American Indian organization--the National Congress of American Indians (NCAI). The Denver meeting, it should be noted, drew both supporters and opponents of federal trusteeship and the Indian New Deal. The organization’s founders included a sizable

number of Native Americans who worked for the BIA under John Collier, the Commissioner of Indian Affairs (head of the BIA) from 1933-1945 and the architect of the Indian New Deal. The participants, especially D'Arcy McNickle (Flathead), favored creating a national organization to provide Indians with a needed political voice. In addition, Collier helped create the group because he hoped it would lobby on behalf of his policies in the face of growing Congressional opposition. After a series of regional meetings, eighty Indians from fifty tribes held a convention in Denver, Colorado in November 1944 to officially charter the NCAI.^{xix}

NCAI leaders affirmed that they viewed Native Americans as distinct from the rest of United States society and pledged to preserve that distinctiveness. Ben Dwight (Choctaw), who gave the keynote address at the Denver convention, argued that the issues facing Native Americans' differed from those of other groups.^{xx} Jesse Rowledge (Cheyenne-Arapaho), a delegate to the Denver convention, favored maintaining his tribe's distinctive legal status and relationship with the federal government.^{xxi} The NCAI constitution pledged "to preserve Indian cultural values" and to protect "rights under Indian treaties or agreements with the United States."^{xxii}

At the same time, NCAI's leaders in 1944 and later in the decade stated that they were committed to securing and protecting "the rights and benefits to which we are entitled under the laws of the United States" and "... the Full Promise of Citizenship."^{xxiii} A clear illustration of this was the NCAI's position that state laws denying Native Americans the franchise violated the principles of democracy and the Fifteenth Amendment. The participants at the 1944 Denver meeting voted unanimously to make protecting Native voting rights one of the organization's goals.^{xxiv} Significantly, Dr. Archie Phinney (Nez Perce) – a Ph.D. in anthropology, participant at the 1944 meeting, and BIA official - saw no contradiction between U.S. citizenship and Native Americans' unique legal status, and he maintained that the NCAI's purpose should be to fight for the rights of Indians under both. Helen L. Peterson (Oglala) - who served as NCAI's Executive Director from 1953-1961 –

later echoed Phinney's conception of Indians as dual citizens, arguing that such a status was rooted in federal law.^{xxv} Hence, they saw no contradiction between demanding Indian voting rights and rights under the trust doctrine and tribal sovereignty.

The founders of the NCAI created their organization at a "critical moment" in the history of the United States.^{xxvi} World War II would come to its official end less than a year after the organization's founding, and the Cold War would soon come to dominate United States foreign policy and international relations. Both wars created particular problems for the NCAI by fueling renewed demands for the assimilation of Indian peoples. Indians participated heavily in the war effort – through military service, purchase of war bonds, and the life. According to historian Paul C. Rosier, some "non-Indians viewed Native Americans' efforts in the war as testimony to their interest in leaving the reservation and joining the American mainstream." To a number of critics of Indian policy, the Indian reservations seemed akin to the concentration camps of Nazi-occupied Europe and to the communism that Americans had committed themselves to fighting during the Cold War. In addition, a desire among some conservatives for limiting government; frustration with the persistence of Indian poverty despite New Deal era economic development programs; the mainstream culture's emphasis on individual rights and national unity in the face of fascist and communist threats; and the religious ideologies of some members of Congress combined to create the "termination policy." Termination called for abolition of the trust relationship and assimilation American Indians into "mainstream" society. It was a renewed effort to eradicate tribal distinctiveness, and would be the cornerstone of Indian policy in the administrations of Harry S Truman and Dwight D. Eisenhower.^{xxvii}

At the same time, World War II and the Cold War fostered an environment that opened up opportunities for the advocates of federal trusteeship and tribal sovereignty in the NCAI. Waging these wars required the economic, social, and military mobilization of the whole United States population—including American Indians. Winning the Cold War also required winning the hearts and minds of peoples throughout the world, and that would be

difficult if the mistreatment of Native Americans continued; the Soviets would be certain to make such mistreatment known to the peoples of Latin America, Africa, and Asia.^{xxviii}

Native American leaders understood the opportunities to influence government policy presented by World War II and the Cold War. Phinney told fellow NCAI members that World War II (and he could have said the Cold War as well) had undercut racism and colonialism worldwide while increasing national governments' responsibility for the welfare of their people around the world. The situation gave Indians leverage to shape government policies, since the United States was vulnerable to world opinion regarding its treatment of indigenous peoples and people of color. Phinney's emphasis on expanded federal responsibility was consistent with the maintenance of the federal-Indian trust relationship.^{xxix}

The influence of World War II and the Cold War shaped the NCAI's campaign in the late 1940s to end restrictions on Native American voting in Arizona and New Mexico. The former denied Indians suffrage based on a 1928 state court decision (*Porter v. Hall*) that misinterpreted *Cherokee Nation v. Georgia* and the trust doctrine generally to mean that Native Americans were under "guardianship." Historian Daniel McCool points out that Arizona interpreted the ruling to mean that all Indians, even those who lived off-reservation and had terminated their tribal ties, were "under guardianship" and thus ineligible to vote. As for New Mexico, it denied voting rights to "Indians not taxed." The phrase generally referred to Indians who continued to live as part of tribal societies but also to the fact that reservation lands were not taxable by the state. Although several states had, as late as 1940 denied voting rights to "Indians not taxed," New Mexico stood out as the one of the only states to continue the practice in 1948. Author Joe S. Sando (Jemez Pueblo) argues that the

state's persistence stemmed from the belief of those in power that enfranchising Indians would change the outcome of elections in favor of opposition candidates.^{xxx}

The NCAI sponsored legal research that highlighted the flawed basis for the disenfranchisement. For example, in New Mexico, Native Americans' trust land enjoyed an exemption from taxation, but Native Americans paid income taxes, sales taxes, and many other taxes. In Arizona, Native American trust lands were under the "guardianship" of the federal government as part of the trust relationship, but the Indians themselves were not. Additionally, as the Truman administration's Committee on Civil Rights noted, New Mexico did not deny suffrage to non-Indians who owned property that was not subject to state taxation.^{xxxi}

The NCAI took what its attorney, James E. Curry, called a "two strings in our bow" strategy to winning suffrage for Indians in Arizona in 1948. The first string: the NCAI assisted a pair of Mohave-Apaches with a suit - *Harrison v. Laveen* - they had filed in state court. The NCAI provided an amicus curiae brief in support of the case and arranged for Curry to represent the Mohave-Apaches. Concerned that the state court would rule against the Indians, the NCAI's second bowstring was a suit filed against Arizona in federal court on behalf of a group of Apaches. The United States filed an amicus curae brief "disclaiming any intention to treat the plaintiffs as persons under guardianship." In its decision, the Arizona Supreme Court acknowledged that Indians "occupy a peculiar and unique relationship to the federal government." Yet, the court also pointed out that federal law recognized that unique relationship was not changed by the extension of United State citizenship to Indians, and that Indians from Arizona served on juries, fought in World War II, were subject to the draft, and treated by the law in many respects in a manner similar to

non-Indian citizens. Thus, Indians were not “under guardianship” as *Porter* claimed, and thus they could not be denied the right to vote. Curry hailed the decision as a “very strong opinion supporting the right of the Indians to vote.”^{xxxii} He might also have noted that it endorsed the NCAI’s concept of Indians as dual citizenship.

Within about a month after the *Harrison* ruling, the NCAI helped sue New Mexico in federal court over its policy of disenfranchising “Indians not taxed.” The plaintiff was Miguel H. Trujillo, a World War II veteran and citizen of the Isleta Pueblo.^{xxxiii} A special court consisting of three judges heard the case and ruled in Trujillo’s favor. Reflecting the importance of existing legal rights and the impact of World War II and the Cold War, the judges stated that they were “unable to escape the conclusion that under the Fourteenth and Fifteenth Amendments” New Mexico had engaged in “discrimination on the ground of race.” Furthermore,

It perhaps is not entirely pertinent to the issue, but we know how these New Mexico Pueblo Indians and non-Pueblo Indians in the states have responded to the need of the country in time of war, in a patriotic whole-hearted way, both in furnishing manpower to the military forces and in the purchase of war bonds and patriotic contributions of that character.... Why should an Indian who answers his country’s call, like those Indians have, be deprived of the right to vote because he appears to be favored a requirement of the national government? That is, certain property shall be exempted from taxation.^{xxxiv}

In other words, as in *Harrison*, the judges in *Trujillo* affirmed the dual status of Native Americans: they were American citizens and tribal citizens.

The victories of 1948 resulted from several sources and have important implications. They illustrated how World War II and the Cold War had changed American politics. As mentioned above, discriminatory legislation had increasingly come to be seen as an embarrassment to the United States and a hindrance to effectively fighting the Cold War. In addition, the Truman Administration's Committee on Civil Rights noted that "Protests against these legal bans on Indian suffrage in the Southwest have gained force with the return of Indian veterans to those states."^{xxxv} Both Frank Harrison and Miguel Trujillo were World War II veterans. The Committee's public report strongly condemned Arizona and New Mexico's denial of suffrage to Indians – a fact specifically mentioned by the judges in their ruling in *Harrison*.^{xxxvi}

The stance of the Truman administration illustrates that another reason for the success of the voting rights suits – aside, of course, from the integral role of NCAI and the Indian plaintiffs - was the support of the federal government. In 1938 and 1940, during the Indian New Deal era, the Solicitor's Office of the Department of the Interior issued legal opinions that challenged the basis on which states like New Mexico and Arizona disenfranchised Indians. The reasoning of some of those opinions seems similar to that of the judges in *Trujillo v. Garley*.^{xxxvii}

As mentioned above, the Truman administration also supported extending voting rights to Native Americans. Undoubtedly, the administration's position reflected the generally pro-assimilation bent of its Indian policies. Scholars have tended, however, to see the 1940s as a transition period away from the Indian New Deal and toward termination, as evidenced by Senate Report 310 and a growing number of bills of Congress calling for the abrogation of the trust relationship. The transition was not truly complete until bureaucrat

Dillon S. Myer became Commissioner of Indian Affairs in 1950. After all, Truman's Committee on Civil Rights concluded in 1947 that Indians were United States citizens and entitled to the "civil rights guaranteed to all citizens," but that they also "retained their tribal membership, as well as their wardship [trustee] status." In addition, Truman vetoed a pro-termination bill in 1949 because it "violated ... 'one of the fundamental principles of Indian law ... namely, the principle of respect for tribal self-determination.'"^{xxxviii}

The rulings did not mean the full enfranchisement of Indian peoples. For example, New Mexican opponents of Indian voting persisted in their attempts to keep Native Americans away from the polls through new legislation and lawsuits into the 1960s.^{xxxix} Utah continued to disenfranchise Indians until 1957.^{xl} Several states in the late twentieth and early twenty-first centuries, including Arizona and Montana, have sought to draw voting districts in such a way as to dilute Indian voting strength, and many of these schemes have been successfully challenged.^{xli}

It does appear, however, that the Southwestern voting rights cases helped lead to the enfranchisement of Indians elsewhere. In 1950, Idaho revised its constitution to remove a stipulation that "Indians not taxed" be denied the right to vote.^{xlii} The standard text on the history of the Idaho Constitution does not state why lawmakers and voters enfranchised Indians at that time. However, given that Idaho used the same rationale as New Mexico to deny suffrage to Indians, and given that the federal courts had struck down that rationale as a violation of the United States Constitution, it seems reasonable to conclude that the case brought by Trujillo and the NCAI was a key factor in the thinking of Idaho politicians.

Most significantly, the NCAI helped define and reaffirm the dual status and rights of indigenous peoples in the United States after World War II. Indian peoples were both

citizens of their nations and citizens of the United States. As such, they had rights derived from both statuses, even though Indians had not generally favored being made United States citizens. That dual status had been recognized by the Indian Citizenship Act of 1924. When faced with a terminationist agenda that threatened to eradicate Indians' unique legal status, the NCAI's leaders fought back by asserting Native Americans' dual citizenship status and demanding that the rights inherent in such a status be recognized. In the organization's struggle to protect Indian voting rights, the NCAI won court rulings that affirmed the dual status of Indian peoples and thereby challenged the growing push for the eradication of tribal citizenship by, ironically, asserting Indians' rights as United States citizens.

ⁱ NCAI, "Native Vote 2006," <http://www.nativevote.org/>; NCAI, "History," http://www.ncai.org/About_Us.8.0.html.

In regard to recent concerns about Native voting rights, see Danna R. Jackson, "Eighty Years of Indian Voting: A Call to Protect Indian Voting Rights," *Montana Law Review*, 65 (Summer 2004), 281-286; Mary Clare Jalonick, "Native Americans Still Face Voting Obstacles," *Aberdeen News*, 25 March 2006, <http://www.aberdeennews.com/mld/aberdeennews/news/14184472.htm>; Jennifer Robinson, "American Indian Voting Rights Act Litigation," *Indigenous Policy*, 14:2 (Fall 2003), <http://www.indigenouspolicy.org/xiv-2/xiv-2-fall-2003.htm#robinson>.

ⁱⁱ Robert B. Porter, "The Demise of the Ongwehoweh and the Rise of the Native Americans: Redressing the Genocidal Act of Forcing American Citizenship upon Indigenous Peoples," *Harvard BlackLetter Law Journal* 15 (Spring 1999): 146-161.

ⁱⁱⁱ David E. Wilkins, *American Indian Politics and the American Political System* (Lanham, Maryland: Rowman and Littlefield, 2002), 41-42

^{iv} The case is discussed and reprinted in Jill Norgren, *The Cherokee Cases: The Confrontation of Law and Politics* (New York: McGraw-Hill, 1996), 112-122, 170-186. See also Vine Deloria Jr. Clifford M. Lytle, *American Indians, American Justice* (Austin: University of Texas Press, 1983), 27-33.

^v Wilkins and Lomawaima, *Uneven Ground*, ch. 4; Felix S. Cohen, *Handbook of Federal Indian Law* (Washington: Government Printing Office, 1942), ch. 3; Francis Paul Prucha, *American Indian Treaties: The History of a Political Anomaly* (Berkeley: University of California Press, 1994); Vine Deloria, Jr., and Raymond J. DeMallie (ed.),

Documents of American Indian Diplomacy: Treaties, Agreements, and Conventions, 1775-1979 (Norman: University of Oklahoma Press, 1999).

^{vi} David E. Wilkins and K. Tsianina Lomawaima, *Uneven Ground: American Indian Sovereignty and Federal Law* (Norman: University of Oklahoma Press, 2001), ch. 2; Cohen, *Handbook*, esp. chs. 5-7; Gilbert L. Hall, *The Federal-Indian Trust Relationship: A Duty of Protection* (Washington: Institute for the Development of Indian Law, 1979); Vine Deloria Jr., *Behind the Trail of Broken Treaties: An Indian Declaration of Independence* (New York: Delacorte Press, 1974), ch. 6; Vine Deloria Jr., "Federal Trust Responsibility and Indian Education," n.d., "Helen Schierbeck," box 10, Correspondence, Vine Deloria Jr. Papers, Western History Collections, Denver Public Library (WHCDPL), Denver, Colorado; Vine Deloria Jr. and Clifford M. Lytle, *The Nations Within: The Past and Future of American Indian Sovereignty* (New York: Pantheon, 1984), 158-161; D'Arcy McNickle, Mary E. Young, and Roger Buffalohead, "Captives Within a Free Society: Federal Policy and the American Indian," Box 14, D'Arcy McNickle Papers, Newberry Library (NL), Chicago, Illinois; Norgren, *The Cherokee Cases*, 95-111, 165-169.

^{vii} See, for example, Frederick E. Hoxie, *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920* (Cambridge: Cambridge University Press, 1984); Donald L. Parman, *Indians and the American West in the Twentieth Century* (Bloomington: Indiana University Press, 1994), chs. 1-3; Francis Paul Prucha, *The Great Father: The United States Government and the American Indian* (Lincoln: University of Nebraska Press, 1984).

^{viii} On extension of citizenship to Indians, see Thomas A. Britten, *American Indians in World War I: At Home and at War* (Albuquerque: University of New Mexico Press, 1997), 176-181; Kevin Bruyneel, "Challenging American Boundaries: Indigenous People and the 'Gift' of U.S. Citizenship," *Studies in American Political Development* 18 (Spring 2004): 30-43; Cohen, *Handbook*, 153-157; Deloria, *Behind the Trail*, 18-19; Hoxie, *Final Promise*, chap. 7; Kenneth W. Johnson, "Sovereignty, Citizenship and the Indian," *Arizona Law Review* 15 (1973): 973-1003; Porter, "Demise," 107-183; Alexandra Witkin, "To Silence a Drum: The Imposition of United States Citizenship on Native Peoples," *Historical Reflections*, 21:2 (1995): 353-383; Jeanette Wolfley, "Jim Crow, Indian Style: The Disenfranchisement of Native Americans," *American Indian Law Review* 16:1 (1991): 168-181. For pro-citizenship stance of some Native Americans, see Frederick E. Hoxie (ed.), *Talking Back to Civilization: Indian Voices from the Progressive Era* (Boston: Bedford/St. Martin's, 2001), 129-133.

^{ix} Vine Deloria Jr. and David E. Wilkins, *Tribes, Treaties, and Constitutional Tribulations* (Austin: University of Texas Press, 1999), 141-148; George Beck, "The Fourteenth Amendment as Related to Tribal Indians: Section I, 'Subject to the Jurisdiction Thereof' and Section II, 'Excluding Indians Not Taxed,'" *American Indian Culture and Research Journal* 28:4 (2004): 37-68.

^x Charles J. Kappler (ed.), *Indian Affairs: Laws and Treaties*, vol. IV (Washington: Government Printing Office, 1929), 232, 420, 1165-1166. http://digital.library.okstate.edu/kappler/Vol4/html_files/toc.html. For case studies at the territorial and state level, see Ann Marie Plane and Gregory Button, "The Massachusetts Indian Enfranchisement Act: Ethnic Contest in Historical Context, 1849-1869," *Ethnohistory* 40:4 (Fall 1993): 587-618; and Deborah A. Rosen, "Pueblo Indians and Citizenship in Territorial New Mexico," *New Mexico Historical Review* 78:1 (Winter 2003): 1-28.

^{xi} Quotation from Doug George-Kanentiio, "U.S. Elections: We are the Wolf," *Indian Time*, 9 December 2004, 3. <http://members.aol.com/miketben1/wolfs.htm>. Porter, "Demise," 110, 126-127. Porter and Gary C. Stein also suggest that the 1924 act had less to do with a desire to assimilate Indians more to do with Congress's desire to limit the power of the Interior Department to extend or withhold citizenship to Native peoples; see Porter, "Demise," 124-125 and Gary C. Stein, "The Indian Citizenship Act of 1924," *New Mexico Historical Review* 47:3 (1972): 266-270. For additional discussion of Native opposition to the Citizenship Act, see Bruyneel, "Challenging American Boundaries," 37-39.

^{xii} Kappler, *Indian Affairs*, vol. IV, 420, http://digital.library.okstate.edu/kappler/Vol4/html_files/v4p0420c.html.

^{xiii} Bruyneel, "Challenging American Boundaries," 32-33; Hoxie, *Final Promise*, 229-230. See also Johnson, "Sovereignty," 989-1003; Deloria and Wilkins, *Tribes*, 146.

^{xiv} Stein, "Indian Citizenship Act," 259-260.

^{xv} On denial of suffrage, see "Transcript of National Congress of American Indians Convention," 15-18 November 1944, 35, Colorado Historical Society (CHS), Denver, Colorado; Cohen, *Handbook*, 157-158; Deloria and Lytle, *American Indians, American Justice*, 222-225; Daniel McCool, "Indian Voting," in *American Indian Policy in the Twentieth Century*, ed. Vine Deloria Jr. (Norman: University of Oklahoma Press, 1985), 105-116; Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000), 163-166; Nathan R. Margold to Secretary of the Interior and attachment, 13 August 1937, in *Opinions of the Solicitor of the Department of the Interior Relating to Indian Affairs*, vol. I (Washington: Department of the Interior, 1974), 777-781; Glenn A. Phelps, "Representation without Taxation: Citizenship and Suffrage in Indian Country," *American Indian Quarterly* 9 (Fall 1987): 135-137; Orlan J. Svingen, "Jim Crow, Indian Style," *American Indian Quarterly* 11:4 (Fall 1987): 275-277; Wolfley, "Jim Crow, Indian Style," 181-192. See also Jackson, "Eighty Years," 272-274; Willard Hughes Rollings, "Citizenship and Suffrage: The Native American Struggle for Civil Rights in the American West, 1830-1965," *Nevada Law Journal* 5 (Fall 2004): 135-136.

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^{xix} Cowger, *National Congress*, 31-38; Alison R. Bernstein, *American Indians and World War II: Toward a New Era in Indian Affairs* (Norman: University of Oklahoma Press, 1991), 112-121.

^{xx} "Transcript of National Congress of American Indians Convention," 15-18 November 1944, 12, Colorado Historical Society (CHS), Denver, Colorado.

^{xxi} "Transcript of National Congress of American Indians," 18.

^{xxii} "Preamble," n.d., fd. 12, box 11, Oklahoma Indian Rights Association (OIRA), Western History Collections, University of Oklahoma (WHCOU), Norman, Oklahoma; "Transcript of National Congress of American Indians," 55.

^{xxiii} NCAI, *Minutes of Proceedings: Seventh Annual Convention*, 28-31 August 1950, 2, "Seventh Annual Convention, 1950," box 5, Helen L. Peterson Papers, National Anthropological Archives (NAA), Smithsonian Institution, Washington, D.C.

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^{xxxi} NCAI, *Minutes of Proceedings: Ninth Annual Convention*, 13-16 December 1948, 26-27, Western History Collections, Denver Public Library, Denver, Colorado; Robert K. Carr to Members of the President's Committee on Civil Rights, 6 June 1947, 6, "American Indians-Civil Rights of," box 16, President's Committee on Civil Rights, RG 220, Harry S Truman Library, Independence, Missouri; Cohen, *Handbook*, 158.

^{xxxii} *Harrison v. Laveen* (1948), 67 Ariz. 337; NCAI, *Minutes of Proceedings: Ninth Annual Convention*, 27; Henry Christman, "Southwestern Indians Win the Vote," *American Indian* 4 (September-October 1948), 6-9; Cowger, *National Congress*, 64-65; "A Great Judge," *Arizona Daily Star*, 19 July 2004, <http://www.dailystar.com/dailystar/relatedarticles/30293.php>.

^{xxxiii} For a biographical sketch of Trujillo, see Sando, *Pueblo Profiles*, 57-62.

^{xxxiv} Two somewhat different copies of the ruling may be found in fd. 4, box 333, American Association on Indian Affairs (AAIA) Papers, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey; and in "Trujillo vs. Garley," box 127, RG 21, National Archives-Rocky Mountain Region, Denver, Colorado. The quotations come from pages 6-7 (AAIA copy) and pages 6-9 (National Archives copy). See also NCAI, *Minutes of Proceedings: Ninth Annual Convention*, 27-28; Christman, "Southwestern Indians," 6-10.

^{xxxv} Carr to Members of the President's Committee, 6.

^{xxxvi} A recent reprint of the report of the President's Committee on Civil Rights is *To Secure These Rights: The Report of President Harry S Truman's Committee on Civil Rights*, ed. Steven F. Lawson (Boston: Bedford/St. Martin's, 2004); *Harrison v. Laveen* (1948).

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^{xl} McCool, "Indian Voting," 108.

^{xli} Jackson, "Eighty Years," 280-281; Phelps, "Representation," 138; Svingen, "Jim Crow," 275-286; Denise Ross, "Indian Voting Rights Trial Begins," *Rapid City Journal*, 12 April 2005, www.rapidcityjournal.com/articles/2004/04/13/news/local/top/news01.txt. See also the sources listed in note #1.

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