

THE CARTER ADMINISTRATION AND NATIVE INDIAN AFFAIRS THE CASE OF THE HOPI-NAVAJO LAND DISPUTE

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Assuming office in January 1977, President Jimmy Carter championed long-needed reforms in human rights, the uplifting of minorities, preservation of the environment, and the development of new sources of energy. These concerns, along with such principles as religious freedom and the need to redress the wrongs of century-old treaties, coalesced in the Carter Administration's dealings with Native Americans. Although hundreds of claims on land, water, and mineral rights were adjudicated during Carter's four years in office, three cases stand out for their scope and importance: the Boldt decision on fishing rights in the Pacific Northwest, the Hopi-Navajo land dispute, and the state of Maine's settlement of its Indian claims through federal mediation.

Of these three cases, the Hopi-Navajo land dispute involved the greatest variety of issues and conflicts of interests. As such, it provides an interesting study of Carter's Indian policy because it dealt with such a large number of Indians, the Administration had to implement a court decision it had no hand in making, and the clash was not between Indians and non-Indians as in Maine and the Pacific Northwest cases, but between two different Indian tribes. These differences and the general complexity of the dispute severely tested the Carter Administration's professed ideals.

As stated before taking office, Carter's views regarding American Indians sounded well-intentioned but somewhat vague and sweeping. He promised that "self-government must mean that the majority of decisions affecting Indian tribes will be made in the Tribal Council room and not in Washington, D. C." He pledged that programs would be "designed, implemented, and managed" by the tribes "to the greatest extent possible" and declared that he would never take unilateral action on any issue of Indian Affairs or Indian programs without "full consultation with tribal representatives."¹ These words from a presidential candidate rang sweet in Indian ears, but were to haunt the candidate once in office.

Hailing from a state cleared of Indians and Indian problems by the "Trail of Tears" a century and a half before, Carter at times seemed to view Native Americans as simply another hyphenated-American voting bloc. Informed that almost all Indians were opposed to the Bureau of Indian Affairs (BIA), he immediately promised to abolish it as soon as feasible and to let Indians run the Bureau until an independent Indian agency, a "special action office," could be established within the executive branch. He also promised to create a separate Indian Career Service independent of the Civil Service Commission to recruit and hire Native Americans to work in Indian programs.

Finally, Carter advocated appointment of an Assistant Secretary of the Interior who could hire his own staff and fire holdover BIA bureaucrats whom the Indians complained had thwarted them.² Of these promises, only the appointment of an Assistant Secretary for Indian Affairs was readily accomplished, and that not to universal acclaim.

Carter, who boasted of the increased efficiency and economy of his government reorganization in Georgia, envisioned something similar for the Federal Government; the President's Reorganization Program. The BIA, which according to many reports was dishonest, inefficient, and unwanted, was a logical target for abolition. Once announced, however, the proposed reform appeared too sweeping even for the Indians. Distrusting so much of what came from the Federal Government, they worried that this new proposal would entail vast undesired changes. Though in principle they had long advocated an end to the BIA, they now began to discover unsuspected virtues in the soon-to-be defunct agency. As an Indian within the Administration later explained, "The BIA tends to remain a target. It's something like the V. A. [Veterans Administration]; veterans are dependent on it, but at the same time they constantly criticize it."³ Specifically, as details of Carter's Presidential Reorganization Program were disclosed, Indian leaders worried about the prospect of the BIA's educational and health programs being incorporated into other branches of government in the name of efficiency. An aide from the Office of Management and Budget wrote to Carter: "Letters and telegrams to you and the senior staff have expressed the concern that transfer of these programs would lead to the erosion of the BIA which--for all their dissatisfactions with it--they view as 'their' agency. They fear that the transfer would erode the Federal Government's special responsibilities to the Indians and peoples."⁴

Surprised at the response, but relieved of the need to push the change through Congress, the Administration quietly shelved its plans to dismantle the BIA. It did, however, proceed with plans to create a new Assistant Secretary for Indian Affairs. Although Carter had pledged to find an appointee acceptable to Indians, his choice of a respected Indian lawyer, Forrest G. Gerard, won few plaudits. Senator James Abourezk of South Dakota, a longtime supporter of Indian causes, initially had "a lot of doubts" concerning Gerard, but eventually overcame them: "When he was on the staff of the Interior and Insular Affairs Committee, he sometimes didn't appear to be all that interested in Indian Affairs But during his confirmation hearings, I came to feel differently about him."⁵ A year later Abourezk reverted to his original view and wrote Carter complaining: "The worst thing you could do is to appoint someone, similar to Mr. Gerard, who is of Indian blood, but who has neither sympathy nor understanding for American Indians. His appointment was deceptive and, in

fact, dangerous in that his defense against inaction and heavier bureaucracy is essentially that 'some of his best relatives are Indians'.⁶ Whether he had "neither sympathy nor understanding" for Indians or not, Gerard later seemed only too glad to surrender what he termed the "hot potato" of his post.

Nevertheless, Forrest Gerard, next to Griffin Bell, came closest to summarizing most clearly a proper course for the Administration's relations with the Indians. He asserted that more emphasis should be placed on the sources of the special Federal/Indian relationship, which was "derived from the United States Constitution, Federal-Indian treaties, statutes of the Congress, and decisions of the courts." He also argued that the obligations of the United States government to the Indians were responsibility of all federal agencies (and not just that of the Department of the Interior, or the BIA):

The legal and historical relationship which exists between the Federal Government and American Indian tribes has long been recognized. The courts have likened the relationship to that of a "Ward-Guardian", [sic] with the United States assuming the role of trustee. In this capacity the United States holds resources in trust for individual Indians and Tribes, and ensures that these resources will be managed for the sole benefit of the Indian beneficiaries.⁷

The call for a clear Indian policy and the acknowledgement of the BIA's fiduciary role, however misused, troubled the Carter Administration until it left office.

During the first hectic year of the Carter Administration, Indian matters were pushed into the background. Despite the grandiose campaign promises, Indians seemed to find this inaction somewhat understandable. Ladonna Harris, an Indian activist and wife of former Oklahoma Senator, Fred Harris, reminded a White House aide:

Indians are not very important as far as numbers of voters. But we take on a very important cast when you consider the President's priorities, human rights and energy. He could lose a great deal of credibility with the rest of the world if he fails to recognize the unique legal and moral responsibility the Federal Government has to its original peoples.⁸

Harris also reiterated an old complaint of the Indians, reciting the difficulties the Council of Energy Rich Tribes (CERT), a new organization of Indians, had encountered in seeking to meet with the staffs of the President and Vice

President. "They were immediately told that they would have to work through the BIA. The tribes were there, of course, to explain that the Bureau of Indian Affairs had been the source of most of those problems." Additionally, she touched on a point that was to be made by others in the Indian community, either as a fact or as a taunt to encourage improvement: "This has led those of us in the Indian community, including AIO [Americans for Indian Opportunity, the group of which Ms. Harris was president] to say that the Nixon Administration was more accessible. This is very disappointing for a dyed-in-the-wool Democrat."⁹ This sentiment was echoed by Jeannett Henry, editor of *Wassaja*, the newsletter of the American Indian Historical Society, who wrote in exasperation to Jody Powell, reminding him of campaign promises and her attempts to collect on them. "I hear not a dam [sic] thing from any of you."¹⁰

After a year in office, the Administration had done little for the Indians other than add another layer of bureaucracy in the form of the Assistant Secretaryship. White House Public Liason Aide, Midge Costanza, wrote the President: "I have been receiving numerous requests from the Native American community for a Presidential Indian Message or statement which would reaffirm your commitment to the special fiduciary relationship between the United States government and Native Americans and which would outline objectives and initiatives on the numerous issues affecting American Indians."¹¹ Unknown to the public, one member of the Administration, Carter's fellow Georgian, Attorney General Griffin Bell, was working on an Indian statement which would at least address the legal aspects of the government's stance.

Bell viewed the Native American relationship from the vantage point of legal trusteeship, with Indians as wards of the government, rather than politically, with the Indians seen as increasingly active voters. He had drafted his statement on the Maine land claims on the Penobscot and Passamaquoddy tribes to clarify the federal government's general position toward Indians once and for all. Pressure for a statement along these lines had come from those interested in human rights, such as Senator Henry Jackson, as well as from the Indians themselves. However, some members of the Administration, such as Kathy Fletcher of the Domestic Policy Staff, thought that Bell's statement was unnecessary and politically troublesome, as the Maine land case "has been essentially settled." Thus, she took the position that the Attorney General's statement "would have no relevance or utility in the Maine case. Doug Huron and I strongly agree that to file such a paper gratuitously doesn't make sense."¹² Fletcher's memo indicates that a more basic reason for refraining from making a public policy statement relative to Indians lay in the political implications for other Indian cases:

I know that this presents a touchy problem for us but I'm

terribly concerned that we will find ourselves in very hot seat if the Attorney General proceeds as he proposes. Not only would the Indian community be extremely upset (at a time when I sense a moderate improvement in the Administration's standing with them) but we would also find ourselves under immediate and increasing pressure from the backlash side of the issue to implement vigorously the Attorney General's view. This is just not a problem we need now.¹³

The Office of Management and Budget (OMB) was also interested in formulation of an Indian policy statement. Eliot Cutler of OMB cautioned Stu Eizenstat of the Domestic Policy Staff (DPS):

You may or not be aware that we have spent some time studying the area of Indian policy ourselves . . . Developing an Indian policy that is balanced (i.e., not overly weighted in favor of Indians or non-Indians) . . . is not likely to be an easy task A problem of a different sort is the assertion of tribal civil and criminal jurisdiction in Indian country over non-Indians a major review of Indian policy ultimately must address the status of both tribal governments and Indian as individuals What is the nature of tribal governments? What is the modern meaning of Justice Marshall's phrase 'domestic dependent sovereign'?¹⁴

Cutler concluded: "Finally, we question whether it is desirable, given the complexity of the problems and the unlikelihood of reaching solutions satisfactory to Indians and non-Indians alike, to have a high White House profile on Indian policy studies this year." This was preaching to the converted: Eizenstat scrawled on the memo: "We agree. This will be low profile."¹⁵

From these attempts to delay its publication, Attorney General Bell's brief might have been expected to contain dynamite. Actually, it was a temperate and fairly general document which contained few surprises. Any potential political dynamite lay in the fact that it spelled out, in general terms, the Federal Government's relationship with the Indians. This approach left the Administration open to attacks not only from the Indians and their opponents, but from members of Carter's own party who could make political capital of it. Senator Edward Kennedy, for instance, was well-known as a defender of Indian interests, far more so than Jimmy Carter. "The functional thesis," Bell wrote, "upon which our form of government is premised . . . pre-supposes that the people as a whole benefit when the Executive Branch enforces the laws enacted,

and protects Indian property rights . . . We must litigate when necessary to protect rights secured to Indians without reference to whether any present majority of the citizenry would profit from, or otherwise embrace, that action." Bell continued, "it is important to emphasize, however, that the Attorney General is attorney for the United States in these cases, not a particular tribe or individual Indians."¹⁶ This last statement disturbed those who thought the government should act pragmatically as advocate for the tribes. At any rate, Senators Jackson and Kennedy could make "political hay" of it if they chose.

Forrest Gerard's brief statement and Attorney General Bell's more legalistic document both emphasized the role of the Federal Government as a fiduciary to the Indian tribes. One of the main complaints about the old BIA was that it had abused this fiduciary role in writing contracts with outside mining companies to develop resources on Indian lands. The Indians were to receive a percentage of the profits and were in many cases eager to see the mining firms provide jobs on the reservations. What the Indians objected to was the BIA's practice of signing away mineral resources without inventorying them, thus permitting the mineral companies to pay only a relative pittance. There was seldom any mechanism for renegotiation of contracts to boost percentage payments to the tribes when a bonanza was struck, nor to counteract inflation over the years. No one really accused the BIA bureaucrats of lining their own pockets, but those same bureaucrats could sign away rights to Indians' private property on what seemed a non-profit basis.

The situation had been a source of grievance earlier. At the time of the 1973 energy crisis, the sudden leap in value of domestic energy resources made the large profits of the mining companies seem obscene to the Indians, who were still the United States' poorest minority. By 1975, an Indian Self-Determination Act had been passed by Congress giving Indian tribes primary responsibility for developing their resources, although the BIA was still authorized to have final approval of leases. A union called CERT, the Council of Energy Rich Tribes, was started in the same year to take advantage of the new law and to renegotiate the old, unfavorable leases.

The CERT group enjoyed wide support among western tribes and began to make itself heard. Art Buchwald wrote a satirical column in which a government agent, with the supposedly benevolent intention of making up for past wrongs, offers to trade an Indian tribe more fertile lands for poor reservation acres. The chief replied, "you are very kind, but we are happy with the land. The royalties from our uranium deposits will see us through many a cold winter."¹⁷

The attitude of this fictional Indian was not far from his real-life counterpart. The chairperson of CERT, Peter MacDonald, was also chairperson of its largest component tribe, the Navajos. One journalist described

MacDonald as "a controversial figure even among Native Americans and is seen by some as too interested in money rather than in the potentially negative effects which the rapid development of resources may entail."¹⁸ MacDonald was a constant source of original ideas and pithy sayings, sometimes sarcastic but at times with an almost Lincolnesque anecdote or turn of phrase. For example: "In our early history, we had to deal with the cavalry, the blue coats, the long knives. Today, there is a judicial cavalry, a legislative cavalry, an industrial cavalry. The battle is indoors. But it is just as bloody."¹⁹ "When Custer left for the Little Big Horn, he stopped by the BIA office and said, 'Don't do a thing till I get back.' They're still waiting."²⁰ "As the first believers in the American dream, we still retain faith."²¹ Viewing himself as a martyred victim but seen by others as confident to the point of arrogance, MacDonald sometimes found his quick sarcasm counterproductive. For instance, he once lectured the Hopis that they should be more generous to the Navajos in a land dispute out of gratitude for the latter not wiping them out in the nineteenth century.

MacDonald was seen as not only controversial but abrasive, even by members of his own tribe. He was atypical as a Navajo, for he had lived off the reservation for years, earned an engineering degree, and worked on the Polaris missile. His press releases hinted that he was one of the Navajos in the Pacific during World War II who radioed messages in Navajo, an unbreakable code to the Japanese,²² a service which was unlikely since he was about sixteen at the end of the war. He was indicted in 1976 for fraud and tax evasion in the use of expense accounts, but thanks to his incoherent bookkeeping and the legal talents of F. Lee Bailey, the charges were dropped.²³

Seeking to take advantage of the energy crunch to promote his tribe's interests, MacDonald complained: "Our coal and other resources should be able to help this country survive the energy crisis, but nobody is talking to us."²⁴ The CERT group did have sizeable resources. According to one of MacDonald's estimates, the group of twenty-two western tribes controlled fifty-five per cent of the United States' uranium, and thirty per cent of its domestic coal reserves.²⁵

As MacDonald moved forcefully on the national scene, his local power base was being threatened. Not only was he accused of managing his tribe's finances like those of a private corporation, but he had also run afoul of the more traditionalist Navajos who had qualms about ripping open the earth at all, some out of ecological concerns and others from purely religious motives. But the greatest risk to his position was a court decision in 1974 that threatened his control of Navajo mineral reserves.

The Navajo reservation encompasses an area the size of West Virginia and is an anomaly among Indian reservations. In shape it is roughly squarish, the greater part of it in Arizona, but including parts of New Mexico, Utah, and

Colorado. Its most unusual characteristic is the existence of an entirely separate Indian reservation, that of the Hopis, called "District 6," totally surrounded by Navajo territory. Between the two reservations is a circular strip of land called the Joint Use Area, or JUA, which both sides were legally entitled to use, but which was in fact largely inhabited by Navajos, the much larger tribe. The joint use of the JUA had caused a number of clashes in the past. The Navajos claimed the Hopis preferred to live on the mesas, and the Hopis charged that the Navajos monopolized water holes and prime grazing sites. What had been a smoldering resentment flared openly in the early 1970s as the energy crisis increased the value of Indian mineral reserves. In theory, both tribes were supposed to receive fifty per cent of any mineral profits derived from the JUA, but, in practice, the tribe in actual occupation of the surface overlying the reserves could increase its share by its legal control of rights-of-way.²⁶ Since the Navajos were in actual possession of the larger part of the JUA, the Hopis were determined to fight for their 50 percent of the surface. Interestingly, the Hopis were also members of the CERT cartel and made no objection to their enemy, MacDonald, heading it. Evidently they either thought his aggressiveness would help them in that capacity or that the more time he spent dickering with the mineral companies the less he would have to spend defending Navajo title to the JUA. MacDonald's own Navajos later raised this charge.

MacDonald served notice in Carter's first year of office that members of CERT, "sometimes referred to as the Native American OPEC," after appealing unsuccessfully to various federal agencies for help in developing their resources, "have begun putting out feelers to representatives of the OPEC nations to see if they can assist us in planning, in negotiating Before committing ourselves to this or any other course, we wished first to consult with you and your advisors."²⁷ When announced, the idea of a Native American OPEC thrilled the media, but the oil cartel's Vienna headquarters, though polite, were not interested. OPEC's basic purpose was to limit production of oil as a way of keeping prices high, not altruistically to set up a potential rival in business.

Wayne and Abbott Sekaquamptewa of the Hopi tribe held positions similar to MacDonald's, and they were even less typical of their tribe than MacDonald was of his. Wayne ran the only Hopi newspaper, in which he ridiculed the traditional Hopi religion with its kiva huts and kachina dolls. Furthermore, Wayne and Abbott were wealthy in a tribe that tended to be egalitarian, and they had the odd distinction of having been raised in Navajo territory, their parents having been ostracized for following Anglo ways. Their boyhood exile in the Navajo area engendered lasting resentment against the Navajos whom both Abbott and Wayne viewed as domineering and grasping. Returning to the Hopi District 6 as adults, they gained popularity for these anti-

Navajo views. Abbott even became tribal chairperson in 1973, despite the fact that traditionally the chairperson was expected to be a priest of the tribal religion, while the Sekaquampewas were Mormons.²⁸

Both MacDonald of the Navajos and the Sekaquampewas of the Hopis were "progressives" or "modernizers" and, as such, had to battle the "traditionalists" of their own tribes. Their opposition was formidable in numbers but negligible in influence since they were in favor of village councils and did not approve of, or participate extensively in centralized tribal government. The Hopis in particular were traditionalists and questioned the basic legality of a central chairman like Abbott Sekaquampewas:

The Hopi tribe consists of 'traditionalists' who favor adherence to the traditional Hopi form of organization, and the 'progressives' who favor a constitutional form of government. The traditionalists have long held that the decision to adopt or reject the Hopi Constitution and by-laws was forced on the tribe via a fraudulent election. This was not the case. The Hopi constitution was adopted by a vote of 651 for and 104 against on October 24, 1936 while we appreciate the traditionalists' concerns, the record does not support their contentions.²⁹

The traditionalist Hopis had written to President Carter claiming that their constitution was "drawn up by BIA anthropologists and aides and imposed upon the Hopi people your 'democratic' way of majority rule is alien to us, also foreign to us is your 'separation of church and state'. Our Hopi way is to recognize the Great Spirit as our supreme leader in all facets of life."³⁰ It is no wonder that progressives like the Sekaquampewas opposed the traditionalists; they not only attacked Abbott for wanting to develop mineral resources, but denied his elected authority on religious and political principles. MacDonald had the same problem with Navajo conservatives, but picked up some odd support. Mina Lansa, an influential Hopi chieftainess and traditionalist, supported the Navajo on the JUA dispute because she was opposed to strip-mining.³¹

A 1974 bill designed to settle the JUA question by eliminating the JUA and partitioning it between the Hopis and Navajos was passed before Jimmy Carter entered the White House or indeed had any influence nationwide. As law of the land, however, it was up to the Carter Administration to see the act implemented. Carter was experiencing political troubles in the Southwest, as evidenced by Democratic politicians who staunchly opposed his initiatives, especially those dealing with the "hit list" of water projects which he planned

to eliminate as unnecessary. Following Vice President Mondale's week-long political fence-mending tour of the region, the *Washington Post* charged the Administration with "almost total surrender" on water policy, grazing fees on federal land, and lumbering rights.³² During the tour, Mondale also met with Indian leaders, including MacDonald, who apparently was more concerned with his CERT role than with the Navajo claims to the JUA.

Battle lines had hardened as early as 1972. In that year, Senator Barry Goldwater had arranged for Peter MacDonald, a conservative Republican like his Hopi rivals, the Sekaquampawas, to be a member of Arizona's delegation to the Republican National Convention. MacDonald was even to have been one of the speakers to bring Nixon's name up for nomination. A few weeks before the nominating convention, however, MacDonald was in Washington to speak with Senator George McGovern, chairman of the Senate Subcommittee on Indian Affairs. McGovern expressed distaste for the harsh Steiger Bill, the 1972 version of the Hopi-Navajo relocation act, and said he would sponsor legislation to avoid needless resettling. Since there were more Navajos on the JUA (over 9,000) than in the entire Hopi tribe, the human burden of the move would fall primarily on the Navajos.

MacDonald, apparently believing he now held a "McGovern card," gave an interview in which he threatened that if the Republicans failed to support the Navajos in the dispute, he would throw his influence to McGovern. Until that time, Goldwater had been studiously neutral in the fight between the two Arizona tribes, but after the threat, he threw his support to the Hopis. Wayne Sekaquampewa admitted that Goldwater's shift resulted from MacDonald's having played the "McGovern card." Senator Goldwater "was sitting on the fence before that."³³ Goldwater later claimed "old feuds had kept the area in turmoil. Tribal chairman Peter MacDonald and other Navajo officials blamed me and others in Congress for not swallowing all the claims coming out of their Window Rock, Arizona, home base."³⁴

As if the McGovern gambit were not enough, MacDonald, perhaps reasoning he had little to lose, further alienated Goldwater by letting himself be influenced by Richard Schifter, the Navajos' Washington attorney. Schifter persuaded MacDonald to forget his conservative objections to unions and forge an alliance with the AFL-CIO, which had long awaited an opportunity to gain a foothold in Goldwater's state. The union planned to organize labor, supply job-training programs, and launch a voter registration drive for the Navajos.³⁵ The latter was a success. The Navajos voted in the 1974 governor's race, which the Democrats won. governor Raul H. Castro's victory was an extremely narrow one, so the Navajos may have thought they put him over the top. In 1976, they voted for Dennis Deconcini, a Democratic senator, who won by a larger margin.³⁶

Ladonna Harris took the position that the main importance of the Indians to the Carter Administration was a symbolic one: token actions which showed that what the President would do for non-white peoples elsewhere in the world, he would do for those in the United States. This symbolic connection was not lost on the Indians themselves, who cheered when Andrew Young put the United States in the same category as South Africa in repressing minorities and who welcomed the Panama Canal treaties as a chance to remind people in the United States of their long history of broken pacts with Native Americans. One Indian wrote the President: "The Fort Bidwell Indian Community Council of the Fort Bidwell Reservation congratulates you for advocating that the U. S. should honor the terms of treaties made in good faith. But, we demand the same respect for those treaties made and broken with the Native American people."³⁷ Others reached different conclusions when citing the connection between Indian and Panamanian treaties. For every letter supporting Carter on the issue of the canal treaties, there were many condemning him: "First you gave away our canal and now our fishing rights, grazing rights, mineral rights, etc." But not all of the objections came from right-wingers or racists. Senator Henry Jackson of Washington, who had pressured Attorney General Bell and the White House staff to issue a statement on Indian rights, also wrote a temperate brief for the other side of the question:

Relations between Indians and non-Indians have become restrained in many areas as Indians have begun claiming rights to natural resources and jurisdiction over non-Indians. The Federal Government's advocacy of the Indians' claims has seriously contributed to the tension. This is especially so when Indian claims adversely affect the right or livelihood of non-Indians Many non-Indians object to their tax dollars being used by the Federal Government to defeat their rights in court, while at the same time, there are no Federal personnel or funds used to protect their rights.³⁸

While the Carter Administration sought to treat the JUA dispute as one between two Indian tribes, the fact that the eventual relocation was to deprive many ranchers of federally-leased lands alienated many non-Indians. By 1978, a back lash movement became noticeable. In July of that year, Native American groups expressed concern over this situation as well as economic issues through the "Longest Walk," when thousands of Indians converged on Washington. President Carter was at an economic conference in Bonn at the time, but since the Walk had been announced months in advance, his absence seemed a calculated slight to some Indians.

The "Longest Walk" was named after an incident in Navajo history. It was composed of 2,800 Indians of various tribes demonstrating against backlash and eleven bills before Congress that would have restricted their rights. None of the legislation passed. The Longest March Manifesto was a flamboyant document citing every grievance and claim the Indians had against the government. It criticized the "settler regimes" of Canada, Mexico, and the United States, and asserted the Indian right "to deport those people who we determine to be illegal aliens." Even space probes and moon rocks came in for attack: "Our Grandmother, the Moon, has been molested and part of her being has been removed."³⁹ This unfortunately trivialized more legitimate claims in the minds of some.

In the remaining two years of Carter's presidency, large numbers of Navajos were forcibly removed from the JUA, resulting in more appeals and injunctions. Part of the problem was that the rest of the reservation was already overgrazed and could not absorb the ousted tribesmen and their flocks. The Federal government had promised to buy non-Indian lands contiguous with the reservation to compensate the Navajos removed from the JUA, but the ranchers outside the reservation objected to this. Rancher appeals and injunctions against the land condemnation joined Navajo appeals and injunctions against removal. When the Carter Administration left office, the dispute was still unsettled. Despite its best intentions, the Administration had incurred the anger of all disputants--Hopis, Navajos, traditionalists, modernizers, and ranchers.

The land dispute relating to the JUA was still under litigation three years after the deadline for it supposedly had passed (1986). With the oil glut of the early Reagan years, demand for Indian energy resources declined precipitately, making profits from the disputed area problematic. Questions remain about the handling of the dispute. Why did the Administration not allow the Navajos, who had lived on the JUA for generations, to buy the land back from the Hopis who were in no dire need of it? A similar policy was followed in Maine when longtime white settlers were allowed to make monetary payments in return for cleared titles to Indian lands. Thus, as MacDonald charged, a double standard existed. Val Jean McBroom, acting director of the BIA, argued that relocation was not the usual way the federal government ended land disputes: "In most land dispute cases, the injured party is compensated with money."⁴⁰ The answer probably lies in the nature of the history of the Navajos who had expanded relentlessly into Hopi areas. A complete removal was probably the only answer. Furthermore, comparisons with Maine Indian claims were invalid since those did not involve unfenced grazing lands.

Why were such large majorities, sometimes 80 percent, of both tribes ignored? A fundamental misconception by President Carter and his staff was that all peoples, even traditionalists, would opt for democratic procedures if

given the chance. The Hopi and Navajo traditionalists were equally misguided in assuming that if they chose not to deal with centralized tribal governments or the Anglo world, they could not be affected by them. The combination of these fallacies furnished the underpinning for the power bases of the "modernizers" of both tribes. Since traditionalists generally abstained from participating in the centralized tribal government in order to show their disapproval, their abstention caused vote-conscious Washington to magnify the importance of the modernizer faction. A leader like Peter MacDonald who had lived away from the reservation for many years, observing the effectiveness of public relations and demonstrations in the various movements of the 1960s, was able to convert his expertise into a workable political machine. For Wayne and Abbott Sekaquampewa, it was even easier to set up a political structure. The Hopis were even more isolated from the modern world than their protagonists on their Navajo-surrounded mesas. The Sekaquampewa shrewdness in dealing with the outside world was made, therefore, all the more striking.

Compared to the Maine land claims, where the Carter Administration actively intervened in a dispute between the tribes and the state, its actions in the Hopi-Navajo situation seem curiously low-keyed. One reason for the Administration's proceeding so slowly was that the issue of "property rights" versus "people rights" was a complex one even before MacDonald and Sekaquampewa began hurling their overheated rhetoric. The Carter Administration's cautious attitude and call for more studies while doubtlessly sincere actions of a government taking its tone from a president noted for his cool thinking and "homework," often appeared to its critics mere foot-dragging. An unplanned, and probably unwanted, benefit to the Administration was that at the end of its term the appeals were still ongoing. Forrest Gerard's "hot potato" was passed on to the incoming Republicans.

The dreams of the Indian traditionalists for preserving their old way of life are not total fantasies. The existence of a large Orthodox Jewish community in the Richmond borough of New York, and of an expanding group of Amish and Hutterites in Pennsylvania and the Midwest demonstrates the possibility of a traditional culture sustaining itself so long as a secure economic base and strong motivational efforts are maintained. A secure economic base, however, is one thing the Indian traditionalists lack. Nearly 80 percent of Hopi Tribal income comes from the Peabody Coal Company, while 50 percent of Navajo income stems from its various mineral royalties.⁴¹

The main threat to the traditional Navajo way of life stems from the expansion of the Anglo population and the sheep they raise. This overburdens the carrying capacity of the land. Despite their lower life expectancy and poverty, the Navajo population increased 1,000 percent between 1890 and 1980; from 15,000 to 150,000. One journalist described this development:

The Navajos have outbred their range. The reservation in itself, badly abused, cannot support one-tenth of their present number. The public welfare system offers the Navajos a precarious subsistence; current proposals to industrialize the reservation through coal mining and the production of synthetic fuel and electrical energy promise only temporary postponement of the inevitable relocation, and at a destructive cost.⁴²

To blame all Navajo problems on population growth would be blaming the victim, yet, unless the Navajos expect to take over not only the Hopi lands but those of the Utes, Zunis and Anglos, this difficulty eventually will have to be addressed. From this standpoint, the Carter Administration was wise to let the 1974 decision stand, seeking only to mitigate its disruption to individuals.

The Carter Administration, however, could have clarified one basic problem by pushing Attorney General Bell's attempt to redefine the relationship between Indians and the Federal Government. Eizenstat, Fletcher, and Cutler thought such a redefinition would bring the opposition on both the left and right out against Carter, but some such clarification of John Marshall's term "domestic sovereign" nations is needed. The limited autonomy of the reservations has little in common with sovereignty as defined in international law, which is how many Indians understand it. The Federal Government can inspect reservations for health regulations, veto mineral negotiations, and draft Indian men in time of war. On the other hand, Indians can vote in state and federal elections, usually not a privilege granted one sovereign nation by another.

A question raised by the Hopi-Navajo land dispute is why Indians vote Republican when experience would indicate they fare better under Democrats. In 1980, MacDonald had promised to support Carter, but reneged in favor of Ronald Reagan. When the 1981 budget slashes took effect and devastated the tribal economies, he was at a loss to explain his choice to his constituents. By 1982, unemployment on the reservation stood at 80 percent, and Peterson Zah successfully challenged MacDonald in the tribal elections that year.⁴³ Abbott Sekaquaptewa already had been replaced as Hopi chairman by Ivan Sidney in 1981. The oil glut was cutting into any potential energy profits from oil, gas, coal, and uranium, so it is understandable why business-minded Republicans like MacDonald and Sekaquaptewa who were unable to deliver on their promises were now voted out. However, their replacements were also Republicans. The greatest advances made by Indians have come under Democrats like Franklin Roosevelt, Lyndon Johnson, and Jimmy Carter, so why

this anomaly?

The reason may be chiefly ideological. The Democratic party finds its support in immigrant groups like the Polish, Irish, Jews, and Hispanics. To the Indians, these groups may seem only later additions to the original Anglo-Saxons who started their problems. Also, with their traditional bias in favor of religion, family, and respect for elders, Indians look askance on causes identified with Democrats like youth protests, gay rights, and women's liberation. As the nation's poorest minority, they would seem to have little in common with the stereotyped Republican image, yet they seem to feel more comfortable with the ideology of the Republicans, and both are conservative in theory, although they are trying to conserve different things.

Was there any reasonable alternative to the way the Carter Administration, and the federal government in general, dealt with the Indians? The Carter Administration negotiated with the Hopis and Navajos through the intermediaries, Abbot Sekaquampewa and Peter MacDonald, both of whom were to some extent self-serving and alienated from their tribal ways. Carter's own appointee, Forrest Gerard, though an Indian, tended to look at the problem through the lens of his legal training. The best contributions the BIA in the past, however, has come from men with anthropological expertise. For example, Oliver La Farge in the 1920s questioned the government's policy of wiping out tribal organization and religions, and John Collier during the Roosevelt years opposed the Navajo practice of overgrazing their lands.⁴⁴ Looking for the root causes of Indian behavior and difficulties would surely prove more fruitful than the policy in recent administrations of treating Native American problems as purely legal matters to be decided by demonstrations, lobbying, and a constant stream of injunction and appeals.

NOTES

¹Press release, 10/8/76, "IN 5/1/78-9/30/78," Box IN-3 White House Central File-Subject File [hereafter WHCF-Subject File], Jimmy Carter Library [hereafter JCL].

²Allan Parachini, "Carter Eyes Elimination of Indian Affairs Bureau," *Washington Post*, 13 January 1977, A18.

³George M. Anderson, "Native Americans and Energy Resources," *America* (July 18-25, 1981), 33.

⁴Memo, James MacIntyre to president Carter, 5/17/78 "IN 2/1/78-6/30/78," Box IN-1, WHCF-Subject File, JCL.

⁵Seth S. King, "Indian, Starting Job as Aide to Interior Secretary, Sees Backlash in Congress over Tribal Lands Claims," *New York Times*, 1 November 1977, C16.

⁶Letter, Senator James Abourezk to President Carter, 8/9/78, "IN 7/1/78-9/30/78," Box IN-1, WHCF-Subject File, JCL.

⁷Memo, Forrest Gerard to Stuart Eizenstat, 3/1/78, "Civil Rights/Liberties--Indian Affairs [O/A 6233] [2]," Box 165, Stuart Eizenstat's Files, JCL.

⁸Letter, Ladonna Harris to Sarah Weddington, 10/9/78, "IN 10/1/78-8/31/79," Box IN-3, WHCF-Subject File, JCL.

⁹Ibid.

¹⁰Letter, Jeannette Henry to Jody Powell, undated, enclosed in letter from Patricia Barrio to Jeannette Henry, 4/15/77, "American, I," WHCF-Name File, JCL.

¹¹Memo, Margaret Costanza to President Carter, 12/13/77, "Indian Issues [CF, OA 23] [1]," Box 223, Stuart Eizenstat's Files, JCL.

¹²Memo, Kathy Fletcher to Stuart Eizenstat, 11/22/78 "Civil Rights/Indian Rights [1]," Box 165, Stuart Eizenstat's Files, JCL.

¹³Ibid.

¹⁴Memo, Eliot Cutler to Stuart Eizenstat, 1/23/78, "Civil Rights/Liberties--Indian Affairs [O/A 6233] [3]," Box 165, Stuart Eizenstat's Files, JCL.

¹⁵Ibid.

¹⁶Letter, Griffin Bell to Cecil Andrus, 5/31/79, "IN 6/1/79-9/30/79," Box IN-2, WHCF-Subject File, JCL.

¹⁷Art Buchwald, "We'll Trade You Manhattan," *Washington Post*, 13 November 1977, H1.

¹⁸Anderson, "Native Americans and Energy Resources," *America*, (July 18-25, 1981), 33.

¹⁹Paul Hendrickson. "The Navajo and the Terrible Beauty," *Washington Post*, 19 October 1979, B1.

²⁰Ibid.

²¹Letter, Peter MacDonald to President Carter, 4/26/77, "Indian Issues [CF, O/A 23] [2]," Box 223, Stuart Eizenstat's Files, JCL.

²²Ibid.

²³Hendrickson, *Washington Post*, 19 October 1979, B1.

²⁴"Fuel Powwow: Indians Seek a Better Deal," *Time*, 20 (August 1979): 17.

²⁵Memo, Tim Kraft and Claudia Townsend to president Carter, "IN 7/1/77-10/31/77" WHCF-Subject File, Box IN-3, JCL.

²⁶Jerry Kammer, *The Second Long Walk: The Navajo-Hopi Land Dispute*, (Albuquerque: University of New Mexico Press, 1980), 90.

²⁷Letter, Peter MacDonald to President Carter, 4/26/77, "Indian Issues [CF O/A 23] [2]," Box 223, Stuart Eizenstat's Files, JCL.

²⁸*Second Long Walk*, 61-65, 109.

²⁹Letter, Rick Lavis, Deputy Assistant Secretary of Indian Affairs to Senator Dennis DeConcini, 4/25/78, "IN 3/1/78-4/30/78," WHCF-Subject File, Box IN-3, JCL.

³⁰Letter, Earl Pela and tribal leaders to president Carter, 10/1977, "IN 3/1/78-4/30/78," WHCF-Subject File, Box IN-3, JCL.

³¹*Second Long Walk*, 97.

³²Lou Cannon, "Carter in Full Retreat in 'War on West,'" *Washington Post*, 15 January 1978, A2.

³³*Ibid.*, 98-99.

³⁴Barry Goldwater with Jack Casserly, *Goldwater* (New York: Doubleday, 1988), 66.

³⁵*Second Long Walk*, 110.

³⁶Michael Barone, Grant Ujifusa and Douglas Matthews, *The Almanac of American Politics 1978*, (New York: E. P. Dutton, 1978), 25.

³⁷Letter, Lucinda Lame Bull to President Carter, 10/10/77, "In 7/1/77-10/31/77," WHCF-Subject File, Box IN-3, JCL.

³⁸Letter, Senator Henry M. Jackson and Senator Warren G. Magnusson to Attorney General Griffin Bell, 3/1/78, "IN 2/1/78-6/30/78," WHCF-Subject File, Box IN-1, JCL.

³⁹Booklet, *The Longest Walk Manifesto: Affirmation of Sovereignty of the Indigenous People of the Western Hemisphere*, Presented 22 July 1978, Washington, D. C. (No publishing information) "Oversize Attachment #5159 [1 of 8]," JCL.

⁴⁰Molly Ivins, "U.S., Keeping Promise to Hopis, Is Forcing 3,500 Navajos to Move," *New York Times*, 21 December 1977, B4.

⁴¹"Indians Want a Bigger Share of Their Wealth," *Business Week*, 3 May 1976, 100-102.

⁴²Edward Abbey, "American Indian Real Estate," *New York Times Book Review*, 8 March 1981, 13.

⁴³"Navajo Vote Comes at Tribal Turning Point," *New York Times*, 12 August 1982, A13.

⁴⁴For La Farge, who won a Pulitzer for his novel on the Navajo, *Laughing Boy*, see D'arcy McNickle's, *Indian Man: A Life of Oliver La Farge* (Bloomington: University of Indiana Press, 1971). For the controversial Collier, still execrated by present-day Navajos for his drastic stock-reduction program, see Lawrence C. Kelly's, *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform* (Albuquerque: University of New Mexico Press, 1983).