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Interior vs. war: The development of the Bureau of Indian Affairs and The Transfer Debates, 1849–1880.

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Interior vs. War:
The Development of the Bureau of Indian Affairs
and the Transfer Debates, 1849 – 1880.

Eric M. White

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JAMES MADISON UNIVERSITY
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History

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Dedication

This thesis is dedicated to my parents for their encouragement and support over the past two years.
Acknowledgements

I would like to begin by thanking my thesis director Dr. Christopher Versen. Without his guidance, support, and enthusiasm throughout the research and writing phases of this thesis, it would not have been possible. The comments from my readers, Dr. John Christopher Arndt and Dr. John J. Butt, have contributed greatly to final draft of this thesis. I could not have assembled a more supportive and helpful committee.

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Abstract

The creation of what would become the Bureau of Indian Affairs (BIA) predated the Constitution, and the bureau was a part of the Department of War. Congress transferred the BIA to the Department of the Interior when it was established in 1849. Despite the transfer, the Department of War was still involved in the carrying out of Indian policy. The Secretary of War and many within Congress believed the transfer was a mistake due to the Department of the Interior’s apparent failure at curbing Indian violence, failure at providing proper provisions, and seeming failure to carry out the long-standing civilization policy. Congress would attempt to transfer BIA back to the Department of War on a number of occasions, and the transfer was explored by a number of Congressional bodies. The investigations included the Doolittle Committee (1865), Peace Commission (1867), Banning Committee (1876), and a Joint Committee created in 1878 created solely to research the transfer issue. The pressure from these committees and the supporters of the Department of War acted as an interdepartmental check system between the departments. The added attention pushed the BIA to reform and to improve its practices. The transfer debates continued through the 1870s, but would lose support in Congress because the debates had brought about changes within the BIA and Indian Policy.
Introduction

When Congress voted to create the Department of the Interior in 1849, one of the agencies transferred to the new department was the Bureau of Indian Affairs (BIA).\textsuperscript{1} Historians have described the transfer as a simple move with BIA officials moving from one office building to another, but the move created tension between the Department of War, the former stewards of the BIA, and Department of the Interior. Both departments played a key role in Indian Policy. While the Department of the Interior was charged with negotiating with tribes, distributing annuities and supplies, and carrying out the policy of civilizing of the tribes, the Department of War was responsible for enforcing the treaties and was on the front lines of Indian wars. The use of two separate departments to carry out single policies created internal tensions that resulted in the Department of War requesting that the BIA be returned to their full control. Congress was divided on the issue politically, and the debate continued up through the 1870s.

The debate between the departments revealed larger issues within United States Indian Policy. The United States never had a clearly defined Indian Policy, but just introduced one policy after another with the focus on short-term solutions. Early policies toward the tribes focused on trade, but in the 1830s a major shift in policy came when President Andrew Jackson recommended the removal of tribes from the Southeast to reservation land on the plains. The policy of removal would remain in place for the remainder of the nineteenth century. Other policies would come and go, however.

\textsuperscript{1} In addition to transfer the BIA to the newly created the Department of the Interior, Congress also transferred the General Land Office, the Patent Office and the Pension Office. Henry Barrett. Learned, “The Establishment of the Secretaryship of the Interior,” \textit{The American Historical Review} 16 (July 1911): 765, http://www.jstor.org/stable/1835706.
President Ulysses S. Grant’s Peace Policy in the 1870s, for example, was an attempt to maintain a peaceful existence with the tribes.

When the BIA was transferred to the Department of the Interior in 1849, there was no real change in policy. A power struggle was created instead. The Department of War criticized the Department of the Interior for its corruption and waste of funding. The War Department argued that military officers would be less corrupt and, by using military channels to supply the tribes, the BIA would be less expensive under the control of the Department of War. The Department of the Interior felt it was better at carrying out the long standing civilization policy and that if the Army were to force civilization, all the progress made would be undone.

The debate over military or civilian control over Indian Policies is one that played out from the 1850s through the 1870s and has been relatively unexplored. The debates were present in a number of reports presented by Congress. Historian James John Knecht argued that reforms within the BIA were largely driven by this debate. He makes an excellent point, but he explores only one Congressional committee held in 1878 that was devoted solely to the transfer debate. What he did not explore, were the Doolittle Committee of 1865, the Peace Commission of 1867, and the Banning Committee of 1876. All these Congressional committees discuss the transfer issue, which placed more pressure on the BIA to find a solution to the Indian Problem.²

American Indian History

Historian Donald L. Fixico suggested in 1997 that there had been over 30,000 books published about American Indians. Certainly since that date, and when one includes journal articles, that number has grown exponentially. Fixico is not making a point about a field that has been over saturated, however. Instead, he reports that non-Indians wrote 90% of those books. This fact suggests that the white perspective has tainted Indian history. More Indian historians have moved into the field and have offered a unique perspective of American Indian History. A perspective that is vastly different from the Amer-centric view of the tribes.

Despite the addition of tribal historians, the majority of the works published today are still by non-Indians, but as Ned Blackhawk suggests in his 2011 article “Currents in North American Indian Historiography,” more emphasis was placed upon integrating the tribes into the historiography. Blackhawk focuses on tribes of the American Northwest and Canada, and explores how tribal histories and interdisciplinary studies have become more commonplace in the twenty-first century. This has only made the historiography of the American Indian more complex. How then do we break down Indian history? How do we make sense of the 30,000+ works?

Philip J. Deloria divides the historiography of American Indian history into four categories. The first of the categories, used by early Indian historians, Deloria dubs

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5 Philip J. Deloria, “Historiography.”

“Frontier History.” The works that fit into this category are largely based on Frederick Jackson Turner’s 1893 thesis on the frontier. The tribes in these early works were presented as wild and focus heavily on the boundaries between white civilizations and those of the Indian. Deloria suggests that this historiography can be traced back to the earliest writings of American history such as William Bradford’s *Of Plymouth Plantation* which focused on the period from 1620-47, and Theodore Roosevelt’s *Winning of the West*. In recent years, historians have re-interpreted the ideas of the frontier and its relation to the Indians such as Kerwin Lee Klein’s *Frontier of Historical Imagination.*

Deloria’s second wave of historiography is dubbed “Racial Science and Hierarchies.” Beginning in the nineteenth century, scientists sought to determine the racial hierarchy of the peoples of the world. While this was mostly an attempt to explain the superiority of whites, the development of ethnology as an area of study has been important to academia. This era brought about works on Social Darwinism and the like that have shaped the way we think of human kind. Deloria argues that these ideas still exist today. A recent work on the subject, David Hurst Thomas’s *Skull Wars: Kennewick Man, Archaeology, and the Battle for Native American Identity* provides some insight as to how the origins of the Indian race are still in question.

The third phase of Indian historiography as described by Deloria is “Modernist History.” Deloria argues that within these works we find a change in interpretation. Instead of the Indians being viewed as uncivilized and in the way of American expansion, works began to explore the negative effects of American policies upon the tribes. One of the earliest works was Helen Hunt Jackson’s 1881 book *A Century of Dishonor.* In it she  

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7 Philip J. Deloria, “Historiography.”
8 Deloria, “Historiography.”
criticized the United States and its actions toward the tribes. This type of writing makes up the majority of what we see on the library shelves today. Modernists tend to view the tribes as a monolithic group. This is not entirely the fault of the historians, however. The tribes were viewed as a monolithic group by the United States government and the primary sources are then reflected in the historiography.  

Deloria argues that a number of recent historians have adopted the “Postmodern or Postcolonial View” of Indian history. The postmodernists take advantage of all the available resources to historians. Ethnography and history combined in 1954 to create Ethnohistory and this cross-disciplinary study that would become a major part of American Indian history. Tribal histories are more commonplace and are incorporated into larger Indian histories. Also considered are the concepts of culture and identity. A major part of this is due to a major shift in United States Indian Policy in the 1930s where eradication of Indian culture became preservation.

One of the major works used in the thesis is Francis Paul Prucha’s *The Great Father: The United States Government and the American Indians*. Deloria would categorize *The Great Father* as modernist, but Prucha does integrate the tribes and their culture where possible while outlining the history of Indian Policy. Prucha’s work constitutes an 1,100-page history of American Indian Policy from the Colonial period.

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9 Deloria, “Historiography.”
through the early 1980s. He outlines the missteps of the government and its effect on the tribes and policy. Although the field has moved toward the postmodernist ideas, The Great Father is still widely used today, but is often used in conjunction with tribal histories and ethnohistorical material. Prucha work still stands because as no historian has attempted such an extensive look at Indian policy since.

As a modernist history, this thesis will reexamine sources that have been utilized by other modernist historians. This may not follow the current trends of the Indian history field, but the reexamination of Indian policy is important. Other prominent historians, including Prucha, have interpreted the reports explored herein. However, historians have used these reports for other purposes. Few historians have viewed these reports in relation to the transfer debates with Knecht being the exception. While he primarily focused on the Joint Committee of 1878, the transfer debates and other Congressional investigations of the 1850s, 1860s, and 1870s were catalysts for reform within the BIA.

**History of Indian Policy**

Within the American Indian historiography, there are a fair number of sub-categories. Ranging from culture to tribal histories, but Indian Policy is the focus of this thesis. The history of Indian policy is a modernist idea as it primarily focuses on policy makers within the United States government. Early historians questioned if the United States even had a policy. Russell L. Caldwell asked this question in 1956.12 The article’s title, “Is There an American Indian Policy?,” serves two purposes as he questions the existence of an Indian Policy, and the lack of a historiography of Indian Policy. He argued that the United States’ relationship with Indians was complicated, but Caldwell

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concedes that Indian policy history would be written as the historical field matured.\(^{13}\) By the 1980s, the field had matured and this allowed for such as sweeping work by Prucha.

When browsing the titles of the 30,000+ books on American Indians, one will see a number of books with “policy” in the title. For this thesis alone there are a number of them, including Edmund Jefferson Danziger’s *Indians and Bureaucrats: Administering the Reservation Policy During the Civil War*, Reginald Horsman’s *Expansion and American Indian Policy, 1783 – 1812*, David A. Nichols’s *Lincoln and the Indians: Civil War Policy and Politics*, Loring Benson Priest’s *Uncle Sam’s Stepchildren: The Reformation of United States Indian Policy, 1865-1887*, Francis Paul Prucha’s *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865-1900*, Ronald N. Satz’s *American Indian Policy in the Jacksonian Era*, John H. Vinzant’s *The Supreme Court’s Role in American Indian Policy*, and Robert Wooster’s *The Military and United States Indian Policy 1865 – 1903*.\(^{14}\)

With such a variety of titles available, it would seem the field has matured and historians have answered Caldwell’s call for an exploration of Indian Policy. These works on Indian policy are modernist interpretations by Deloria’s definition.\(^{15}\) Caldwell, like many historians, appears to be frustrated with the lack of a cohesive American Indian Policy. Since his essay was published in 1956, the overall picture of Indian Policy has

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\(^{13}\) Caldwell, “Is There an American Indian Policy?” 106.


\(^{15}\) Deloria, “Historiography.”
been well covered. Indian removal, allotment, and the Indian New Deal have all been widely interpreted, as has the policy of civilization of the tribes, a policy that was present from the late eighteenth century until the New Deal. This policy remained throughout removal and allotment, both of which represented major shifts in Indian Policy.\(^\text{16}\)

Historical actors and historians alike have debated Indian Policy. The debate over military or civilian control over Indian Policies is one that played out for over twenty years. The debate itself was not necessarily over the creation of policies, but more over who controlled it. While both the military and civilian leadership agreed with the Indian Policies, they disagreed over how it should be administered. This led to historians debating aspects of Indian Policy as well. Arthur N. Gilbert focused on the debate over whether Indian Policy is a domestic or diplomatic issue. This debate involved historical actors, but has been more recently explored by historians. This debate is centered on the use of treaties, normally reserved for foreign powers, to negotiate with tribes. An inconsistency explored by Prucha in his 1994 work *American Indian Treaties: A History of a Political Anomaly*. Diplomatic historians often ignored Indian history believing it to be a domestic issue, while domestic historians treated the tribes as foreign entities. Gilbert argued the answer lay somewhere in the middle.\(^\text{17}\) What came out of this debate was a separate American Indian History that, as Deloria explained, has gone through a number of important transformations.\(^\text{18}\)


\(^{18}\) Deloria, “Historiography.”
The debate between the Department of the Interior and Department of War over who should control the BIA exemplified the importance of Indian Policy at that time. Because there was no consistent Indian policy, whoever was in control of the policy played a role in creating it. When put into the context of the Civil War and Reconstruction, the debate is important as both departments coveted influence over Indian Policy. This alone suggests that there was a policy, but it was not singular. While the larger policy of civilization did not change, the ways in which it was carried out depended on who was in charge at the time although this may not have been evident to the tribes. This was more bureaucratic with the President, Congress, Secretary of War, the Secretary of the Interior, the Commissioner of Indian Affairs, and BIA all had varying degrees of control over Indian Policy.

**Military vs. Civilian Indian Policy**

Today, as Deloria suggested, Indian History has moved into the postmodern era with a focus more upon cultural and social history. Indian Policy and its history remain, but is intertwined into the complex relationship between the tribes and the United States. However, there is still a necessity for the history of Indian Policy when a particular era or debate has been relatively unexplored. Historians must then take a few steps back and first develop a “Modernist” point-of-view. The transfer of the BIA in 1849 from the Department of War to the Department of the Interior does not signal a major change in policy, just a change in who was running it. By the 1860s, the transfer became more about politics and funding than about policy itself. With that, I will also explore Indian Policy and how it was multifaceted. While the civilization of the tribes would largely remain a constant, there were no other consistent policies.
This thesis will explore the policy toward the tribes from the American Revolution through the 1870s. There are a fair number of policy changes prior to Indian Removal, but following removal, the Policy toward the tribes remained largely unchanged for fifty years with the policies of removal and the civilization of the tribes. My first chapter explores the building of these early policies. In addition, the first chapter explores the creation of the BIA and its eventual transfer to the Department of the Interior. In this chapter, the transfer issue will be introduced as it was in the 1850s, but it became more active following the Civil War.¹⁹

The Doolittle Committee’s investigation into the conditions of the Indian Tribes is the subject of chapter two. It was triggered by a number of Indian massacres including the massacre at Sand Creek. While the testimony largely dealt with military atrocities, the Doolittle Committee has not been considered in terms of the transfer debates. Ultimately the Committee recommended that the BIA not be transferred to the Department of War, as it would not solve any of the problems outlined in the Committee’s final report. The Doolittle Committee was concerned with the lack of a consistent Indian Policy. More importantly, the Doolittle Committee believed it would be difficult for the United States government to create any consistent policy if the transfer debate continued.

The third chapter explores the changes made to the processes of carrying out Indian Policy during the Reconstruction Era. The Peace Commission of 1867 was an early attempt to settle issues with warring tribes and provides insight into the shortcomings of Indian Policy. President Ulysses S. Grant’s Peace Policy, also discussed in Chapter 3, was a response to the Peace Commission’s recommendations for

¹⁹ Prucha, The Great Father, 549-60.
elimination of Indian wars and the improvement of the relationship between the United States and all tribes. The Banning Committee is also explored, as it was the only Congressional committee to recommend the transfer of the BIA to the Department of War. The Committee’s findings were greatly biased, however, as the committee was made up of members of the House Military Affairs Committee and the witnesses were all military officers but two. The Committee clearly demonstrated the military’s interest in the BIA, but critics would refute many of the claims made in the Committee’s final report.

The Banning Committee led to the 45th Congress’s attempts to transfer the BIA. The legislation would pass the House of Representatives with ease, but would fail in the Senate. The divide between Northern Republicans and Southern Democrats was to blame. There were four transfer attempts made in the 45th Congress, the final of which led to the creation of 1878 Joint Committee. The task of the Committee was to investigate the transfer issue on a broader scale. What the 1878 Joint Committee discovered was that not a great deal had changed since the Doolittle Committee’s investigation in 1865. While the Indian Policies had remained largely the same, internal changes had made the BIA more efficient. These internal changes were largely made under the pressure of the transfer debates as the Department of War criticized the BIA’s handling of the tribes since its transfer in 1849.
Chapter One

Constructing the Bureau of Indian Affairs and Early Indian Policies

The British had created a relationship with the tribes to prevent them from interfering with their colonies. Following the American Revolution, the United States would model its own relationships with the tribes from the British. This began by simply creating trade agreements and treaties in exchange for peace, but as the United States expanded in the early nineteenth century, Indian Policy became more complicated. The Trade and Intercourse Acts of 1792 began the policy of introducing civilization to the tribes. The policy of civilizing the tribes would continue throughout the nineteenth century.\(^1\) The relationship was further complicated by President Andrew Jackson’s policy of Indian removal in the 1830s and the continued conflicts between the country and the tribes on the Plains and Pacific Northwest.

As the United States constructed its Indian Policy, the Bureau of Indian Affairs (BIA) developed along side it.\(^2\) The early BIA, known as the Indian Department, was created to oversee Indian trade. As the relationship between the United States and the

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\(^1\) Francis Paul Prucha outlines a speech by President George Washington that contained a series of points that would become the goals of Trade and Intercourse Laws. Included in this speech is the suggestion of introducing to the Indians the “blessings of civilization.” *The Great Father: The United States Government and the American Indians*, 2 Volumes (Lincoln, NE: University of Nebraska Press, 1984), 1:90-91.

\(^2\) There is not a great deal of existing literature on the structural elements of the Indian Department and the Bureau of Indian Affairs. Far more informative is Steve Nickerson’s “The Structure of the Bureau of Indian Affairs,” *Law and Contemporary Problems* 40, no. 1 (Winter 1976): 61-76. Nickerson offers a survey of the structural changes of the BIA from its creation in 1824 to when the article was written. This period is discussed in Curtis E. Jackson and Marcia J. Galli, *A History of the Bureau of Indian Affairs and its Activities Among Indians* (San Francisco: R & E Research Associates, Inc., 1977), but it has been panned for its inaccuracies. Where it is used in this thesis, it will backed up with other sources. Prucha’s *The Great Father* offers little information on the structure of the Bureau, but focuses more on the relationship between the tribes and the BIA, but Prucha does explore the issue in an earlier work, *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790-1834* (Cambridge: Harvard University Press, 1962), 51-65, 250-74. The early history of the Indian Office can also be found in Laurence F. Schmeckebier, *The Office of Indian Affairs: Its History, Activities and Organization* (Baltimore: Johns Hopkins Press, 1927), 1-42.
tribes became more complicated and the settlers began moving west, the BIA grew into an organization charged with removing the tribes from their traditional land and negotiating treaties in exchange for their land. Initially under the Department of War, the BIA was transferred to the Department of the Interior in 1849. This set off a debate between the two departments as to who was the true steward of Indian Policy.

**Development of the Indian Policy**

British policy toward the tribes was aimed to keep the peace. The British would send the tribes gifts and made a series of treaties that would prevent further war with the tribes. The Imperial government attempted to regulate trade with the tribes, but failed as it was difficult to regulate and license traders. What turned out to be more difficult was the prevention of white settler encroachment. The British negotiated land deals with the tribes to acquire tribal lands for the colonies. The British felt it was important to create a boundary between the colonies and tribal lands. They believed this would cut down on conflict between the two groups. This concept was adopted by the United States during and immediately following the American Revolution.

The Indian Department, later the BIA, was the name given those tasked with Indian Affairs within the Department of War. The Continental Congress focused on Indian Policy as early as 1775 with the creation of three separate departments – the Northern Department, the Southern Department, and the Middle Department – charged

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with creating peace with the tribes. The established departments were divided into three major sections, the Northern Department, which handled the Six Nations of the Iroquois and the tribes living north of them, the Southern Department handled the Cherokee and all tribes living south of them, leaving the Middle Department to handle all the tribes in between including the Potawatomi and Shawnee. Each department was headed by a group of commissioners who answered directly to Congress. The primary goal of the department was to preserve peace and friendship between the tribes and the Continental Congress and prevent them from interfering in the American Revolution.

Factions of the tribes of the Iroquois in the Northeast and the Cherokee in the Southeast sided with the British during the American Revolution. Many of these tribes had sided with the French during the French and Indian War. The tribes chose the side they felt would win, but were wrong in both cases. This strained relations between the tribes and the United States, especially following the American Revolution. Nevertheless, the United States realized it would have to deal with these tribes and the others within the newly founded country.

Under the Articles of Confederation, the Indian Department’s structure remained largely unchanged until 1786 when the three departments were combined into two, the Northern District and the Southern District. The Southern District extended to all the

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5 For further reading on these early policies, see Prucha, The Great Father, 1:5-177; Theodore W. Taylor, The Bureau of Indian Affairs (Boulder, CO: Westview Press, 1984), 3-43; and Hagan, American Indians, 39-73.
6 The six nations of the Iroquois included: Mohawk, Oneida, Onondaga, Cayuga, Seneca, and Tuscarora.
7 Prucha, The Great Father, 1:35-6.
9 Prucha, American Indian Policy in the Formative Years, 11-25.
10 Prucha, The Great Father, 1:29-33. Prucha, American Indian Policy in the Formative Years, 2-3.
tribes south of the Ohio River and the Northern District covered the tribes west of the
Hudson River. The Ordnance for the Regulation of Indian Affairs, passed August 7,
1786, removed the bodies of commissioners and called for one appointed superintendent
per district. The appointments were for two years and the duties of the superintendent
were updated. The superintendents were placed under the authority of the Secretary of
War, but Congress was to create Indian Policy and govern the relationship between
Indian Tribes and the Federal government. As settlers began to move west, there were
conflicts between the settlers and the Indian Tribes living on the land. The Land
Ordinances of 1784 called for land in the Northwest\textsuperscript{11} to be purchased from the tribes and
divided into states.\textsuperscript{12} An influx of settlers followed and the passage of the Northwest
Ordinance of 1787 called for settlers to respect the tribes of the Northwest and their rights
to their property.\textsuperscript{13}

During this early period of Indian Policy, the two Superintendents of Indian
Affairs, were placed under the control of the Secretary of War who was charged with the
day-to-day management of Indian Affairs. As there was no executive under the Articles
of Confederation, Congress wanted to remain in control of the relationship between the
tribes and the United States and required the Secretary of War to provide regular reports.
This meant that the Secretary of War had to keep in contact regularly with the

\textsuperscript{11} At this time in American History, the term Northwest referred to the area from the Ohio River
Valley west to the Mississippi River.
\textsuperscript{12} United States Congress, “Documents from the Continental Congress and the Constitutional
Convention, 1774-1789 - April 23, 1784,” Library of Congress, \url{http://memory.loc.gov/cgi-bin/query/r?ammem/bdsdcc:@field(DOCID+@lit(bdsdcc13401))} (accessed November 22, 2011).
\textsuperscript{13} Jackson and Galli, \textit{A History of the Bureau of Indian Affairs and its Activities Among Indians},
superintendents from the two districts.\textsuperscript{14} This early form of the Indian Department was fairly simple. The country was fairly small, but the United States had encountered a number of powerful tribes that were east of the Mississippi.\textsuperscript{15}

After the ratification of the Constitution, the Indian Department became a part of the Executive Branch when the Department of War was reestablished as a cabinet position. Congress still had some control with the required conformation processes for Secretary of War and Indian Commissioners and regulating the commerce with the tribes, but the oversight of Indian Affairs became the concern of the Executive Branch.\textsuperscript{16}

As the country expanded, the Indian Department was restructured to accommodate the latest acquisitions. This led to the need for more representatives of the United States government with Indian tribes. The appointment of trade agents began the system of using agents and subagents in the field to handle Indian Affairs. Secretary of War Henry Knox used the precedent set by the Treaty of New York of 1790 and encouraged President Washington to exercise the power to create treaties with the tribes. Knox himself went before Congress to defend the treaties, as they had to be approved by the Senate. The Treaty of New York of 1790 and the Treaty of Fort Harmer 1789 set the tone for treaties made between the United States and the tribes.\textsuperscript{17}

\textsuperscript{14} Jackson and Galli, \textit{A History of the Bureau of Indian Affairs and its Activities Among Indians}, 3. Prucha, \textit{The Great Father}, 1:45-6. The Department of War was created as a Congressional department under the Articles of Confederation. Henry Knox, who would become the first Secretary of War during the presidency of George Washington, was also Secretary of War under the Articles of Confederation. For more on this early Department of War see, Harry M. Ward, \textit{The Department of War, 1781-1795} (Pittsburgh: University of Pittsburgh Press, 1962).
\textsuperscript{15} Prucha, \textit{The Great Father}, 1:46.
\textsuperscript{17} Prucha, \textit{The Great Father}, 1:53. For more on these early treaties and the establishment of treaty making see, Francis Paul Prucha, \textit{American Indian Treaties: The History of a Political Anomaly} (Berkeley: University of California Press, 1994), 70-9.
Congress passed the first set of Trade and Intercourse Laws in 1790. The laws limited the amount of contact between the citizens of the United States, traders, and the tribes. Early versions of the Trade and Intercourse Laws failed to regulate trade, and President Washington urged Congress to make the laws stronger. The Laws were updated over time, and by the Presidency of Thomas Jefferson, the laws created strict guidelines. Traders were required to be licensed by the government, foreign traders were prohibited, and whites were not allowed to settle on Indian land. While the laws were intended to regulate Indian trade, they were nearly impossible to enforce. Traders went unlicensed, foreign traders were eventually allowed to trade with tribes, and white settlers continued to encroach upon tribal lands. In addition, the laws banned the sale of alcohol to the tribes, but that failed as well. The laws were well intentioned, but the United States was unable to follow up since the Indian Office was too weak to enforce the statutes.

In addition to the Trade and Intercourse Laws, Congress established government trading houses in 1795. The trading houses, known as factories, provided a legal means by which traders could access the tribes. The law of 1796 gave President George Washington the power to establish trading posts and appoint agents to manage them. The Trade and Intercourse Laws placed regulations on who could trade with the tribes and the factories were an attempt to control private trade. These factories were built near large concentrations of tribes in both the North and South with the sole purpose of

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18 Congress updated and renewed the Trade and Intercourse Laws every three years in this early period. For further analysis of the laws please read, Prucha, The Great Father, 1:89-114 and Prucha, American Indian Treaties, 180-3.
19 Prucha, The Great Father, 1:90-1.
20 For more analysis of the factory system and its failure see, Prucha, The Great Father, 1:115-34; Kathryn E. Holland Braund, Deerskins & Duffels: The Creek Indian Trade with Anglo-America, 1685-1815 (Lincoln: University of Nebraska Press, 1993), 176-7; and Hagan, American Indians, 75-6.
providing goods to the tribes at a fair cost. However, the factories lost a great deal of money because they were forced to extend credit to the tribes. In order to regulate trade and the factories, the Office of Indian Trade was established in 1806. Its primary task was to oversee the factory system, but the Office was not given the authority to enforce trade licensing. The company to which a trader was attached, such as the American Fur Company, was required to obtain licenses for its employees. Despite the attention paid to the factory system, the northern factories did fairly well, but the southern factories fell short of demand. In reality the system was very expensive, but because no alternative system was found, it was allowed to continue until 1822.

In the 1810s, there were several wars fought between the United States and tribes in the Southeast and the Northwest. These battles coincided with the War of 1812, but the war with the Creek dragged on after the conclusion of the war with the British. Despite the fighting with Creek, the United States was successful in making treaties with other tribes. The treaty making system adopted by the United States during the post-colonial period set the standard for treaties made until Congress outlawed Indian treaties in 1871.

Attempts to civilize the tribes had been brought up in a variety of ways, beginning with the British Imperial government and various acts of the United States in the late eighteenth and early nineteenth century. It was not until 1819 that the attempts became

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22 Braund, Deerskins & Duffels, 176-7.
23 Prucha, The Great Father, 1:94-5.
24 Prucha, The Great Father, 1:79-80. A number of tribes took part in the War of 1812 and several wars with tribes, famously the Seminoles, were fought following the conclusion of the war. For more on the tribes and the War of 1812 read, Prucha, The Great Father, 1:76-80 and Robert Wooster, The American Military Frontiers: The United States Army in the West, 1783-1900 (Albuquerque: University of New Mexico Press, 2009), 48, 66.
25 Prucha, American Indian Treaties, 309-10.
more serious as Congress created the Civilization Fund. The fund was to be used to educate the tribes so that they would adopt American agricultural techniques and English.\(^{26}\) This is one of the earliest civilization techniques used by the United States, and, like most others, was largely unsuccessful. However, the Cherokee had adopted a system of government that mirrored that of the United States. The Department was simply not large enough to carry these policies out, but it was growing.\(^{27}\)

The responsibilities of the Indian Department broadened with the civilization policies and the growing number of treaties between the United States and the tribes. The department’s growth became a burden for the Secretary of War. There were several attempts by the War Secretaries of the 1810s to correct the issue, but it was clear the Department was becoming too large for the Secretary of War to handle. Although, he was not directly in control of Indian Policy, those in control answered directly to him. The creation of a bureau within the Department of War, headed up by a Commissioner who would answer to the Secretary of War, to handle Indian Affairs would make the task more manageable.

**Creation of the Bureau of Indian Affairs**

Secretary of War John C. Calhoun officially created the Bureau of Indian Affairs in 1824. The appointment of a Commissioner of Indian Affairs was the only change that took place. The overall substructure (agent system) would remain the same.\(^{28}\) Calhoun

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\(^{26}\) Prucha, *The Great Father*, 1:151-54.


had asked Congress for the authority to add additional employees to the War Department for the Indian Bureau in 1822, but Congress failed to act. On March 11, 1824, Calhoun wrote to Thomas L. McKenney, a former Superintendent of Indian Trade, and designated him as the leader of the new bureau. Calhoun charged McKenney with “the appropriations for annuities, and of the current expenses” relating to Indian policy, and that all the “ordinary correspondence with the superintendents, the agents, and sub-agents, will pass through [the] Bureau.” The bureau was established to ease the workload of the Secretary of War as he was occupied by the skirmishes with Indian tribes in the West.

After Congress eliminated the failed factory system in 1822, they suggested the implementation of a refreshed licensing system for the traders and companies wishing to continue their trade with tribes. Calhoun was not opposed to this idea, but realized the task would place a further strain and himself and his staff. It was after budget cuts and the increased responsibilities with the licensing of traders that Calhoun saw his chance to create the BIA. Congress limited the number of employees in the Department of War, but with the death of a clerk in early 1824, Calhoun used this vacancy to appoint McKenney as the head of the BIA. Calhoun then reassigned a few clerks within the Department to assist McKenney. With the loophole in the law, and the failure of Congress to act, Calhoun had taken action independently to create the BIA.

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32 Belko, “John C. Calhoun and the Creation of the Bureau of Indian Affairs,” 194.
While Calhoun and Congress were fighting over the BIA, in the early 1820s, there was a serious effort to create a “Home Department” and Indian Affairs was one of the bureaus suggested to become a part of that department. Although there is no evidence to suggest Calhoun knew of this effort, it is likely that he did. Evidence suggests there was a major push for the creation of the new department in 1824, and it is possible Calhoun was preparing for such a move, but the bill for the creation of the new department failed in Congress in 1825. Nevertheless, McKenney served as leader of the BIA until 1830. Finally, in 1832, Congress approved the BIA and designated its leader as the “Commissioner of Indian Affairs.” Congress’s approval did nothing but approve of the BIA’s structure as it had been drafted by Calhoun.

Congress passed a law in 1834 establishing the structure of the BIA. The structure largely mirrored what was already in place, but it spelled out the boundaries of various superintendencies and the agencies that would exist for the various tribes and regions. The President was given the power to appoint the superintendants, agents, and subagents in the field. In addition, the law allowed the president to use additional force when necessary, the Secretary of War had the power to determine tribal boundaries, and the law authorized the hiring of interpreters for the agencies. The Secretary of War was given full power to carry out terms of treaties including payment of annuities and delivery of goods.

The law closed with the statement that the president may “prescribe such rules and regulations as he may see fit, for carrying into effect the various provisions of this act,

34 John C. Calhoun to Thomas L. McKenney, 11 March 1824, in Documents of United States Indian Policy, ed. Prucha, 37. The introduction to this document outlines briefly outlines the BIA’s creation and the subsequent approval by Congress.
and any other act relating to Indian affairs.”\textsuperscript{36} This gave the president a wide range of control over the BIA which would be used, under President Jackson, to negotiate treaties for removal of the tribes and the creation of reservations.

**Indian Removal**

In the 1830s, the primary task of the BIA was the negotiation of treaties between tribes and the United States. Like all treaties, these had to be approved by the Senate. President Washington used treaties as a means to gain peace, but during the presidency of Andrew Jackson, treaties were used to carry out the removal of tribes to reservation lands west of the Mississippi River. Those who were against Jackson’s removal plans were holding out for the Supreme Court’s decision on *Cherokee Nation v. Georgia*.\textsuperscript{37} The Cherokee were being subjected to Georgia state law and sued because they felt they were an independent nation. The Supreme Court agreed that the tribes were independent of Georgia on March 18, 1831, but Chief Justice John Marshall called the tribes “domestic dependent nations.”\textsuperscript{38} The decision upheld the belief that the Indians were subjected to federal law, although they had no constitutional rights.\textsuperscript{39}

\textsuperscript{36} United States Congress, “Organization of the Department of Indian Affairs,” in *Documents of United States Indian Policy*, ed. Prucha, 70.

\textsuperscript{37} For more on the Cherokee’s cases see, Prucha, *The Great Father*, 1:208-13; Hagan, *American Indians*, 83-6; Ronal N. Satz, *American Indian Policy in the Jacksonian Era* (Lincoln: University of Nebraska Press, 1975), 44-6, 50-2; and John H. Vinzant, *The Supreme Court’s Role in American Indian Policy* (El Paso: LFB Scholarly Publishing LLC, 2009). Vinzant tends to weave the results of the cases throughout his narrative as opposed to exploring the case individually.

\textsuperscript{38} Statz, *American Indian Policy in the Jacksonian Era*, 44. The Georgia cases suggested that Indians in the United States were subjected to federal authority, but they also did not have any Constitutional rights. They were not citizens of the United States and were treated as foreign entities through the use of treaties, but were deemed to be subject to federal law. These contradictions have been the subject of a number of books. The Constitutional position of the tribes is well outlined in Frank Pommersheim, *Broken Landscape: Indians, Indian tribes, and the Constitution* (New York: Oxford University Press, 2009). The subject of treaties and the tribes has been well argued by Prucha, *America Indian Treaties*.

Those against the Removal Act of 1830 hoped the Supreme Court’s decision in *Cherokee Nation v. Georgia* would prove useful in stopping Jackson’s removal policy.\(^{40}\) The court would have to rule the tribes were sovereign nations for this to happen, however. The Supreme Court ruled that the Cherokee, and therefore all tribes, were sovereign, land holding nations, *but* subjected to federal law. This followed the precedent set by the 1810 ruling of *Fletcher v. Peck* and President Andrew Jackson could legally move forward with the removal of the tribes.\(^{41}\) Once moved to the reservation, tribes would be paid annuities in both money and goods. The tribes were reliant upon the United States for survival, and this was how it was intended to be.\(^{42}\)

As the removal process was carried out, the BIA went through several phases of reform and reorganization. The agency system was slightly restructured to ensure a strong connection between the newly created reservations and Washington. The agency system divided the tribes into groups with agents representing them. The tasks of the agents were to represent the tribes to the BIA as well as deliver annuities and goods as outlined in their treaties. The use of agents predated removal, but it became imperative to

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\(^{41}\) Prucha, *The Great Father*, 1:183-213. The case *Fletcher v. Peck* ruled that tribes were not subjected to be state laws, but were under federal jurisdiction. This case was the precedent used by the justices in *Cherokee Nation v. Georgia*. Prucha, *The Great Father*, 1:113.

\(^{42}\) Much has been written about Indian Removal during this period. One explanation of the policy is provided in Prucha’s *The Great Father*, 1:183-213. Prucha’s discussion of the events leading up to and the carrying out of the policy provides a clear picture of what would become the official policy of the United States under the Reservation System.
the tribes following removal, as they were dependent on the agents and the United States for supplies.\textsuperscript{43}

**Creation of the Department of the Interior**

Proposals for the Department of the Interior actually predated the BIA. The founders considered the creation of a domestic department in the 1780s, but the department was never created. In the late 1810s, a bill was introduced to create a “Home Department” to control all matters within the United States. It was suggested in Congress that the newly created department be given oversight over, “Science and Art, Public Economy, Posts, Public Lands, Mint, Patents, Indian Affairs, and Justice.”\textsuperscript{44} The Home Department was essentially a catchall for smaller departments that did not fit comfortably within the established executive departments. Plans were drawn up for the creation of the Home Department again in the early 1820s, but would again fail in Congress.\textsuperscript{45} The issue was political and it was not until 1849 that the Whigs had a majority in the House and approved the Department of the Interior.\textsuperscript{46}

Just before the creation of the Department of the Interior, there was a great deal of change taking place within the United States. In May 1848, the United States acquired the American Southwest from Mexico in the Treaty of Guadalupe Hidalgo. With the acquisition came a number of large and powerful Indian tribes including the Apache, Navajo, and Hopi. The Spanish had struggled with them and left them alone since they

\textsuperscript{43} Prucha, *The Great Father*, 1:293-318. For more on the Agency system especially following the transfer of the BIA, refer to Flora Warren Seymour, *Indian Agents of the Old Frontier* (New York: Octagon Books, 1941).

\textsuperscript{44} Learned, “The Establishment of the Secretaryship of the Interior,” 759.

\textsuperscript{45} For more on the continued debates over the creation of the Department of the Interior, read, Henry Barrett Learned, “The Establishment of the Secretaryship of the Interior,” *The American Historical Review* 16 (July 1911), 751-73.

\textsuperscript{46} Learned, “The Establishment of the Secretaryship of the Interior,” 770.
were on the periphery of their empire, and the Mexicans had an on and off relationship with the tribes.47 At the same time as the transfer, the California Gold Rush drew many people west and they crossed lands belonging to many tribes. While there were few conflicts as a result, those within the government wondered how the tribes would react to the influx of white settlers.

On March 3, 1849, the United States Congress established the Department of the Interior and transferred the BIA to it from the Department of War.48 The Secretary of the Interior was given “supervisory and appellate powers now exercised by the Secretary of the War Department, in relation to all the acts of the Commissioner of Indian Affairs; and shall sign all requisition for the advance or payment of money out of the treasury, on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the Second Auditor and Second Comptroller of the Treasury.”49 The Department of War was stripped of its control over Indian Policy, however, there was no objection from the Secretary of War. In fact, he was quite glad to be rid of the

47 The Comanches, Kiowas and Kowa Apaches raided a number of cities in northern Mexico prior to the Mexican American War. Soon, however, the Mexicans and Indians allied against the United States during the war. The alliance between the tribes and Mexico would plague the United States, as the tribes would often go into Mexico to avoid the United States Army. This relationship is explained by, Brian Delay, “The Wider World of the Handsome Man: Southern Plains Indians Invade Mexico, 1830-1848,” Journal of the Early Republic 27 (Spring 2007): 83-113, http://www.jstor.org/stable/30043476. The relationship between the Mexicans and the Indians of California was different. Although Mexico had removed the majority of the Franciscans, those in California were allowed to stay. The relationship between the tribes and the Franciscans was often brutal. This relationship is explored by, Edward D. Castillo, “An Indian Account of the Decline and Collapse of Mexico’s Hegemony over the Missionized Indians of California,” American Indian Quarterly 13 (Autumn 1989): 391-408, http://www.jstor.org/stable/1184523, through the use of a rare interview with an Indian in 1877.

48 There is not a great deal written about the transfer of the BIA to the newly created Department of the Interior in 1849. Most books reserve a paragraph for the Congressional act. For more information on the transfer read, Prucha, The Great Father, 1:319-23 and Taylor, The Bureau of Indian Affairs, 34.

49 US Statutes at Large, “Transfer of Indian Affairs to the Department of the Interior,” in, Documents of United States Indian Policy, ed. Prucha 80.
burden. Within the BIA itself, the transfer was hardly noticeable.\textsuperscript{50} By 1849, the BIA had grown and was primarily made up of civilians who created reports for the Secretary of War. These civilians were simply transferred to the Department of the Interior and reported to the new Secretary of the Interior, Thomas Ewing. Despite the simplicity of the transfer on paper, the Departments of War and the Interior began to fight for control over the BIA almost immediately.\textsuperscript{51}

**The New Bureau of Indian Affairs**

The army became less central to the BIA immediately following its transfer to the Department of the Interior, and army agents were slowly removed from reservations and replaced with civilian agents. In 1851, Congress modified the BIA, with the support of the Secretary of the Interior, calling for the use of civilian, as opposed to military, superintendents and agents on Western reservations. The military was slowly losing its already slippery control over Indian policy. Despite the restructuring, not all army agents were replaced. Military officers would continue to serve in the BIA until it became illegal for them to do so in 1870.\textsuperscript{52}

As the BIA developed, the addition of superintendents, agents, and sub-agents made it more difficult for the Commissioner of Indian Affairs to have complete oversight. The new agents were given the power to negotiate treaties with tribes, as opposed to the appointment of special agents assigned to do so. This modification created a new hierarchy within the BIA where superintendents, also appointed by the President and

\textsuperscript{50} In addition to transfer the BIA to the newly created the Department of the Interior, Congress also transferred the General Land Office and the Patent Office. Learned, “The Establishment of the Secretaryship of the Interior,” 765.

\textsuperscript{51} Prucha, *The Great Father*, 1:322-3.

\textsuperscript{52} Military members would continue to hold positions within the BIA until Congress banned members of the military from serving in civilian positions on July 15, 1870. Prucha, *The Great Father*, 1:514.
approved by Congress, presided over a number of individual agents. Superintendents
oversaw a collection of agencies within a specific region. In 1851, for example, the focus
was on establishing a number of regions on the Plains, in New Mexico, and in Texas.
This expansion increased the number of people between the Commissioner of Indian
Affairs and the sub-agents in the field. This led to a disconnection within the BIA. In
addition, there was a growing rift between the Departments of Interior and War over who
should influence Indian Policy.  

While the Department of the Interior was given control over Indian affairs in
1849, the Department of War was not entirely relieved of its duties. In fact, there was a
surge of treaties between the United States, represented by members of the BIA, and
tribes after the transfer and it was up to the army to enforce them. This led to conflicts
between the Department of War and Interior because they were both charged with
enforcing Indian policy. There were many within the Department of War that wondered
why the BIA was moved in the first place and began to express the opinion that the
control over Indian affairs should be handled entirely by the army reasoning “one branch
of the government should not be feeding Indians while another was fighting them.”

The violence between the tribes and United States had increased by the end of the
1850s and that led to the first attempt to move the BIA back to the Department of War.
This would not be the last attempt to transfer the BIA prior to the Civil War, but all
attempts resulted the same. There were several attempts to transfer the BIA back to the
Department of War, the most serious of which came in May 1860 with both the Secretary

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of War and Secretary of the Interior supporting the decision, but the bill died in Congress.\textsuperscript{55}

Those within the department focused heavily on the established policy of civilization with the tribes adopting American and Christian values. Commissioner of Indian Affairs, George W. Manypenny, was disturbed by a report he received in October 1855 from Indian agent John Montgomery who discussed the degradation in the lives of the tribes in Kansas. Manypenny responded to Montgomery’s report by writing to Superintendent of Indian in St. Louis Affairs Colonel A. Cummings that the policy of the United States was not to assist in the degradation of the tribes, but to promote their welfare and improvement. This policy, known as the civil policy, became the primary policy of the BIA under the Department of the Interior following the transfer in 1849. The relationship between the United States and the tribes became a parent-child relationship, and this was evident in many of the aspects of the exchanges between the tribes and the United States.\textsuperscript{56}

Despite the disagreements over the role of the military in Indian affairs, the BIA’s agents were often based within a military fort with a concentration of military personnel for support. The issue became more convoluted because within some forts, the BIA agent was a civilian, but had more authority in the region than the military officers stationed at the fort.\textsuperscript{57} This only deepened the tensions between the Department of the Interior and the Department of War.

\textsuperscript{55} Prucha, \textit{The Great Father}, 1:322-3.
\textsuperscript{56} Curtis E. Jackson and Marcia J. Galli, \textit{A History of the Bureau of Indian Affairs and its Activities Among Indians} (San Francisco: R & E Research Associates, Inc., 1977), 54-5.
\textsuperscript{57} Jackson, \textit{A History of the Bureau of Indian Affairs and its Activities Among Indians}, 56.
In 1860, as a response to a surge of Indian disturbances in the late 1850s, Secretary of War John B. Floyd proposed the transfer of the BIA back to his department. The resolution in the Senate was supported by Interior Secretary Jacob Thompson who was well aware that the Department of War had “superior facilities for controlling and managing ‘the wild, roving, and turbulent tribes of the interior, who constitute the great majority of the Indians.” The Secretary supported the proposition because it would take all the responsibility of the BIA out of his hands. The bill, however, died quickly in the Senate and the matter of transferring the BIA was quickly dwarfed by the Civil War.

The tribes were a concern during the war. Some tribes opted to remain neutral, but many tribes opted to side with the Confederacy during the war. In 1861, the Creeks, Choctaws, Seminoles and Cherokee all joined the South. Meanwhile, on the plains, the Sioux began to rebel against the United States as well. The United States was fighting two wars, one against the South and one against the Sioux. It became clear that something needed to be done to gain control over the tribes. The conditions of the tribes had worsened as a result of the war, and the transfer debate had returned once again. Congress took both of these issues seriously and, in March 1865, formed a Joint Committee to investigate the condition of the tribes and the transfer issue.

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59 Prucha, *The Great Father*, 1:322-3
Chapter Two

Military Mismanagement: The Doolittle Committee of 1865

The House Committee on Indian Affairs was concerned with the continued wars between the tribes and the United States, and focused heavily on the atrocities of Sand Creek. They proposed the formation of a joint committee, which was approved in March 1865. The primary purpose was to visit specific regions to investigate atrocities committed by the military and get a better understanding of the causes of war between the tribes and the United States. The investigation would be carried out with a series of interviews with BIA officials and agents, military personnel, local citizens, and members of the tribes. The committee became known as the Doolittle Committee, named for the committee’s chairman Senator James R. Doolittle.

The goal of the committee was to determine the condition of the tribes and to determine whether the BIA should remain a part of the Department of Interior or be returned to the Department of War. The committee highlighted the many errors the United States had made when dealing with the tribes, and would provide a series of recommendations for Congress and the BIA to restructure Indian Policy to better meet the needs of the tribes. Those interviewed described the encroachment of white settlers, dwindling number of tribal members, poor supplies, and the violence of recent events between the tribes and the United States Army. Though at times the testimony could become a series of accusations pointed at various factions within the Department of War or Department of the Interior, the Committee’s final reports outlined an Indian Policy that would have benefited the tribes.  

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Establishing the Doolittle Committee

The Doolittle Committee was criticized for not living up to its goal of determining the condition of the tribes following the Civil War. Some historians accept the Doolittle Committee as an explanation of the conditions of the tribes of the West, but most historians understand that the exploration of the tribes is limited as only twenty tribes were interviewed. The Committee also did not visit the more hostile tribes. Although this was likely for their safety, the result is an incomplete and biased view of the causes of war. Despite the limited number of tribes interviewed, the report sheds light on some important issues such as the perceived brutality of the military and the poor supplies received by the tribes. The current historiography focuses heavily on these two points.

One of the best narratives on the Doolittle Committee comes from United States Indian policy historian Francis Paul Prucha. His book, *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865-1900*, was one of the earliest works to discuss the committee in detail (he would largely repeat this narrative in his book *The Great Father: The United States Government and the American Indians*). His narrative became the norm when discussing the Committee. Donald Chaput provides a detailed analysis of the questionnaire provided to those questioned by the Doolittle Committee. Prucha draws some of his analysis from Chaput’s article. Historians Paul Stuart and Edmond Jefferson Danziger, Jr. are cited by Prucha, but their narratives are less detailed.

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Legislation to create the Doolittle Committee was introduced by Senator James R. Doolittle, Republican of Wisconsin, on January 9, 1865, but was not authorized by Congress until March 3. The group was made up of three Senators and four Representatives. They were to tour the West and interview members of tribes, Indian Agents, military officers and anyone who had an interest in Indian Policy. To speed up the process, the committee broke into three separate groups. In addition, the Committee sent out questionnaires to those who were unable to attend the meetings. It is from these questionnaires that the goals of the committee can be determined. They were asked about the conditions of the tribes, the quality of the food the tribes were provided with, the possibility of corruption on a reservation, and violence toward the tribes. The question about violence toward the tribes stemmed largely from the November 1864 Indian Massacre at Sand Creek in Colorado Territory.

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Charges of stolen livestock focused on the Cheyenne and Arapahoe and led to on and off fighting between the Colorado militia and the tribes. In 1864, the tribes met with Colorado Territorial Governor John Evans and Colonel John M. Chivington and assumed they were there to negotiate peace. Instead, Governor Evans and Colonel Chivington were there to gauge the strength of the tribe. The Cheyenne and Arapaho, led by Black Kettle and White Antelope, turned in their arms at Fort Lyon and moved to Sand Creek. Unarmed, the tribes were attacked by Colonel Chivington on the morning of November 29. The Army killed men, women, and children, leaving many of their bodies mutilated. The Sand Creek Massacre, as it became known, was one of the reasons the Doolittle Committee was formed.

The Committee’s findings are important to the field of Indian policy. The creation of the Committee explores the interest in the condition of Indian Affairs. Historians have skimmed over the testimony and use the Doolittle Committee to explore the Sand Creek Massacre. The findings of the Doolittle Committee are important because they explain the condition of the tribes as well as the perceived causes of Indian wars. The committee found that the tribes were decreasing in numbers, particularly those not living in Indian Territory. The committee also explained that Indian wars almost always linked to white aggression, mostly in the form of settlers or squatters.

The other primary focus of the committee was whether the BIA should remain within the Department of the Interior or return to the Department of War. This is also explored by Prucha, Danziger, and Stuart. However, other historians have had an interest

10 Prucha, The Great Father, 1:458.
11 Prucha, The Great Father, 1:459.
12 Stuart, The Indian Office, 56. Similar narratives can also be found Prucha, The Great Father, 1:486-7; Prucha, American Indian Policy in Crisis, 15-6; and Prucha, American Indian Treaties: A History of a Political Anomaly. (Berkeley: University of California, 1994), 279.
in this issue as well. Military historian Robert Wooster focuses on the transfer issue in two of his major works, *The Military and United States Indian Policy 1865 – 1903* and *The American Military Frontiers: The United States Army in the West, 1783 – 1900.* The transfer issue was not one of the reasons for the creation of the committee but the committee’s testimony would be used by those opposed to the transfer of the BIA to the Department of War.

In addition to determining the causes of wars between the United States and the tribes, the committee was charged with making recommendations for correcting the inconsistencies in Indian Policy. The final report is openly critical of the United States’ actions and makes a number of recommendations to improve the relationship between the United States and the tribes. One of the recommendations was the removal of the Plains tribes to reservations that would be out of the way of white settlers. This would avoid future contact between the two groups. In addition, they would be given the tools necessary to become more civilized. The second recommendation highlighted by Prucha was the creation of a special commission to be sent to negotiate with the tribes on the plains. This commission was created in 1867 (and will be discussed in Chapter 3).

The historiography of the Doolittle Committee is brief. In fact, the writings of Prucha, Danziger, Stuart, and Wooster on the Doolittle Committee do not even amount to twenty pages total, but the committee’s final report and transcripts contain nearly 600

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14 For more analysis on the transfer issue see Donald J. D’Elia, “The Argument over Civilian or Military Indian Control, 1865-1880,” *Historian* 24, no. 2 (February 1963), 207-225.

pages. So what is left out? A great deal actually. The most important parts of the report that are left out by historians include the testimony of the tribes. There is also testimony from Indian Agents and military personnel that, when put into the proper context, can tell the story of the tribes’ struggles.

Although the Doolittle Committee’s report and testimony have been used by a variety of historians, there are some issues with it. Prucha suggested, “the statements were inconsistent, the charges often unsubstantiated, and the facts many times in error. The large volume hardly presented an accurate picture of the ‘condition of the Indian tribes,’ but no matter, for it furnished ammunition for those seeking change.” His charges of occasional inaccuracy and unsubstantiated claims are true, but just as other historians have used the testimony to explore the events of Sand Creek, the testimony can be used to explore the debate between the Department of the Interior and the Department of War over the control of the BIA.

**Testimony**

The testimony from the Doolittle Committee was appended to the final report, which was delivered to Congress January 26, 1867. While much of the secondary literature dealing with Indian Policy focuses on the final report, the testimony is equally important. From the testimony the battle between the Departments of War and Interior can be seen. The report speaks of the poor condition of the tribes, and the causes of wars between the United States and the tribes. Prucha charged that the testimony was full of...

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16 One article that is very critical of the Doolittle Committee is, Harry Kelsey, “The Doolittle Report of 1867: Its preparation and Shortcomings,” Arizona and the West 17 (Summer 1975), 107-20, http://www.jstor.org/stable/40168425. However, like Prucha and the others, Kelsey does not focus on the actual testimony, but only the manner which the testimony was collected and the final report was prepared. Prucha, *The Great Father*, 1:487.


unsubstantiated claims and inaccuracies, but looking past these, there were serious issues with American Indian Policy and the tribes were suffering for it. Charges of military brutality, poor supplies, and the mismanagement of treaties were highlighted and played into the transfer debates. As this is demonstrated throughout the testimony, the best way to present the arguments is to look at the opinions of those involved, including members of the Army, local residents, religious officials, Indian Agents, and tribal members. The final report presented to Congress largely focused on members of the military, but a number of other witnesses were interviewed.

The Doolittle Committee interviewed forty-five Army officers, enlisted personnel, and retired military. The majority of them saw, and even participated in, the degradation of the tribes and felt, when asked, the military would be better suited to handle Indian affairs. Throughout the testimony, the general consensus was that the condition of the tribes was worsening, and aggressive white settlers were often the causes of war between the United States and the tribes. Colonel Kit Carson, having lived among the Indians for nearly forty years, explained, “From what I have heard, the whites are always cursing the Indians, and are not willing to do them justice.”19 He goes on to explain that white settlers often blame the Indians for missing livestock saying, “these cattle by his [the farmer] negligence frequently stray off; always, if anything is lost, the cry is raised that he Indians stole it.”20

The charges of stolen livestock led to a confrontation between the military and Indians comes from Colorado. Corporal Amos C. Miksch and Asbury Bird were present

during the Sand Creek Massacre. Bird explained that there were charges of stolen cattle and that they were sent to recover them. Bird explains that as they approached, the tribes retreated and the Army laid chase. They engaged in battle the following day. It is Bird’s explanation of the aftermath that is most troubling. “I went over the ground soon after the battle. I should judge there were between 400 and 500 Indians killed. I counted 350 laying up down by the creek. I think about half the killed were women and children. Nearly all, men, women, and children, were scalped. I saw one woman whose privates had been mutilated. The scalps were carried away mostly by the 3rd regiment.” These graphic details were printed in newspapers around the country and would be used by those opposed to the transfer of the BIA to the Department of War citing the violent nature of the military toward unarmed Indian women and children.

Nevertheless, the majority of the Army personnel interviewed favored the transfer of the BIA to the Department of the Interior. The testimony of military personnel taken by the Doolittle Committee is largely much like that of Major General John Pope. He blamed the degradation of the tribes on white settlers and failed government policy. While there is a great deal of truth to the charges of failed policy and corruption, the testimony of Asbury Bird and Corporal Miksch brought to light the unnecessary violence brought against the tribes. It is important to note that not all in the military were unsympathetic. A number of generals were sympathetic to the plight of the tribes, and they would have almost certainly supported the transfer. Although the charges of

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mismanagement by the BIA were true, the testimony of Army brutally overshadowed the internal issues. The Doolittle Committee would conclude the use of Civilian agents was more beneficial to the tribes as a result.

In addition to interviewing military personnel, the Doolittle Committee interviewed individuals who had other interests in relation to the tribes. Those interviewed ranged from local residents, religious officials, and employees of Indian reservations. Their testimony offers an interesting mix of opinions, as some felt threatened by the tribes, while others are sympathetic towards them. Their answers are much more diverse than that of the military personnel because they had different interests.

Religious organizations had been an important part of the government’s Indian policy, and there were a number of missionaries present on Indian reservations. In the Southwest and California, these missions were remnants of the Spanish Empire and were Catholic. The committee called for testimony from Juan Baptiste Laney, the Roman Catholic Bishop of New Mexico, Arizona and Colorado. His experience was with the Pueblo Indians, having lived in the region for fourteen years. He explained that the populations were declining, and he expressed his concerns over the number of violent bands of Indians. In addition, he describes members of the Pueblo tribes as “industrious, of gentle, mild manners, and are Christians.”\(^{25}\)

In addition to the brutality of the Army, the Doolittle Committee was concerned with the supplies reaching the tribes. Dakota Territory Governor Newton Edmunds wrote to the committee about his concerns with the lack of supplies given to the tribes. He

\(^{25}\) *S. Report No. 156, 39th Cong., 2nd Sess. (1867), Appx., 356.*
explained that the tribes of the Yankton reservation “have very little upon which to subsist while their crops are growing.”

He wrote in August 1865 to refute some statements made by Major H. M. Conger (who had yet to be interviewed by the committee) stating that, “I cannot fully agree with Major Conger in all references. Some of them [Indians] are willing and ready to work.” Major Conger was charged with the cultivation of crops on the reservation and, from the Governor’s statement, appears to have questioned the Indians’ work ethic. The testimony of Governor Edmunds illustrates shortcomings of those charged with Indian Policy. The lack of supplies and the points of contention between the various parties involved only harmed the tribes.

The Doolittle Committee interviewed members and representatives from a number of tribes. They were asked questions about their tribes’ conditions and interactions with the military and governmental officials. Their testimony was left out of the final report presented by the Doolittle Committee, but it is important, as it is the opinion of those directly affected by the Indian policy, Army brutality, poor supplies, and the encroachment of whites. Military personnel, religious officials, local residents, and Indian agents could only provide a limited portion of the story, but the testimony from tribal members and the tribal chiefs provided true insight to the condition of the tribes.

Although the Committee interviewed a number of tribal chiefs, they did not interview individual tribal members. While the testimony of the chiefs provides some of

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27 He was later interviewed, but only reported that no land had been cultivated prior to his arrival on the reservation, S. Report No. 156, 39th Cong., 2nd Sess. (1867), Appx., 379.
29 Tribes represented within the Doolittle Committee include the Apache, Kickapoo, Cheyenne and Arapahoe, Navajo, Crow, Creek, Cherokee, Pawnee, Santee, Sac and Fox, and Delaware. In addition representatives were interviewed from the Yankton Reservation, Smith River Reservation, Walker River Reservation, Nome-Cult Reservation, Hoopa Reservation, Pueblo Agency, Ponca Agency, Lapwai Agency, and Neosho Agency.
the best first-hand accounts available to the committee, the Committee interviewed a select few “tribal members.” The first to be interviewed was Edmond G. Guerrier was a twenty-five year old born to a Frenchman and Cheyenne woman. He testified to the atrocities described by Asbury Bird and Corporal Miksch and assisted in the peace negotiations following the battle. While he offered little on the condition of his tribe, he did testify to the brutality of the military when handling the Cheyenne, especially at Sand Creek.\textsuperscript{30}

Edward R. Pond, a mission teacher with the Santee, described the poor food the tribes were forced to eat. When animals died, such as mules and horses, the Indians were forced to eat them. In addition, the military poisoned wolves that were near the reservation and the Indians would eat them as well. Pond described the desperation of the tribes during the winter and the lack of provisions necessary for them to survive. He described the process by which supplies were distributed by the agency. He stated that the agents were not sure if the tribes were given their provisions. From his testimony, it seems the agents divided the goods among the chiefs and left them in a warehouse for the chiefs to collect. They have no records showing when or who picked up the goods.\textsuperscript{31}

Clearly there were errors made on the Crow Creek Reservation, but these harsh conditions were not limited to the one reservation.

Chiefs from the Winnebago described the poor conditions of their tribe. The Committee interviewed four chiefs from the tribe, all describing the degradation of the tribe. Chief Little Hill described how they were suddenly removed from their homelands in Minnesota to their reservation in Nebraska. They were forced to leave behind a

\textsuperscript{30} S. Report No. 156, 39\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess. (1867), Appx., 65-6.

\textsuperscript{31} S. Report No. 156, 39\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess. (1867), Appx., 409.
number of horses and their planted crops. After being moved a number of times due to lack of sufficient supplies on various other reservations, the Winnebago found a permanent home. Nevertheless, Chief Little Hill described the condition of the tribe as being very poor. “You see us here now. We are most all naked; the whole tribe. Some of the tribe are more destitute of clothing than we are. We got some goods here now which the Great Father [United States] sent us. They are lying in the Omaha warehouse, and we don’t know but that the rats have eat [sic] them.”32 The other Winnebago chiefs interviewed agreed with Chief Little Hill. The Doolittle Committee heard testimony from Chief Big Bear, Chief Whirling Thunder, and Chief Decorah.33 They all agreed with Chief Little Hill’s statements about the tribe’s condition.

As it turns out, Chief Little Hill had already testified to the tribe’s condition in Washington D.C. a year earlier. He describes this meeting and its aftermath. “The time I went to Washington last winter I asked the commissioner about my goods, and he said the goods had already been sent, and when I got back the agent would give them to us. But when we ask [sic] our agent for them he will not give them to us. The reason, I suppose, he will not give us our goods, he is mad with us, because our young men have been talking that the major [the current agent, Major Blacombe] would be removed and a new agent appointed.”34 The tribe was clearly unhappy with their agent and they were hoping he would be replaced. They assume this is why they were not given the provided provisions.

When the tribes could not be interviewed directly, the Doolittle Committee relied on testimony from Indian Agents. The committee received a letter from Agent J. Harlan on August 1, 1865. He was the agent for the Cherokee Nation. He wrote that he had been the agent for the Cherokee since 1862 and had spent times with other tribes in Indian Territory. He spoke of the Cherokee as a robust group and with a fairly healthy and steady population.  

From his testimony, it is clear that the Cherokee, and tribes within Indian Territory, were the exception to the degrading conditions of the Indian tribes. Their population was fairly steady and they were, by Harlan’s definition, civilized. This is likely due to the amount of time they had been present in Indian Territory, as they had been on their reservations for nearly thirty years.

The testimony presented in the Doolittle Committee provided a limited view of the conditions of the tribes within the United States. The Committee seemed to have chosen to visit the tribes that were in the worst condition, such as the Winnebago, and focused on the most extreme examples of military brutality. The Cherokee and other tribes in Indian Territory did not receive a great deal of attention by the Committee because they were not in as dire conditions as some of the tribes interviewed. The testimony placed blame on the military for its extreme brutality.

**The Final Report**

When the Doolittle Committee completed its investigation in late 1865, it took it over a year to compile the testimony and deliver the results to Congress. Some suggested the report was purposefully held back because of the revealing nature of the testimony.

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36 *S. Report No. 156, 39th Cong., 2nd Sess. (1867), Appx., 441-50.*
37 One of those who fuel accusation was former Commissioner of Indian Affairs George W. Manypenny (1853-57). He made the accusation in a newspaper article for the Cincinnati *Gazette*. On
Nevertheless, the final report was issued January 26, 1867 and was fairly anticlimactic considering the explosive testimony it collected. The report simply answered the five questions it was charged with answering.

The final report is only eight pages long and provides answers to five questions. For the first, regarding the population growth or decline of the tribes, the committee found that “the Indians everywhere, with the exception of the tribes within the Indian Territory, are rapidly decreasing in numbers from various causes [list].”\(^{38}\) This statement is followed by quotes taken from the testimony, but none from tribal members; in fact, all the quotes are from generals. The second question they addressed the causes of Indian wars with whites. The committee found that the wars could be traced to “lawless white men.”\(^{39}\) Third, the committee found that the tribes’ hunting grounds had disappeared as a result of white migration.

The fourth question, concerning the BIA’s position within the Department of the Interior, was answered by the committee by stating that the BIA should remain where it was. This is likely due to the violence inflicted upon the tribes by the Army described within the testimony, but again, no tribal testimony is quoted in the report. In fact the committee stated: “While it is true many agents, teachers, and employees of the government are inefficient, faithless, and even guilty of peculations and fraudulent practices upon the government and upon the Indians, it is equally true that military posts among the Indians have frequently become [centers] of demoralization and destruction of

\(^{39}\) S. Report No. 156, 39th Cong., 2nd Sess. (1867), 5.
the Indian tribes.”

The Doolittle Committee outlined the arguments of each side, but ultimately concluded the civilization policy was most important and the Army was not equipped to carry out the policy. The argument presented by the military was that they believed they would be better equipped to distribute annuities and goods, as their officers are more honest than the civilian agents of the BIA. While those in support of the Department of the Interior argued that the military was too harsh, even in times of peace and that the tribes must be taught to farm and be better educated. Supporters of the BIA pointed out that civilian agents were better at these tasks than military officers. The committee argued that even the tribes currently at war with the United States would one day require these tools of civilization.

The Doolittle Committee concluded that although it was best for the BIA to remain within the Department of the Interior, the conflicts between the two departments did provide a major benefit. The jealousy between the two departments meant that neither was slow to point out the other’s mistakes. This would be important, as it would feed into the continued development of the BIA and the Department of the Interior. Interestingly, the Committee’s decision to keep the BIA within the Department of the Interior was unanimous.

The fifth and final question answered by the committee was what the government could do for the tribes. They recommended that Congress approve of a board of inspectors for the BIA. The board would comprise of members of the religious groups,

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the military, and civilians. The reservations would be apportioned and boards would be appointed to ensure tribal members received the goods they were due.\textsuperscript{42} This suggestion was never acted upon. In fact, the committee as a whole never stirred any cause for reform within the government, but as Prucha explains, the only groups the committee’s report and testimony affected were the reform movements and the religious missionary groups.\textsuperscript{43}

The Doolittle Committee has little presence in the secondary literature on Indian Policy, despite its importance to the Reform movements. The committee had a chance to make a difference for the tribes that were suffering in the West. The testimony from the Indian Agents, tribal members, and even the military all agreed the tribes were suffering. Nevertheless, the committee’s final report was delayed and far too weak to make any difference. The testimony has been ignored, and even dismissed, by historians, but its importance can be seen when we read past the inaccuracies. Prucha criticized the wrong portion of the Doolittle Committee’s final report. The appendix may have been full of bias and inaccuracies, as the final report only outlined the problems, but offered no solutions.

\textsuperscript{42} S. Report No. 156, 39\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess. (1867), 8-10.

\textsuperscript{43} Prucha, \textit{The Great Father, Volume 1}, 486.
Chapter Three

The Peace Policy and the Transfer Debates

The period following the Civil War is heavily focused on Reconstruction, and the political establishment largely ignored the recommendations made by the Doolittle Committee.¹ The period was plagued by wars with the Sioux on the Plains, Modoc in the Pacific Northwest, and the Apache in the Southwest. The violence between the tribes and the United States had several effects. The first was the use of the Peace Commission of 1867 in an attempt to quell the violence on the plains. The Commission made a series of recommendations meant to ease the tension, but the majority were ignored. President Ulysses S. Grant’s Peace Policy became yet another attempt to curb the violence, and the changes implemented by the Peace Policy directly affected the BIA and its organization.

The wars between the tribes and the eventual failure of Grant’s Peace Policy brought to the forefront the debate over which department, the Department of the Interior or the Department of War, should contain the Bureau of Indian Affairs (BIA). Congress would briefly take up the issue in 1875 leading to a report by the Committee on Military Affairs, known as the Banning Committee, to recommend the transfer of the BIA to the Department of War in 1876. The transfer request was made as the BIA was implementing a new organization chart that placed missionaries at the forefront of selecting those who

¹ Few historians have written about what followed the Doolittle Committee. Those who cover the subject tend to jump from the Doolittle Committee to the Peace Commission of 1867, which was recommended by the Doolittle Committee. Francis Paul Prucha, The Great Father: The United States Government and the American Indians, 2 Volumes (Lincoln, NE: University of Nebraska Press, 1984), 1:485-88, spends a few pages on Doolittle and follows it up immediately by the Peace commission. Doolittle is briefly mentioned by Robert Wooster in The American Military Frontiers: The United States Army in the West, 1783 – 1900 (Albuquerque: University of New Mexico Press, 2009), 201, and briefly mentions the Peace Commission on the same page. Prucha and Wooster focus on different areas of history, Indian Policy and military policy, respectively, and neither spends a great deal of time analyzing the interviews conducting by these tribes or acknowledging the involvement of the tribes.
would conduct Indian Policy. Although the efforts of the Peace Policy would largely fail, the BIA’s internal organization and religiously affiliated agents did begin a process of improvements within the BIA.

**The Civil War and Renegotiation**

During the Civil War, a number of tribes in Indian Territory believed they would be better served by the Confederate government. Factions of the Five Civilized Tribes opted to join the Confederacy. The Cherokee, for example, split into a band that supported the United States and one that supported the Confederacy. Many of the tribes that supported the Union were forced out of Indian Territory by the fighting and the tribes loyal to the Confederacy. The majority of these refugees fled to Kansas and Missouri where they were placed on temporary reservations.

The important point is that the tribes were split. After the Civil War, the tribes were treated as though they had all abandoned the United States.

The Confederate government created a separate BIA within its War Department. As it was the Southern Democrats who had largely supported the transfer of the BIA back to the Department of War, it is not surprising that the Confederacy would immediately

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4 There have been a number of works written about the tribes and their relationship with the Union and/or the Confederacy during the Civil War. In Philip Weeks, *Farewell, My Nation: The American Indian and the United States, 1820-1890* (Arlington Heights, IL: H. Davidson, 1990) 73-107, the war is explored as a series of Indian Wars. The policy toward the tribes during the war is explored by David A. Nichols, *Lincoln and the Indians: Civil War Policy and Politics* (Columbia: University of Missouri Press, 1978). The Civil War is covered in depth by Prucha, *The Great Father*, 1:411-78.

5 Prucha, *The Great Father*, 1:419-20
create a BIA within their own Department of War. Officials from the Confederate BIA were sent to negotiate treaties with a number of tribes in Indian Territory. The first tribes to join included the Creeks, Choctaws, and Seminoles.\(^6\) One notable hold out from the early treaties were the Cherokee, but they too joined the Confederacy on October 7, 1861.\(^7\) The full tribal populations did not support the Confederacy; however, as the Cherokee in particular had a number of factions that chose to remain neutral. The war in Indian Territory was hard on the tribes, as much of what the Five Civilized Tribes had built was destroyed. The tribes that had joined the Confederacy returned their allegiance to the United States before the end of the war, but the damage had been done. The United States viewed the tribes that had joined the Confederacy as hostile.\(^8\)

The Civil War contributed to renewed violence in the trans-Mississippi West. Many of the tribes had been volatile, and the Civil War was a catalyst for many of these battles, as the Army was distrustful of all tribes. While President Abraham Lincoln was sympathetic toward the tribes, the Civil War dominated politics and attempts to work with tribes were overshadowed.\(^9\) As the United States began the process of Reconstruction, the attention to Indian Policy was resumed.\(^10\) Sympathy for the Indians in the West, however, was virtually non-existent. Westerns felt the task of the United States was to subdue the tribes and bring them back into the United States despite the fact the majority had returned to the United States before the war’s conclusion.\(^11\)

\(^6\) The Creeks signed a treaty on July 10, 1861, the Choctaws on July 12, and the Seminoles on August 1. Prucha, *The Great Father*, 1:420
\(^7\) Prucha, *The Great Father*, 1:423
\(^8\) Prucha, *The Great Father*, 1:427
One of the primary tasks of the BIA following the Civil War was to renegotiate
 treaties with the Five Civilized Tribes, who had sided with the Confederacy during the
 war. During the summer of 1865, there was an internal debate over how to handle the
 renegotiations, but ultimately, members of BIA, Army, and the tribes met in Fort Smith,
 Arkansas in September 1865 to negotiate with the tribes and develop a civilian
 government in Indian Territory. This meeting was open only to the factions of the tribes
 who remained loyal to the Union during the war, with those who fought against the
 Union meeting separately. The tribes were unhappy with this because many had already
 taken steps to reconcile. For example, the Cherokee’s National Council had voted in 1863
 to repeal their treaty with the Confederacy and voted to abolish slavery.\(^\text{12}\)

When the Five Civilized Tribes agreed to meet with the United States in Fort
 Smith, the American representatives’ goal was to get the tribes for the Indian Territory to
 give up sections of land so that the other tribes could be moved to the area. These tribes
 were dealt with fairly harshly and were told that by leaving the Union they had forfeited
 their rights to annuities and to their land, but the President was willing to negotiate new
 treaties with them. This statement surprised the representatives of the tribes, as they did
 not have the authority to negotiate treaties on the tribes’ behalf.\(^\text{13}\) Nevertheless, the
 meeting proceeded and outlined seven points that were to be included in all renegotiated
 treaties:

1. Each tribe must enter into a treaty for permanent peace and amity with themselves,
   each nation and tribe, and with the United States
2. Those settled in Indian Territory must bind themselves, when called upon by the
   government, to aid in compelling the Indians of the plains to maintain peaceful
   relations with each other, with the Indians in the territory, and with the United States

\(^{13}\) Prucha, *The Great Father*, 1:431.
3. The institution of slavery, which has existed among several of the tribes, must be
forthwith abolished, and measures taken for the unconditional emancipation of all
persons held in bondage, and for their incorporation into the tribes on an equal
footing with the original members, or suitably provided for.

4. A stipulation in treaties that slavery, or involuntary servitude, shall never exist in the
tribe or nation, expect in punishment of crime.

5. A portion of the lands hitherto owned and occupied by you must be set apart for the
friendly tribes in Kansas and elsewhere, on such terms as may be agreed upon by the
parties and approved by government, or such as may be fixed by the government.

6. It is the policy of the government, unless other arrangement be made, that all nations
and tribes in the Indian territory be formed into one consolidated government after
the plan proposed by the Senate of the United States, in bill for organizing the Indian
territory.

7. No white person, except for officers, agents, and employés of the government, or of
any internal improvement authorized by the government, will be permitted to reside
in the territory, unless formally incorporated with some tribe, according to usages of
the band.\textsuperscript{14}

The recommendations made by the committee charged with the negotiations
showed some of the fallout as a result of the Doolittle Committee and the Sand Creek
Massacre. There were military officers present at the negotiations and the debate between
the two departments seems to be absent from the stipulations of the agreement. The Five
Civilized Tribes resented several of the points outlined by the committee. The tribes were
unhappy with their treatment by the government and refused to agree to the terms.
Because of these disagreements, the meeting in Forth Smith was largely a failure. No new
treaties were established, but the tribes accepted that they were under the jurisdiction of
the United States. With the basic information in place, individual treaties would not be
negotiated until a later date.\textsuperscript{15}

\textbf{Indian Hostilities}

\textsuperscript{14} H. Exec. Doc. 1 pt. 2, 39th Congress, 1st Sess. (1865), Archive of Americana
108E1127D9328FC0, 482-83.

\textsuperscript{15} Prucha, \textit{The Great Father}, 1:432.
Following the Civil War and into the 1870s, violence continued between the United States and tribes on the plains, the Pacific Northwest and the Southwest. The military found itself, once again, handling the tribes the Department of the Interior’s policies had seemingly failed. As the United States learned from the Doolittle Committee, wars between the tribes and the United States were fueled primarily by white encroachment, but little could be done to prevent this from occurring. A number of tribes, including the Sioux and Modoc, were resisting removal from their traditional lands to newly created reservations. Other tribes such as the Kiowas, Comanches, and Cheyennes were rebelling because they were not allowed leave the reservation to hunt, as provisions provided by the United States were not sufficient and of a poor quality. All these issues called into question the BIA and Department of the Interior’s control over Indian Policy and led to the reintroduction of the transfer issue in Congress.

The wars on the Great Plains had plagued the United States since the 1850s, and continued to do so in the 1870s. Wars continued with the Kiowas and Comanches who were leaving their reservation to hunt and raid other reservations. The Cheyennes also joined in with these tribes as the military began to bear down upon them. While the military was fighting the Kiowas and Cheyenne, the wars on the plains included the Lakota Sioux as well. The wars between the United States and the Sioux were particularly violent and flared on and off throughout the 1860s and 1870s.

There have been a great number of books written about the individual wars presented in this section. Analysis of the wars can be found in Prucha, *The Great Father*, 1:535-44 and Wooster, *The Military and United States Indian Policy*, 144-73. Both Prucha and Wooster explain how the Indian wars of this period play into the reform efforts taking place during this period. Robert Marshall Utley writes in his book, *The Indian Frontier of the American West, 1846-1890* (Albuquerque: University of New Mexico Press, 1984), about the wars as well. His focus is much more broad than Prucha and Wooster, and he synthesizes the wars along with the attempts to prevent them.

The Modoc War began in the Pacific Northwest in 1872 after the tribe began to feel threatened by white encroachment. The encroachment began in the mid-1860s when white settlers squatted on land that belonged to the tribe. When the Modocs discovered the settlers, tensions between the settlers and the tribe prompted the deployment of the army to the reservation in 1872 and skirmishes flared up. The efforts of a peace commission sent in early 1873 failed, and the Modoc tribe killed several of its members. This caused many within the government and general public to lose sympathy with the tribe, and the military pushed ahead with full force, causing the Modoc to surrender in June 1873.\textsuperscript{18}

In the Southwest, the Apache occupied the United States military. They were known for their guerilla style warfare, and the Army was dispatched to Arizona in 1870. A peace commission was dispatched to attempt to negotiate with the Apache. The failure of the negotiators caused the citizens in the area to take matters into their own hands, and they killed eighty-five Apaches. Those who committed the murders were tried, but were acquitted by a jury.\textsuperscript{19} Geronimo, leader of the Chiricahua Apache, and his band would continue to terrorize white settlers in the Southwest throughout the 1870s.

Perhaps the best-known Indian war in this period was with the Sioux on the Great Plains. The Sioux were fighting off encroachment of white settlers in the Black Hills region of the Dakotas. A part of this encroachment that threatened the Sioux was an expedition led by General George A. Custer. The Sioux refused to remain on their assigned reservation, and orders were given for the military to force them to their reservation in 1875. The situation worsened, and on February 1, 1876, Secretary of the

\textsuperscript{18} Prucha, \textit{The Great Father}, 1:537-8.
\textsuperscript{19} Wooster, \textit{The Military and United States Indian Policy}, 146-8.
Interior Zachariah Chandler declared all tribes not on their reservations hostile. The Sioux resisted and Custer and his troops faced off with them June 25 on the Little Bighorn.\textsuperscript{20} Custer’s annihilation made headlines and many began to question, once again, the control the Department of the Interior had over the tribes. More importantly, the violence only highlighted some of the more serious issues with Indian Policy and its enforcement. The Department of War and its supporters in Congress used the wars as a way to bring the transfer debate back to the forefront.

**Peace Commission of 1867**

The wars with the Sioux, Lakota, Kiowa, Cheyenne, and Modoc, concerned Congress since a number of these battles had continued following the conclusion of the Civil War. Congress created the Peace Commission of 1867, the first of several Peace Commissions to be created by Congress to negotiate with these hostile tribes.\textsuperscript{21} Congress authorized the Peace Commission July 20, and it was made up of four special agents and four military officers, all with the rank of brigadier-general or higher.\textsuperscript{22} They met in St. Louis, Missouri on August 6 and prepared for their tour, which would primarily focus on

\textsuperscript{20} Prucha, *The Great Father*, 1:540-1.

\textsuperscript{21} The Peace Commission of 1867 is the first of a series of Peace Commissions to be utilized by the government. The Peace Commission of 1867 was tasked with interviewing a number of tribes to determine the causes of Indian wars. Future Peace Commissions would be sent to deal with tribes on an individual basis. The Peace Commission of 1867 is discussed in several publications on Indian Affairs such as Prucha, *The Great Father*, 1:488-92; Wooster, *The American Military Frontiers*, 201; and Wooster, *The Military and United States Indian Policy*, 119-22. These sources do not offer a great deal of analysis and fail to connect it to the transfer debates. It is viewed as important due to the tribes the commission negotiated with, but it is yet another report, made up of military officers and special agents, who would recommend the BIA belonged in the Department of the Interior.

\textsuperscript{22} For the full text of the Peace Commission’s report see: *H.R. Ex. Doc. No. 97*, 40\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess. (1868). Archive of Americana 109210B02B407AB0. The commission of 1867 was not he first, nor the last committee with the title of “Peace Commission” to be assembled. It is important because it was established amidst the renegotiation with Indian tribes following the Civil War and was a direct result of the Doolittle Committee. The members of the committee included N. G. Taylor, President, J. B. Henderson, Lieutenant General W. T. Sherman, Major General William S. Harney, John B. Sanborn, Major General Alfred H. Terry, S. F. Tappan, and Major General C. C. Augur; *H.R. Ex. Doc. No. 97*, 40\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess. (1868), 23.
the Dakota Territory, Nebraska, Kansas, and Colorado Territory. Their primary goals were “to remove, if possible, the causes of war,” “secure, as far as practicable, our frontier settlements and the safe building of our railroads,” and “to suggest or inaugurate some plan for the civilization of the Indians.”

The commission’s report is extremely critical of the United States’ policy toward the tribes. Throughout its report, the Commission pointed out the inconsistencies between the terms of the treaties and the actions of the government. The Commission consistently suggested that the treaties were “in utter disregard of their [the tribes’] wants.” An example was Brulé Chief Swift Bear’s request for ammunition so that his tribe could hunt. Hunting was vital to the survival of his tribe, but the game was disappearing from the plains and the use of bow and arrows no longer yielded satisfactory results.

Following their seemingly brief investigation in the northern plains, the Commission traveled south and remained in Medicine Lodge, Kansas where they met with a variety of tribes and successfully negotiated treaties with the Kiowas, Comanches, and Apaches. They were also able to create an informal agreement with Cheyenne and Arapahoes. One of the key reasons these tribes were hostile was because the government stopped paying annuities to the tribes. The Peace Commission was authorized to negotiate new annuities and authorized the release of annuities that they tribes were previously due.

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25 H.R. Ex. Doc. No. 97, 40th Cong., 2nd Sess. (1868), 4. Chief Swift Bear is the only Indian Chief cited directly in the Peace Commission’s report. There does not appear to be a record of the testimony of the Peace Commission like there was for the Doolittle Committee. It is therefore unclear how many witnesses the Commission interviewed.
commission went on to explain what they viewed as the causes of the hostilities on the Plains.

Although the report is not detailed with regard to each tribe, it explains that white settlers from the East encroached upon many of the tribes on the plains. These settlers were being drawn west by the prospect of gold and, in the process, driving off the game. This required the tribes to expand their hunting grounds. The movement of the white and Indian populations led to inevitable clashes. The report detailed other incidents, but the most common issue for tribes was the failure of Congress to carry out the terms of the treaties to which they had agreed. Even more troubling to the tribes was the change in treaties without their consent. For example, in an 1861 treaty, the Cheyenne agreed to a set price per acre for their lands, but when the treaty reached Congress, the terms were altered. In addition, their annuities were reduced. They had no representation within the government to fight these changes.  


The Commission then turned to the policy of civilizing the tribes. They believed “if they [Indian and whites] could live together, the Indian by this contact would soon have become civilized and war would have been impossible.” 28 They believed that the tribes could be civilized and that it was their “savageness” at the root of the wars on the plains. 29 They openly admitted, however, that the two living together had not worked for three reasons: “1. the antipathy of race, 2. the difference of customs and manners, and 3. the difference in language.” 29 The key to civilization was the education the tribal youth in

an American manner. It was a common held belief that this would civilize the tribes over time.

The Peace Commission made a series of recommendations to President Andrew Johnson as to how to improve the United States’ relationship, not just with warring tribes, but also with all tribes. The first, and perhaps most important, was that the BIA should no longer pay annuities in cash. They argued that this type of payment allowed for corruption within the BIA. In addition, the tribes had no use for cash. Instead, they suggested that annuities consist of “domestic animals, agricultural and mechanical implements, clothing,” and only other necessities to make them self-sufficient. This echoed the recommendations made by the Doolittle Committee.

One of the Commission’s primary goals was to find suitable reservation land for the tribes of the Northern Plains. They recommended the creation a second Indian Territory in the Northern Plains that would serve two purposes: control overcrowding in the original Indian Territory and allow the tribes of the northern plains to remain closer to their traditional hunting grounds. The Treaty of Fort Laramie carried out this plan in 1868 with the creation of the Great Sioux Reservation.

Their third suggestion dealt exclusively with the tension between the Department of War and Department of the Interior. It was recommended that the Trade and Intercourse Laws be revised. They had not been updated since 1834, and therefore did

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34 Prucha, American Indian Treaties, 282-3.
35 The Intercourse Laws were written to regulate trade and interaction between whites and the tribes. For more information on the intercourse laws see: Prucha, The Great Father, 1:89-114. Prucha
not define the role of the Department of the Interior following its creation in 1849.\(^{36}\) While all responsibility of the Department of War was to be handed over the Department of the Interior with regard to Indian policy, the Department of War still played a key role in Indian Policy. The laws, which had not been updated since the transfer, bound the military to Indian Policy. This caused tension between the two departments, and the commission believed that a clear definition of the duties of each department would relieve some of the tension and subdue the transfer debates.\(^{37}\)

The commission moved on to the question of whether the military should have control over Indian Policy. Before making their recommendation, they suggested that the United States should clarify its policy, “If we intend to have war with them the bureau should go to the Secretary of War. If we intend to have peace it should be in the civil department.”\(^{38}\) The commission was in favor of a pacifying policy with the Indians and believed the Department of the Interior was capable of carrying this out. Realizing, however, that there was an issue with corruption in the BIA, they recommended that all superintendents, agents, and specials agents be replaced. The Commission believed that new regulations would be better carried out by new personnel.\(^{39}\)

The Sand Creek Massacre was reconsidered by the Peace Commission as one of their suggestions was that no state or territorial governor should be allowed to call upon local militias to fight against the tribes. In 1864, the Cheyenne were at war, but not with the United States army, instead they found themselves at war with the Colorado militia.

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\(^{36}\) Prucha, *The Great Father*, 1:300-2

\(^{37}\) *H.R. Ex. Doc. No. 97, 40\(^{th}\) Cong., 2\(^{nd}\) Sess. (1868)*, 20.

\(^{38}\) *H.R. Ex. Doc. No. 97, 40\(^{th}\) Cong., 2\(^{nd}\) Sess. (1868)*, 20.

\(^{39}\) *H.R. Ex. Doc. No. 97, 40\(^{th}\) Cong., 2\(^{nd}\) Sess. (1868)*, 21.
The commission concluded that if there are going to be Indian wars, they should be carried out by the regular army, meaning, with federal approval. Fighting the tribes on a local level damaged the relationship between the tribes and the United States.\textsuperscript{40}

In addition to revising the intercourse laws, the committee suggested a renewed trade policy with the tribes. Although the Trade and Intercourse Laws required traders to register, it was fairly easy to carry out trade without doing so. There was no clear way to control those who traded with the tribes; therefore, tribes often dealt with corrupt traders and traders willing to trade alcohol, which had been banned. In addition to renewed control over traders, the Peace Commission suggested that the government create laws that authorized the removal of white settlers from Indian land and reservations. The report suggests that this would be yet another task for the military.\textsuperscript{41}

The final two suggestions were to follow up with the Navajo and Sioux tribes, as they were unable to reach agreements with them. In the case of the Navajo, the commission suggests a treaty be negotiated as the tribe spent some time as prisoners of war at great expense to the United States. In the case of the Sioux, they recommended a similar Peace Commission be authorized to meet with them in the spring of 1868. Removal was suggested in both cases.\textsuperscript{42}

The majority of the suggestions from the Peace Commission called for a centralization of Indian Policy. There was clearly an issue with the BIA and its control, or lack thereof, over policy; however, the Peace commission did not appear to have any long-standing effects on the way in which the government handled Indian Policy. The

\begin{footnotes}
\footnote{H.R. Ex. Doc. No. 97, 40\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess. (1868), 22.}
\footnote{H.R. Ex. Doc. No. 97, 40\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess. (1868), 22.}
\footnote{H.R. Ex. Doc. No. 97, 40\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess. (1868), 22.}
\end{footnotes}
report pointed out inconsistencies between the Departments of government. The building
of railroads through reservation lands without the approval of the tribes exemplified this
lack of communication. Nevertheless, the Peace Commission was important as it
reaffirmed many of the points brought up in the Doolittle Committee’s final report.43

Grant’s Peace Policy

In the midst of Reconstruction,44 the election of 1868 brought Ulysses S. Grant to
the White House. He would work with factions of the government in an attempting to
rework Indian Policy. The Doolittle Committee and Peace Commission highlighted
several inconsistencies within the policy of the United States toward the tribes and made
a number of suggestions to improve that relationship. Although many of these
suggestions would go unanswered, there were a number of attempted reforms made
during the presidency of Ulysses S. Grant. His so-called “Peace Policy” took into
consideration the suggestions made by the Doolittle Committee and the Peace
Commission.45

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43 The long standing effects, or lack thereof, of the Peace Commission are briefly described in
Prucha, The Great Father, 1:488-92 and Robert Wooster, The Military and United States Indian Policy
is the standard text historian access when researching the Reconstruction era, but when looking for
information regarding Indian Policy during the Reconstruction era, Foner’s work is fairly weak. Indian
Policy makes only a brief appearance in a few instances. He does discuss the Grant’s Peace Policy, but
depends it a failure at keeping the peace, as it was. Beyond this, he rarely mentions Indians at all even though
they fought in the war and were dealt with by the United State has hostile following the war.
45 Grant’s Peace Policy is widely covered in the historiography. Prucha devotes an entire chapter
to it The Great Father, 1:501-33, as does Wooster, The American Military Frontiers, 216-37. It is also
discussed throughout Wooster, The Military and United States Indian Policy. Priest’s Uncle Sam’s Stepchildren, is devoted to the subject of the reforms made following the Civil War and with the
introduction of Grant’s Peace Policy. Cathleen D. Cahill’s Federal Fathers & Mothers: A Social History of
18, acknowledges the changes brought about by the Peace Policy, but offers little interpretation. The role of
Commissioner of Indian Affairs Ely Parker is explored in depth by, C. Joseph. Genetin-Pilawa, “Ely Parker
and the Contentious Peace Policy,” The Western Historical Quarterly 41 (Summer 2010): 196-217,
Within the first year of Grant’s presidency, he began to outline his Peace Policy with the primary goal to eliminate the causes of tension between the tribes and the United States. One early concern of Grant’s was that Congress had not followed through with any of the suggestions or treaties made by the Peace Commission of 1867. So on March 8, 1870, he wrote a letter to Congress expressing his concern.\footnote{S. Exec. Doc. 57, 41st Congress, 2nd Sess. (1870), Archive of Americana 1094A13B02B25690.} In it, he discussed a recent attack carried out by the military upon a group of Piegan Indians and the public outcry it generated.\footnote{The massacre of Piegan Indians by order of General Philip Sheridan caused a public and humanitarian outcry. Grant had to have been concerned about that as well as the possibility of violence by other tribes. For more on the Piegan massacre: Prucha, The Great Father, 1:514.} Grant was not as concerned with the Piegan incident, but was concerned with the Sioux. The tribe had been hostile toward the United States for decades, which came at great cost. Grant understood that white encroachment was at the root of Indian hostility, and he noted that even peaceful tribes were experiencing encroachment. He concluded his letter by stating, “it will be cheaper to feed every adult Indian now living, even to sleepy surfeiting, during his natural life, while their children are educated to self-support by agriculture, that it would be to carry on a general Indian war for a single year.”\footnote{S. Exec. Doc. 57, 41st Congress, 2nd Sess. (1870), 5.} 

One of the earliest reforms made by Grant was the creation of the Board of Indian Commissioners.\footnote{The Board of Indian Commissioners is widely acknowledged in the historiography as a part of Grant’s Peace Policy, and is largely covered in the same text. More can be read on the Board of Indian Commissioners in Priest, Uncle Sam’s Stepchildren, 42-53; Prucha, The Great Father, 1:501-12; and Cahill, Federal Fathers & Mothers.} The Board was created in 1869 and comprised of nine philanthropists who served as advisors to the BIA. Those appointed to the board were members of the various religious organizations that were present on the reservations. Commissioner of Indian Affairs Ely S. Parker, a member of the Seneca tribe, asked the Board, in a May 26,
1869 letter, to focus on a series of questions that the board should consider related to aspects of Indian Policy. The legislation that created the Board of Indian Commissioners suggested that the Board and Commissioner should “exercise joint control [of Indian Affairs] with the Interior Department.”\(^{50}\) The authority of the Board of Indian Commissioners was never fully explained, and they would often clash with the Commissioner of Indian Affairs and the Secretary of the Interior. Nevertheless, Grant viewed them as an important, independent, group that could offer an alternative view. They were uncompensated for their service, and President Grant considered the Board to be a vital connection between the BIA and the Indian agencies.\(^{51}\)

The idea for the Board came about during the Civil War when the BIA was experimenting with new ways to appoint agents in the field. Part of the Peace Policy called for an increase missionaries’ role on reservations. Grant devised a plan to apportion the Indian agencies among the church organizations.\(^{52}\) They would be given the authority to select agents and forward their recommendations to the President. While the appointment of agents was still the President’s, Grant’s goal was to eliminate the spoils system, a system that often promoted inexperienced men as Indian agents. Grant failed to follow through with his plans to end corruption, as he would often appoint those he knew to Indian posts. The use of religious leaders as de facto governmental agents concerned several in Congress including Representative John K. Luttrell of California who

\(^{50}\) Priest, *Uncle Sam’s Stepchildren*, 43.

\(^{51}\) Priest, *Uncle Sam’s Stepchildren*, 42-3.

\(^{52}\) An in depth analysis of Grant’s plan and charts of apportionment can be found in: Prucha, *The Great Father*, 1:512-27.
suggested that church members were not qualified to manage the large amount of money placed in their trust.53

One of the most significant changes made by the Peace Policy was the end of treaty making with the tribes in 1871.54 The end of treaty making was a major shift in Indian Policy. Like the Board of Indian Commissioners, the end of treaty making was viewed as a major part of Grant’s Peace Policy despite the fact the debate began before Grant came to office. It is viewed as an attempt to increase the dependence of the tribes on the United States. They felt that treating the tribes as though they were separate nations would only encourage them to remain separate.55

Legislation to bring about the end of treaty making came rather slowly in Congress. The House of Representatives had been concerned that the Senate held treaty-making power over the tribes and believed that both houses of Congress should participate in the creation of Indian Policy. This debate began in 1867, but legislation failed. When it came time for Congress to approve the BIA’s budget for 1872, the House refused to act unless the tradition of making treaties with the tribes ended. In the end, the House won the debate when treaty making was ended by Congress on March 3, 1871.56

Despite the end of treaty making, agreements were made with the tribes. These were sometimes made without the consent of Congress. Special agents were sent to the

53 Donald J. D’Elia, “The Argument over Civilian or Military Indian Control, 1865-1880,” Historian 24, no. 2 (February 1963), 216.
54 The end of Treaty Making was a major shift in Indian Policy. Like the Board of Indian Commissioners, it is viewed as a part of Grant’s Peace Policy. It is viewed as an attempt to increase the dependence of the tribes on the United States. It is covered solidly in the historiography by: Prucha, The Great Father, 1:527-33; Prucha, American Indian Treaties: A History of a Political Anomaly (Berkeley: University of California, 1994); Priest, Uncle Sam’s Stepchildren, 96-102. The end of treaty making is also discussed by Frank Pommersheim, Broken Landscape: Indians, Indian tribes, and the Constitution (New York: Oxford University Press, 2009) 64-65.
56 Priest, Uncle Sam’s Stepchildren, 96-9.
tribes to make these agreements, but the rationale for this was for the tribes to rely more on the government itself, as opposed to a worthless piece of paper because, as the Doolittle Committee and Peace Commission discovered, the terms of many treaties were often violated by the United States, thus upsetting the tribes and creating violence. Supporters of the discontinuation of treaty making suggested that ending the use of treaties would eliminate the reliance upon them by the tribes.57

The Peace Policy was met with differing reactions throughout the country. It was unpopular in Arizona due to the raids of the Apache. This made it difficult for John H. Stout, agent to the Pimas, to improve the tribe’s conditions because it was difficult to get BIA approval for the contraction of buildings and delivery of supplies.58 By contrast, James Irwin was able to make a profound impact on the lives of the Shoshone and Bannock in Wyoming by ignoring the chain of command and making the changes on his own authority. While Irwin did not have to worry about an angry local population, he did have to deal with the bureaucracy to get anything done.59 The primary difference between the two agents was not their locations, however. It was their personalities. Irwin was more forceful and would often act before getting approval from the BIA.60 Stout was more cautious. This was common within the BIA. It was often not the policy that improved the conditions of the tribes, but the person in charge at the time.

57 While Priest, Uncle Sam’s Stepchildren, 100-2, largely suggests that the tribes were over reliant on the treaties, Prucha, The Great Father, 1:532-3 suggests that treaty making did not end. The tribes would instead be subjected to agreements, which were carried out much like the treaties had been.
Despite the efforts to reform the BIA under the Peace Policy, the reform efforts failed. The Board of Indian Commissioners and church-run agencies found themselves in trouble. The Board clashed with the Commissioner of Indian Affairs and Secretary of the Interior. When the board was created, its duties were not clearly defined and a power struggle began. By 1874, the Board was frustrated and all its original members resigned. The church missions found the responsibility placed upon them to be too much as well. Another issue arose with a battle between the Protestant missions and Catholic missions. The BIA divided the reservations among the Protestant groups leaving the Catholic missionaries only with those reservations they possessed prior to the reforms. The Mormons, too, were left out, as were many of the Southern Protestant sects. The plan was supposed to remove politics from the BIA but instead created a new set of politics.61

**Banning Committee**

The continuing tensions between the Department of War and Department of the Interior, along with the continuing wars on the Plains, Southwest, and the Pacific Northwest, had called into question the control of the Department of the Interior. Once again, the transfer debate was brought up in Congress in 1875. The Doolittle Committee, carried out by Congress’s Committee on Indian Affairs, had recommended the BIA remain a civilian agency, as did the Peace Commission of 1867. In 1875, however, the

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61 The two sources which cover the failure of the attempted reforms are Prucha, *The Great Father*, 1:520-27 and Priest, *Uncle Sam’s Stepchildren*, 3-53. Priests section is devoted entirely to the failed policies of this period. Prucha spends a few pages outlining the failings, while Priest goes more in depth and explains the creation and failings of the Board of Indian Commissioners and the use of Church nominated officials. Not all historians believe the Peace Policy failed, however. Henry Eugene Fritz argues in his book, *The Movement for Indian Assimilation, 1860-1890*. Philadelphia: University of Pennsylvania Press, 1963) 135-67, that although many of the attributes of the policy was a failure, but the Peace Policy was successful at curbing corruption among the agents and improving the system by which the tribes’ were delivered.
Committee on Military Affairs began an investigation into the Army’s budget. They met throughout the fall of 1875 and interviewed seventy-nine witnesses, all of them military but two. Their final report was delivered to Congress on March 9, 1876.

Leading the Committee on Military Affairs was Ohio Representative Henry B. Banning, a Democrat, who introduced the legislation in which massive cuts in military spending and in the size of the standing army were included. While this did not deal directly with Indian Policy, one of the ten questions asked of each of the sixty military officers interviewed was, “What is your opinion as to the propriety of transferring the Indian and Pension Bureaus to the War Department?” Although the issue of reduction in pay and the standing army would be the central theme of the report, the inclusion of a question about the transfer was in response to the reintroduction of the debate in Congress.

When testimony could not be given directly by a witness, the committee sent a letter with the questionnaire to the recipient. Several of the military officers took advantage of this form of communication. General of the Army William T. Sherman responded to the question quite simply, “The transfer of the Indian Bureau would result

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63 Since the Banning Committee’s final report deals largely with the reduction in pay of officers and the reduction of the military, many Indian historians ignore the content of the report. Although it is heavily biased, it is important to understand the arguments for the transfer of the BIA to the Department of War as well as the continued questioning of the Department of the Interior. The Banning Committee is briefly mentioned in Wooster, The Military and United States Indian Policy, 86-7, but only in the context of the cuts to the military, not the transfer question. The Banning Committee is also briefly discussed by Prucha, The Great Father, 1:557-8.

64 The full text of the report and testimony can be found: H.R. Report No. 354, 44th Cong., 1st Sess. (1876).

65 “General [of the Army], Lieutenant-General, the major-generals, all the brigadier-generals but one, thirty-one colonels, and twenty-nine lieutenant-colonels, majors, and captains.” H.R. Report No. 354, 44th Cong., 1st Sess. (1876), 4.

in economy and efficiency,“67 but admitted, “I do not profess to know anything of the practical workings of the Indian Bureau as now organized; but if transferred to the War Department, I suppose it will be made subject to such changes as the Secretary of War may recommend.”68 This quote illustrates the lack of knowledge by members of the military as to the purpose of the BIA, as well as a lack of enthusiasm on the part of Sherman. The overwhelming majority of the officers interviewed would echo Sherman’s opinion that the department would be better off under the control of the Department of War because it would eliminate corruption and reduce the budget, but they failed to explain how the transfer could affect the relationships with the tribes.

Only two officers of the sixty interviewed opposed the transfer. One of the two was William Welsh, the former Chairman of the Board of Indian Commissioners. While he admitted there were flaws with the BIA and its handling of Indian Policy, he believed that the Department of War was ill-equipped to continue the civilizing mission begun by the Department of the Interior. He openly admitted to the committee that he believed the Army would be better suited to deliver supplies and annuities, but Welsh’s primary concern was the civilizing mission. As a religious man, he felt that the civilization and Christianization of the tribes was most important and he knew the military did not view either of those policies favorably.69 Religious officials favored the Department of the Interior because of its civilization efforts, and the role given to religious organizations under Grant’s Peace Policy.

The final report suggests that the Department of War could eliminate the corruption and even save the government money by consolidating military and civilian positions, despite Congress banning military officers from holding civilian positions in 1870, primarily as a response to Grant’s patronage system of appointing Army officers to government positions.\(^7\) They argued that it was impossible for military officers to be dishonest because they were acting on orders and feared the loss of their jobs if they failed to carry out such orders.\(^7\)

The commission concluded by stating, “In view of all the evidence adduced, we are of the opinion that the conduct of Indian affairs under civil administration, after a practical working of twenty-seven years, has proved fraudulent, expensive, and unsatisfactory to the Indians, provoking them to hostilities that have cost the Government many millions, besides the lives of thousands of citizens and destruction of their property, whereas the affairs of this branch of the public service, while under the control of the War Department, were honestly, economically, and firmly administered and executed.”\(^7\)

The report argued that the Department of War was better equipped for handling the BIA, but when this conclusion was pared with the other cost cutting measures proposed by the report, a different possibility was suggested. The military needed the BIA for its funds. The amount appropriated for the BIA in 1874 was $6.4 million.\(^7\) That would have brought much-needed funds into the army as well as enabled them to serve a purpose. As Reconstruction concluded, it became clear the army was no longer of major importance.

\(^7\) President Grant commonly appointed army officers as Indian agents, but Congress banned members of the military from serving in civilian positions on July 15, 1870. Prucha, *The Great Father*, 1:514.

\(^7\) *H.R. Report No. 354*, 44\(^{th}\) Cong., 1\(^{st}\) Sess. (1876), 6.

\(^7\) *H.R. Report No. 354*, 44\(^{th}\) Cong., 1\(^{st}\) Sess. (1876), 6.

\(^7\) *House Exc. Doc. 142*, 43\(^{rd}\) Congress, 1\(^{st}\) Session (1874), Archive of Americana 10BC88790EA1C210, 92.
since the army was in a time of general peace. The Banning Committee supported this because it called for a reduction in troop levels, and a reduction in pay.

The Banning Report ignored the suggestions of the Doolittle Committee and Peace Commission. They both found that not enough was being done for the tribes and that neither the Department of the Interior nor Department of War were effective in carrying out the terms of the treaties. This was the chief cause for Indian hostility during this era. White encroachment and the expansion of the United States were threatening the tribes and their land. Nevertheless, the failure of Grant’s Peace Policy, the continuing violence, and the military’s desire for a role, led Congress, once again, to introduce legislation proposing the transfer of the BIA to the Department of War. Congress voted, once again, to create a special Joint Committee to investigate the transfer issue. Unlike the Doolittle Committee, however, their task would be solely to investigate the transfer issue.
Chapter Four

The Transfer Debate at the Forefront: The 1878 Joint Committee

The failed reforms, Indian Wars, and political climate of the 1870s led Congress to consider transferring the Bureau of Indian Affairs (BIA) from the Department of the Interior to the Department of War. This debate had come up in Congress on a number of occasions following the BIA’s transfer from the War Department to the newly created Department of the Interior in 1849. This time, however, the attempt was more serious as the issue would be explored in greater detail. Congress created the Joint Committee Appointed to take into Consideration the Expediency of Transferring the Indian Bureau to the War Department (hereafter referred to as the Joint Committee or the Committee) in 1878.¹ They interviewed seventy-nine witnesses who would give their opinion as to who was better suited to handle the BIA.

Historians largely ignore this report and testimony because it, as Francis Paul Prucha put it, “repeated endlessly all the old arguments on both sides,” but it was the only report to focus exclusively on the transfer debate.² While the Doolittle Committee, Peace Commission of 1867, and Banning Committee all discussed the transfer issue, this is the only in-depth investigation available. The testimony of the Secretary of the Interior and Commissioner of Indian Affairs explored a series of reforms that had been carried out

¹ The Joint Committee of 1878 is not covered in the mainstream historiography. Prucha, for example, briefly discusses the events surrounding the transfer debate, but quickly dismissed the Joint Committee testimony saying the testimony “repeated endlessly all the old arguments on both sides” The Great Father, 1:558. Others do discuss the creation of the committee in detail, however. Knecht’s Master’s thesis devotes a chapter to the Joint Committee and its contribution to the transfer debates, “The Proposed Transfer of the Indian Bureau to the Department of War” (Master’s thesis, New Mexico State University, 1973), 29-43. An article that discusses the transfer debate in detail, and the committee’s creation is Donald J. D’Elia, “The Argument over Civilian or Military Indian Control, 1865-1880,” Historian 24, no. 2 (February 1963), 207-225.

within the department prior to the Committee’s investigation. These reforms were not radical, but they did directly address many of the charges that were made against the Department of the Interior by those who supported the Department of War. In addition to exploring the transfer issue, this report explored several reforms that proved successful at eliminating corrupt agents and allowed the tribes to have a degree of self-policing.

Creating the Committee

After a brief failed transfer attempt in 1874, the issue was reintroduced in the House of Representatives in November 1877. The Forty-Fifth Congress spent a portion of its first session discussing the transfer issue. During this session, three transfer attempts were made, but all failed as they failed to have majority support in Senate.

Henry Banning of Ohio introduced the first. Banning had been in charge of the 1876 investigation into the Army, which resulted in the recommendation that the BIA be transferred to the Department of War. Roger Q. Mills of Texas and Alfred M. Scales of North Carolina introduced the other two bills. The three Representatives were Democrats, the party that had supported and would continue to support the transfer during and after the Joint Committee’s investigation. This divide was unsurprising, as the Democrats had

5 U.S. Congressional Record, 45th Congress, 1st Session, Microfilm, 179, reel 9.
7 Knecht, “The Proposed Transfer of the Indian Bureau to the Department of War,” 29. The reason the House of Representatives and Senate disagreed over the transfer issues can be explained by looking at their numbers. The House was governed by a Democratic majority “House History: 45th Congress,” United States House of Representatives, http://artandhistory.house.gov/house_history/index.aspx (accessed January 14, 2012). The Senate had a Republican majority, “Party Division in the Senate, 1789-Present: 45th
supported the Department of War’s control over the BIA while the Republicans supported the Department of the Interior’s approach.\(^8\)

The failure of these initial attempts silenced the debate for a few months in Congress, but on February 8, 1878, the Legislature of California sent a concurrent resolution to the United States House of Representatives supporting the transfer of the BIA to the Department of War. The document only contained two paragraphs and did not provide specific reasoning for the transfer request. The debate had begun in Congress and the California legislature was voicing its support for the transfer. It was the only state to do so.\(^9\)

The transfer attempts also prompted a reply from the Cherokee, Creek and Seminole, and Choctaw and Chickasaw Nations of Indian Territory, delivered on February 25, 1878. The tribes disagreed with the need for transfer. They believed a transfer to the Department of War would bring about war. The tribes pointed out that previous Congresses and committees had investigated the transfer issue before and they came to the conclusion that the Department of the Interior was better suited for the BIA. The tribes’ report argued that the transfer would not be of benefit to any tribes. They also

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\(^8\) Historian Fred S. Rolater explained in the divide between the two parties in, “The American Indian and the Origin of the Second American Party System,” *The Wisconsin Magazine of History* 76 (Spring 1993): 180-203, [http://www.jstor.org/stable/4636431](http://www.jstor.org/stable/4636431). Rolater explains that the issue was largely sectional with those in the Northeast supporting a humane approach to the tribes, while those in the South and West preferred a military approach. The Whigs had a pro-Indian and anti-removal stance, which largely carried over to the Republican Party.

\(^9\) [H.R. Misc. Doc. No. 19, 45th Cong., 2nd Sess. (1878), Archive of Americana 10CBA6D8D2D1B7F0](http://www.jstor.org/stable/25463689). California had a tumultuous history with the United States. The Indians present in California were only part of the issue. There were also *Californios* (Spanish-speaking Catholics) present in California that the government had to deal with. For more on the relationship between the United States, Indians, and *Californios* see James A. Sandos, “‘Because He Is a Liar and a Thief’: Conquering the Residents of ‘Old’ California, 1850-1880,” *California History* 79, (Summer 2000): 86-112.
referred to the general peace in Indian Territory and the fact that the warring Sioux had fled to Canada. They believed that the Department of War was not necessary.\textsuperscript{10}

Additionally, the tribes suggested there could be legal issues regarding the proposed transfer. The Cherokee pointed specifically to Article 10 of their treaty, which stated, “no license to trade goods, ware, or merchandise shall be granted by the United State to trade in the Cherokee Nation, unless approved by the Cherokee National Council.”\textsuperscript{11} While this does not seem to apply to the transfer issue, they continued, “The transfer bill virtually says that the Secretary of War shall have authority to regulate trade in the issuing of licenses.”\textsuperscript{12} While it is unclear if that argument would have held up in a United States court, it is clear the Cherokee and its fellow tribes were well researched in the United States legal code. Additionally, these tribes carried a fair bit of political weight, and they were not afraid to exercise it.

With the continued debate in Congress, the House Committee on Indian Affairs prepared a report that researched the issue in greater detail. Reported on February 25, 1878, the same day as the Cherokee’s document protesting the transfer, the report was divided into two parts, those for and those against the transfer. The opinion of the overwhelming majority of the Committee on Indian Affairs supported the transfer of the BIA.\textsuperscript{13} They cited several reasons that were questionable. First, they suggest that all

\textsuperscript{10} H.R. Misc. Doc. No. 33, 4\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess. (1878), 1.
\textsuperscript{11} H.R. Misc. Doc. No. 33, 4\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess. (1878), 10.
\textsuperscript{12} H.R. Misc. Doc. No. 33, 4\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess. (1878), 10.
\textsuperscript{13} H.R. Report No. 241, 45\textsuperscript{th} Congress, 2\textsuperscript{nd} Sess. (1878), Archive of Americana 10CBB5C3BB5262D8.
Indians were “savages” and that those tribes who were civilized, such as the Five Civilized Tribes in Indian Territory, were only civilized due to the influence of whites.\textsuperscript{14}

The committee focused heavily on the testimony of military officers and generals from the Doolittle Committee and the Peace Commission of 1867.\textsuperscript{15} Each side of the argument was able to draw opposing conclusions from the same reports. This is largely due to the opposing testimonies they cited. The report illustrates they were concerned with money. The report included a chart which showed the amount of savings that would be achieved by “abolishing the bureau [Indian], and all the agents, subagents, inspectors, superintendents, and many of the employés, and replacing them as far as practicable with officers and privates.”\textsuperscript{16} The chart indicated that eliminating all of these positions and replacing them with Army personnel could save $602,907.\textsuperscript{17}

The majority opinion did present a solid point in favor of the transfer. They stated, “The only alternative left is to transfer the Indian Bureau to the War Department; then we have one head, one jurisdiction and one responsibility, and, more than all, we have power to command respect and to enforce obedience.”\textsuperscript{18} Their point of having one group in charge as opposed to a civilian arm to feed and clothe them, while the military is there for enforcement was a common argument. It is the final part about commanding obedience that those opposed to military control objected to. The use of force was unnecessary because, as the Cherokee argued, there was a general peace.\textsuperscript{19}

\textsuperscript{14} H.R. Report No. 241, 45\textsuperscript{th} Congress, 2\textsuperscript{nd} Sess. (1878), 1-2. The language used by the majority is what we see used by those who support military control of the BIA. This seems to be a tactic used by them to paint a negative picture of the tribes so that the transfer will take place.
\textsuperscript{15} H.R. Report No. 241, 45\textsuperscript{th} Congress, 2\textsuperscript{nd} Sess. (1878), 3-5, 10-12.
\textsuperscript{16} H.R. Report No. 241, 45\textsuperscript{th} Congress, 2\textsuperscript{nd} Sess. (1878), 6.
\textsuperscript{17} H.R. Report No. 241, 45\textsuperscript{th} Congress, 2\textsuperscript{nd} Sess. (1878), 7.
\textsuperscript{18} H.R. Report No. 241, 45\textsuperscript{th} Congress, 2\textsuperscript{nd} Sess. (1878), 3.
\textsuperscript{19} H.R. Misc. Doc. No. 33, 4\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess. (1878), 1-2.
The two members of the House Committee on Indian Affairs opposed to the transfer made several points in their dissenting opinion. They suggested that the point of the government was not to force obedience, but to lead the tribes to civilization. They said that Indians are “exceedingly prone to resist any direct attempt to force him into measures against his inclination and previous habits; but on the other hand he may very easily be led, after his confidence is fully secured.”\(^{20}\) Those in the minority also referred to testimony made by Army officers, in particular General William T. Sherman, General William S. Harney, General Alfred H. Terry, and General Christopher C. Augur. These generals testified that, “not one in a thousand of the officers of the Army would like to teach Indian children to read and write, or Indian men to sow and reap.”\(^ {21}\) Clearly the Army would not be fit to carry out the civilizing mission enacted decades before. In fact, the report suggests that no member of the Army was fit to civilize the tribes.

The minority opinion suggested that the transfer was not likely to eliminate corruption, one of the key charges against the Department of the Interior.\(^ {22}\) Their final recommendation was not to transfer the BIA, but make it a cabinet-level position. This would give it individual authority as opposed to placing it under yet another authority. The suggestions and arguments made by the minority were well thought out, but it was clear they would be ignored. The fact that the majority of the Committee on Indian Affairs supported the transfer of the BIA ensured yet another transfer attempt would be made.

\(^{20}\) *H.R. Report No. 241*, 45\(^{th}\) Congress, 2\(^{nd}\) Sess. (1878), 16.


Because the majority of the Committee on Indian Affairs supported the transfer, the issue was reintroduced on the House floor. Using a different tactic, those in favor of the transfer issue attached the proposal to the Army appropriations bill in May 1878.\textsuperscript{23} The bill, with the transfer amendment, passed the House and continued to the Senate where it would be amended yet again. Instead of removing the amendment completely, the Senate reworked the amendment and suggested that a Joint Committee be formed to investigate the matter. The bill passed the Senate, and passed the House once again. President Hayes signed the bill on June 18, 1878. The Joint Committee began its preparations a few days later.\textsuperscript{24}

The 1878 Joint Committee

The Joint Committee’s primary task was to investigate the transfer issue. It did so by traveling to a series of cities and reservations to interview various tribal members, agents, military officers, and other interested parties. Much like the Doolittle Committee in 1865, the committee gathered a mountain of testimony to sift through. Unlike Doolittle, however, the committee’s task was simple, to determine whether the Department of War should be given authority over the BIA. The testimony gathered by the 1878 Joint Committee would focus primarily on the transfer debate.

The committee was made up of five Representatives and thee Senators. Representatives included Alfred M. Scales of North Carolina, Andrew R. Boone of Kentucky, Charles E. Hooker of Mississippi, J. H. Stewart of Minnesota, and Nelson H. Van Vorhes of Ohio. The three Senators were Alvin Saunders of Nebraska, Richard J. 

\textsuperscript{23} For a brief description of the amendment attached to the bill, see \textit{U.S. Congressional Record}, 45\textsuperscript{th} Congress, 1\textsuperscript{st} Session, Microfilm, 1312, reel 10.

\textsuperscript{24} Knecht, “The Proposed Transfer of the Indian Bureau to the Department of War,” 30-31.
Oglesby of Illinois, and Thomas C. McCreary of Kentucky. Before the committee met, there was already a political divide between its members. This can be seen in their votes on the transfer bills in the Forth-Fifth Congress. McCreary, Scales, Boone, and Hooker, all Democrats, supported the transfer of the BIA to the Department of War. Saunders, Oglesby, Stewart, and Van Vorhes, all Republicans, opposed the transfer. After months of testimony, none would change position due to their political differences.

In order to conduct a thorough investigation, like the Doolittle Committee, they traveled to various cities and reservations to gather testimony. Stops included: Indian Territory, Nebraska, Utah, and California. While on their tour they interviewed seventy-nine witnesses. These witnesses would, once again, testify to the condition of the tribes and why they felt the Army could better handle the BIA or why they felt it could not. Historian Francis Paul Prucha was correct when he stated that the Committee only “repeated endlessly all the old arguments on both sides.” After all, the same debate had been going on since the 1850s, but this report illustrates why the Department of the Interior was better prepared to handle the BIA. The testimony of certain BIA and Department of the Interior insiders showed that internal reforms had been made within the department since the Doolittle Committee’s investigation in 1865.

Testimony

26 Knecht, “The Proposed Transfer of the Indian Bureau to the Department of War,” 32. From Knecht I have only taken the names of the members who supported or opposed transfer. He did not explain how the members were divided along party lines. I was able to determine the party affiliation of each member by accessing his biography from Congress. “Biographical Directory of the United States Congress, 1774-Present,” United States Congress, http://bioguide.congress.gov/biosearch/biosearch.asp (accessed January 14, 2012).
28 Prucha, The Great Father, 1:558.
Following the investigation, the Committee delivered its report on January 31, 1879. The full testimony was attached. While this Committee’s investigation was shorter than that of Doolittle, the findings are just as important. The report clearly presents the positions of the interested parties. Army officers and local residents were more likely to support the transfer, whereas Indian Agents, religious officials, and the tribes themselves opposed it. Like Doolittle, the Joint Committee interviewed a limited number of tribal members. Their testimony is important as it illustrates that many of the issues outlined in the Doolittle Committee were still affecting the tribes. Nevertheless, the arguments contained within the Joint Committee’s testimony were more focused than those of Doolittle because they were all answering the same question. Should Indian Affairs be a matter of civilian or military control?

The group that most favored the transfer of the BIA to the Department of War was military personnel. The Joint Committee interviewed sixteen active military personnel, five of them generals. All had experience in dealing with various tribes. The most vocal on Indian Policy prior to the formation of the Joint Committee was Army Commander General William T. Sherman. Responding by letter, he supported those in favor of the transfer, accurately pointing out that “without the Army the Indian Bureau cannot manage these Indians.” Sherman also pointed out that the Generals “do not wish

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29 Interestingly, the Joint Committee interviewed none of the witnesses from the Doolittle Committee. The reports were only thirteen years apart, but personnel within the Army, Department of the Interior, and tribes had changed.

30 Tribal members interviewed by the Joint Committee include members of the: Modocs, Winnebagoes, Shoshones, Omahas, Nez Percés, Shawnee, Peorias, and Wyandottes. Also interviewed were the agents for the Kiowas, Comanches, Apaches, Quapaw, the Five Civilized Tribes, Cheyenne and Arapahoe, Sioux and Dakota, and Blackfeet.

Having to answer to civilian agents had been a cause for conflict between the two departments.\(^\text{33}\)

Sherman’s suggestion for correcting the issue is one that would be repeated a number of times throughout the report. He was in favor of transferring the BIA to the Department of War, but “the war Department can employ civilian agents for the peaceful tribes, and military agents for the warlike tribes.”\(^\text{34}\) This suggestion goes against the report of the House Committee on Indian Affairs, which suggested that the complete elimination of civilian agents would be one of the cost saving advantages of the Department of War.\(^\text{35}\) This is an example of how those in the military who supported the transfer were not positive as to what reforms should be made. Military officers made other vague statements throughout the report, as they were not sure how to deal with the Civilization policy, a policy that had been in effect for over eighty years.

Local residents of the states and territories with large Indian populations were in support of the transfer of the BIA. F. P. Forester, a resident of San Diego County in California, explained how he had employed a number of Indians and felt that the Indians did not trust Indian Agents appointed by the Department of the Interior. He pointed out, however, that the tribes feared the military and “you can keep them [Indians] down through fear and make them work. They will work through fear and finally become

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\(^{33}\) As noted in Chapter 2, there were a number of generals in the Army who were supportive of the tribes. Although they were sympathetic, they would have certainly agreed with General Sherman’s assertions that the Army was better suited for the BIA. Richard N. Ellis, “The Humanitarian Generals,” The Western Historical Quarterly 3 (April 1972): 169-178. http://www.jstor.org/stable/967111.

\(^{34}\) S. Misc. Doc. No. 53, 45th Cong., 3rd Sess. (1879), Testimony, 220.

A common thread throughout the report was the suggestion that the military could force civilization and, as Forester put it, make them “like all of us.”

Territorial governors were also in favor of military control of the BIA because it would almost certainly give them a feeling of security. Arizona Territory Governor John P. Hoyt argued that under the current system, if an Indian rebellion were to break out, the Department of the Interior would then notify the Department of War. The lag in communication concerned Hoyt because he recognized the tension between the two departments that might effect response time to such an event. He argued that the transfer would place all the responsibility within one department, thus making the system run more smoothly. He did not believe, however, that “civil officers are any more dishonest than military officers.”

The arguments outlined by the Committee on Indian Affairs and by the military, local residents, and territorial governors, are largely repeated throughout the report. The conclusions drawn from these arguments were that the concern was primarily military control, local security, forced civilization, cost effectiveness, and the elimination of corruption. Those in favor of the Department of the Interior had similar arguments, however. They were concerned with corruption and the civilization of the tribes, but believed that the military would resort to force. The atrocities carried out by military as described in the Doolittle Committee’s report were often cuted as evidence that the military was too forceful.

The Joint Committee interviewed religious and other reformers. The only religious official interviewed was Presbyterian Minister John C. Lowrie who rejected the transfer because he believed, like most opposed to the transfer, Army personnel were not trained to teach the necessary techniques for civilization.\textsuperscript{40} Members of the Board of Indian Commissioners interviewed by the Committee would echo these sentiments.\textsuperscript{41} The Committee also interviewed Alfred B. Meacham, publisher of the newspaper \textit{The Council Fire}, a journal created in early 1878. He created his newspaper in response to his outrage over the handling of Indian Affairs by the government. He felt that the only solution to the “Indian question” was “the Indian becoming a civilized man and finally a citizen.”\textsuperscript{42} Like Meacham, E. C. Watkins, an Indian inspector, argued that the tribes were not in favor of the transfer because they understood that the Army would have a presence among them and that was a cause for concern.\textsuperscript{43}

The most important testimony came from the tribes themselves. There were a number of tribal chiefs and representative agents interviewed by the Committee. They were asked the same questions as the other witnesses, particularly about their objections to the transfer. One of the first chiefs to be interviewed was Bogus Charley, chief of the Modoc. He expressed an objection to the military, partly due to their recent war with the

\textsuperscript{40} \textit{S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony}, 29.


\textsuperscript{42} \textit{S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony}, 301.

\textsuperscript{43} \textit{S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony}, 285.
United States. The Winnebago were, once again, well represented, with the committee interviewing five chiefs. All the chiefs and their Agent, Howard White, objected to the transfer.

Several of the tribes sent their agents to represent them. John D. Miles represented the Cheyenne and Arapahoe. He testified that the Army was not prepared to teach farming techniques or run schools. He explained that the Cheyenne and Arapahoe had been willing to work and learn during his seven years as their agent. Another agent present was S. W. Marston, agent to the Five Civilized Tribes. He repeated what the tribes had expressed in their report to Congress from February 25. They were opposed to the transfer, and he suggested that the members of his tribe were more than ready to become citizens of the United States.

One of the most interesting sections of testimony came from Chief Joseph of the Nez Percés. He suggested that the BIA should be abolished all together and that “we should have one law to govern us all and we should all live together.” Chief Joseph explained that the chief cause of war was United States’ reservation policy. Those against the transfer of the BIA provided strong arguments. The civilization of the tribes would not work by force, but the tribes would have to be led into civilization. Many felt

the Army was not prepared for this task. The testimony from the tribal members largely echoed the arguments that had been put forth by their agents and missionary leaders, but their testimony clearly showed that they were not in favor of being handled by the Army.

**BIA Reforms**

Despite the repetition of the arguments for and against the transfer, there is more to be learned from this report.\(^{51}\) The testimony of important figures, such as the Secretary of the Interior and the Commissioner of Indian Affairs, suggested that a series of internal reforms had taken place. Many of these reforms were not major reforms like the failed Board of Indian Commissioners, but minor internal reforms, designed to curb corruption and allow the tribes to police themselves. The testimony of the Interior Secretary and Commissioner provides insight into the organization of the BIA and what changes had been made to correct certain oversights.

The first to be interviewed by the Committee was Secretary of the Interior Carl Schurz. Schurz had been Interior Secretary for about a year, and he was asked to give a general statement on his thoughts on the transfer and of the BIA in general. Within his statement he explained that the Army’s purpose in relation to the BIA should be as a police force and only to respond when called.\(^{52}\) The issue, however, was the lag in communication as described by Governor Hoyt. It could take weeks for letters to be passed from an agency to the Secretary of Interior, who would then have to contact the Army. The Army would then issue orders. He noted that the response time with this system could have been as much as two months, but with the use of telegrams, he could

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\(^{51}\) Prucha, *The Great Father*, 1:558.

\(^{52}\) *S. Misc. Doc. No. 53*, 45\(^{th}\) Cong., 3\(^{rd}\) Sess. (1879), Testimony, 258.
achieve the same task in a few hours. The expediency of the department changed with the leadership, but improved technology was also a factor.\textsuperscript{53}

One of the changes Secretary Schurz claims that he had made since coming to office was stricter punishments for those agents caught dealing with the tribes dishonestly. He noted that a number of the Indian agents had been removed and faced indictment for dishonestly in dealing with money or the tribes. He believed that fifteen out of the seventy-four agents had been removed for this reason.\textsuperscript{54} Commissioner of Indian Affairs E. A. Hayt confirmed these numbers, adding that thirty-five in total had either been removed or resigned.\textsuperscript{55} He gave an example of the agent for the Crow Agency in Montana. The agent turned in vouchers for hay, but inflated the amount of hay received to receive extra payment. When this was discovered, he was immediately removed.\textsuperscript{56}

Commissioner Hayt explained that the removal of a dishonest agent was one of the greatest reforms possible. Finding honest men to run an agency was necessary, but so were inspectors. He explained that at the time they had only three inspectors, not nearly enough to keep up with all seventy-four agents.\textsuperscript{57} In addition, they had changed the type of agent they sought. Commissioner Hayt explained that military officers made poor agents, as did ministers, because they did not have a mind for business. They were more apt to find agents with a business background who could manage people and money.\textsuperscript{58}

\textsuperscript{53} S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony, 259.
\textsuperscript{54} S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony, 267.
\textsuperscript{55} S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony, 321.
\textsuperscript{56} S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony, 323.
\textsuperscript{57} S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony, 325.
\textsuperscript{58} S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony, 313.
Although, as he explained, the Agents handled relatively little money since the supply route had changed.\textsuperscript{59}

One of the charges of Indian agents was keeping a census of the tribal members on their agency. This was how the BIA knew the amount of supplies necessary for the various agencies. These numbers were often inflated, but Commissioner Hayt testified that they began using a system more similar to that of the United States Census Bureau, which registered the Indians by family unit.\textsuperscript{60} From this they estimated that the number of Indians under the care of the government, not including those off reservations, was 250,811.\textsuperscript{61} This number exposed the scale of the BIA’s task.

Secretary Schurz explained that he had ordered a report to expose corruption and weaknesses within his department.\textsuperscript{62} From this report, he explained that several internal changes had been made. He, like Commissioner Hayt, asked for more inspectors, this would make the agents more accountable. He also spoke of an experiment that had been carried out in twenty-two agencies. The employment of Indians as a police force allowed the tribes to police themselves, and he found that the tribes responded well to this. He explained that there were currently 450 in the police force, but felt, once expanded to other agencies, they could employ as many as 1,200.\textsuperscript{63}

The use of Indians to police themselves was an interesting tactic. Clearly its purpose was to cut down on the use of the military as a police force. It was also believed to be a sign that the BIA’s task of civilizing the tribes was working. As Secretary Schurz

\textsuperscript{59} S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony, 319.
\textsuperscript{60} S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony, 313.
\textsuperscript{61} S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony, 316.
\textsuperscript{62} S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony, 267.
\textsuperscript{63} S. Misc. Doc. No. 53, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony, 273.
explained, there were seventy-four agencies, but as the tribes become civilized, they are consolidated into wider reaching agencies. In fact, he planned to further consolidate tribes so that the number of agencies could be lowered. It is important that this type of consolidation could take place. It speaks of the successes the BIA had with certain tribes. While the majority of these tribes were concentrated in Indian Territory, this showed progress.  

Both men offered similar recommendations for the future of Indian Policy. They wanted Congress to act to provide more inspectors and Secretary Schurz asked that Congress be more expedient in carrying out terms of treaties. These recommendations would only make the task of the Secretary and Commissioner easier, and would ensure that a more honest and efficient BIA existed. They had already begun the process of reform by changing supply lines, but by placing tougher restrictions on agents and ensuring goods were properly inspected, the BIA answered the most common criticism of the BIA by those who supported the War Department.

The Final Report

Prucha criticized the Joint Committee because it “could not overcome its partisan differences.”  

Delivered in January 1879, the Committee submitted separate reports, one by those in favor and the other by those opposed. The split that had existed prior to the

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66 Knecht, “The Proposed Transfer of the Indian Bureau to the Department of War,” 44. Knecht briefly discusses a few of these reforms in his Epilogue, but he does not discuss the Indian police force, nor does he discuss the consolidation of agencies. These are two major reforms aimed at creating a more streamlined, self-sufficient BIA.
67 Prucha, The Great Father, 1:558.
testimony remained at its conclusion, along party lines. Therefore, McCreary, Scales, Boone, and Hooker, all Democrats, supported the transfer while Saunders, Oglesby, Stewart, and Van Vorhes, all Republicans, opposed it. Of course this did not matter, as Congress was no longer interested in the transfer issue, but the split in opinion would have made it difficult for any legislation to pass both the House and Senate.\footnote{Prucha, \textit{The Great Father}, 1:558.}

The final transfer attempt came May 8, 1880, but it died in committee.\footnote{\textit{H.R. Report No. 1393}, 46\textsuperscript{th} Cong., 2\textsuperscript{nd} Sess. (1880), Archive of Americana 10D1F7BE257A5470.} The House of Representatives, which usually championed the transfer, could no longer support the cause. Indian wars were no longer an issue and the BIA was functioning more smoothly than it had before. Another major reason the issue was pushed off was due to the beginnings of the next major shift in Indian Policy. Throughout the Committee’s testimony, Army officers, agents, and the tribes were all asked if they believed tribes were ready to own land in severalty. The majority of those questioned agreed. Although the Dawes Act would not be passed until 1883, this committee was laying its foundation.\footnote{A number of witnesses were asked if they believed the tribes were ready to hold land in severalty. Tribal chiefs were always asked, such as Winnebago Chief White Spirit, \textit{S. Misc. Doc. No. 53}, 45\textsuperscript{th} Cong., 3\textsuperscript{rd} Sess. (1879), Testimony, 139. Military officers were not always asked, but local residents often were. For works on allotment see: Wilcomb E. Washburn, \textit{The Assault on Indian Tribalism: The General Allotment Law (Dawes Act) of 1887}, (Philadelphia: Lippincott, 1975) and D. S. Otis, \textit{The Dawes Act and the Allotment of Indian Lands} (Norman: University of Oklahoma Press, 1973). Allotment is also discussed in detail by Priest, \textit{Uncle Sam’s Stepchildren}, 167-252 and Prucha, \textit{The Great Father}, 2:659-686.}
Conclusion

James John Knecht’s assertion that the Joint Committee of 1878 provided evidence that the Bureau of Indian Affairs (BIA) had matured since the debate over control of BIA began in the 1850s is correct.\(^1\) What he failed to acknowledge, however, was that the Joint Committee was not the only Congressional committee to explore the issue. The Doolittle Committee of 1865, the Peace Commission of 1867 and the Banning Committee of 1876 all had expressed their opinion on the transfer issue. The Doolittle Committee and Peace Commission even went as far as to suggest changes in Indian Policy to improve the relationship between the United States and the tribes.

There were very few consistent Indian Policies from the 1770s through the 1870s. The one exception was the civilization policy, which was first introduced in the Trade and Intercourse Acts of 1792. This policy was designed to introduce American culture, education and Christianity to the tribes. It was a policy that continued throughout the nineteenth century. A number of other policies were introduced, but they were never permanent or all encompassing. While Congress would rarely heed the advice of the committees it created, the fact that the Department of the Interior and the Department of War were fighting over control of the BIA and Indian Policy suggests its importance.

As outlined in this thesis, there are a number of important developments in the national Indian policy. The first major policy was the establishment of a trade relationship with the tribes as discussed in Chapter One. This policy kept the tribes on the edge of civilization; a practice started by the British, but once the United States won its independence, Westward expansion became an important national goal and the tribes

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were in the way. This led to the second major development of Indian Policy, also discussed in first chapter, removal, a policy that was in effect throughout the nineteenth century. Removing the eastern tribes from their homelands and placing them on reservation lands in Indian Territory, the United States deemed this to be important for the safety of the tribes, but ultimately, it was done for the land.

Throughout the nineteenth century, the policy of civilization of the tribes was just as important as removal. Policy makers believed that by building schools and churches on reservations, the tribes would begin to adopt an American lifestyle. Most of the tribes resisted these changes. The Five Civilized Tribes may have adopted a number of American ideals, a constitution, and American style government, but they worked to maintain their tribal identities. This is evident in their response to the proposed transfer of the BIA in 1876. The tribes clearly had retained their identity as groups, but the Five Civilized Tribes response to the transfer debates in 1878 is also evidence of how civilization had worked to a degree. The Five Civilized Tribes include a number of Christian references and use of eloquent English.²

One of the other major concerns of Indian Policy was the legal position of the tribes. Until 1871, the use of treaties suggested that the tribes were foreign entities. However, they were not actually viewed as foreign entities by the Federal Government. The Cherokee cases of the 1830s deemed the tribes to be subject to federal law; however, they were not citizens. They had no constitutional rights and yet they were subjected to federal law. It was through these rulings that it was established the tribes were subject to federal laws. It was difficult to determine what the federal policy should be.

Throughout this thesis, a number of changes were legislated or enacted by the President. The Trade and Intercourse Laws, removal, and civilization were all policies enacted by Congress. They had the power to legislate policy, the Doolittle Committee,\(^3\) Peace Commission,\(^4\) and 1878 Joint Committee,\(^5\) illustrate how Congress failed to improve and update the policy when necessary. Doolittle and the Peace Commission made a series of recommendations to Congress to correct the major problems they discovered. However, as indicated in Chapters 2 and 3, Congress did not act on the majority of them. It was the disinterest in Congress that allowed the same, stale civilization policy to remain for so long. Congress’s occasional interest in Indian policy was often fueled by the transfer debates in the 1870s, but their legislation created a series of policies that were aimed at correcting issues in the short term. The recommendations of the Peace Commission were especially detailed, but Congress’s failure to act angered President Ulysses S. Grant.

President Grant’s Peace Policy was an example of how a President could influence the reformation of Indian Policy. He urged Congress to act on a number of the proposals made by the Peace Commission.\(^6\) Two of the major changes made during the Peace Policy were the creation of the Board of Indian Commissioners and the appointment of Indian Agents by religious organizations. Under this plan the tribes were

\(^3\) The report and testimony of the Doolittle Committee can be found *S. Report No. 156, 39\(^{th}\) Cong., 2\(^{nd}\) Sess.* (1867), Archive of Americana 108DB597CB5F0A90.

\(^4\) The Peace Commission’s report can be found *H.R. Ex. Doc. No. 97, 40\(^{th}\) Cong., 2\(^{nd}\) Sess.* (1868). Archive of Americana 109210B02B407AB0.

\(^5\) The Joint Committee’s final report was split because the committee could not reach a unanimous decision. The report of those in favor of the transfer can be found: *H.R. Report No. 93, 45\(^{th}\) Cong., 3\(^{rd}\) Sess.* (1879), Archive of Americana 10CE13049BBB9048. The report of those opposed to the transfer: *H.R. Report No. 92, 45\(^{th}\) Cong., 3\(^{rd}\) Sess.* (1879), Archive of Americana 10CE12F787D40358. The index of testimony is located: *S. Misc. Doc. No. 53, 45\(^{th}\) Cong., 3\(^{rd}\) Sess.* (1879), Archive of Americana 10CC4FC30A531CB8.

\(^6\) *S. Exec. Doc. 57, 41\(^{st}\) Congress, 2\(^{nd}\) Sess.* (1870), Archive of Americana 1094A13B02B25690.
divided among religious groups. The Board of Indian Commissioners was made up of representatives from a number of these groups. However, the religious organizations were not prepared to handle the added responsibilities. Because the task of the Board of Indian Commissioners was not clearly expressed, a power struggle developed between the Board and the Commissioner of Indian Affairs. Eventually the Board of Indian Commissioners and the involvement of the missionary groups were scrapped.

These events exemplify the major issue with Indian Policy at the time. The debate over who should control it went far beyond the military or civilian debate. Indian Policy was in the hands of too many people: Congress, the President, the Supreme Court, and for a short time, religious organizations. This only made it more difficult to carry out a coherent policy. As the 1878 Joint Committee suggested, the Secretary of the Interior and Commissioner of Indian Affairs had a fair amount of influence, and could perform a number of tasks without prior consent of Congress. Secretary Carl Schurz and Commissioner Ezra A. Hayt had made a number of improvements within the system. But it was not just the senior officials of the Department of the Interior and BIA that had some leniency, the example of James Irwin and the Wind River Agency in Wyoming showed how an Indian Agent could act as well. Irwin often acted first then sought permission after the fact. This ensured the actions that most benefited the tribe were carried out without being subjected to the growing bureaucracy of the BIA.  

Returning, once again, to Caldwell’s question of whether or not there was an Indian Policy, perhaps the question should be reformulated to who controls Indian Policy? Throughout this thesis, I have shown how Congress, the President, the Supreme

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Court, the Department of the Interior, the BIA, the Army, and the local agents could influence Indian policy. All of these players affected and controlled policy at the local level, but only a few could influence the overall policy. Everyone had differing interpretations of the policy. The tribes had a say in a number of the reports examined. That is important, as it was the larger policies, such as removal and civilization, which had the most impact on the tribes.

The transfer debates were important because two departments were interested in controlling Indian Policy. Both departments had inherent weaknesses, as did most policies. The Doolittle Committee, the Peace Commission, and the 1878 Joint Committee all exposed the weaknesses in Indian Policy, and pressure was placed on the BIA and the Department of the Interior to reform its actions. The BIA would certainly mature on its own, but the transfer debates meant that the Department of War was always willing to point out the mistakes made by the Department of the Interior. It was this internal struggle that led fueled the late reform movements within the BIA.
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