

***THE BRITISH LIBRARY***

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

By  
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THE ECCLES CENTRE FOR  
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## ***INTRODUCTION***

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

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

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

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

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

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

the Confederacy during the Civil War, further excuses for taking Indian land were now available for the many voices of Manifest Destiny. The Indian Wars after 1865 can be seen from this perspective.

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

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

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

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

### ***BIBLIOGRAPHICAL NOTE***

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

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

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

recognized by the Federal Government--not all Indian tribes are.

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

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

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## ***I. PERIODICALS (SELECTED)***

***American Anthropologist*** (Ac.6239/2)

***American Indian Culture and Research Journal***(Boston Spa)

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

***Ethnohistory*** (PP.8006 MS)

***The Indian Historian*** (X0702/46)

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

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***Western Historical Quarterly*** (P.701/404)

### **III. UNITED STATES' GOVERNMENT PUBLICATIONS**

Major sources for American Indian policy are the publications of the Federal Government. No one listing can suggest the breadth of this material, and complicating the researcher's task is the difficult job of locating and finding specific items. A number of guides assist by providing good overviews of United States' public records: Anne M. Boyd, **United States Government Publications** 3rd ed., revised by Rae E. Ripps (New York: H. W. Wilson, 1949); Laurence F. Schmeckebier and Roy B. Eastin, **Government Publications and their Use** (Washington, DC: Brookings Institution, 1969); Joe Morehead, **Introduction to United States Public Documents** 3rd ed. (Littleton, CO: Libraries Unlimited, 1983); and Judith Schick Robinson, Tapping the Government Grapevine, **The User Friendly Guide to U.S. Government Information Sources** (Phoenix, AZ: Oryx Press, 1988). See also the useful guide to the bibliographical literature in Francis Paul Prucha, **Handbook for Research in American History, A Guide to Bibliographies and Other Reference Works** (Lincoln, NE: University of Nebraska Press, 1987), pp. 81-106. (2725.d.929)

A very useful overview of the U.S. Government material in the British Library (accessed through the Official Publications and Social Sciences Service Reading Room) is Dorothy Walker, **United States Government Publications, The British Library** (London: The British Library, 1990).

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

#### **A. GENERAL REFERENCE GUIDES**

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

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

**Monthly Catalogue of U.S. Government Publications** (OPL 973.0043)

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

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

#### **B. CONGRESSIONAL PUBLICATIONS**

1. Proceedings

**Congressional Serial Set** (A.S.10, AS. 10/2, etc.)

***Congressional Serial Set Index, 1789-1969*** (OPL 973.0043)

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***The New American State Papers: Indian Affairs*** Introduction by Loring B. Priest. 13 volumes (Wilmington, Delaware: Scholarly Resources, 1972). Covers to 1860, mostly copies of congressional documents.

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

## **C. FEDERAL LAWS AND TREATIES**

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### 2. Indian Laws and Treaties

***United States Code. Title 25. Indians.*** (OPL 344.7304)

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(Washington, 1826). [529 pp.] (A.S.217/9)

***Treaties between the United States of America and the Several Indian Tribes, from 1778 to 1837*** New Edition (Washington: Langtree and O'Sullivan,1837). [Compiled under the supervision of the Commissioner of Indian Affairs, 6<sup>99</sup>pp.](A.S.21 6/2)

***A Compilation of All the Treaties between the United States and the Indian Tribes, Now in Force as Laws***  
(Washington: Government Printing Office, 1873). Arranged alphabetically by tribe.

***Laws of the United States relating to Indian Affairs, compiled from the Revised Statutes., enacted June 22, 1874...*** (Washington, 1884). (A.S.217/4)

## **D. EXECUTIVE BRANCH**

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## 2. Reports of Executive Departments and Bureaus

Commissioner of Indian Affairs. *Annual Reports*, 1824-- [These important reports form part of the *Annual Report* of the Secretary of War (to 1848) and of the Secretary of the Interior (since 1849). The Annual Reports of the Secretary *of* the Interior were printed in the Serial Set of Congressional Documents until 1920; those of the Secretary of War are also there.]

*Indian Affairs: A Progress Report for the Commissioner of Indian Affairs*. Issued annually beginning in 1964 (Washington: Government Printing Office).

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**United States Reports.** [To 1979: (6622.pp.1); after 1979: (SPR Mic A.S.Ju.3.9)]

Decisions of the Federal Courts (below Supreme Court):

**Federal Cases,** 30 Vols. (St. Paul, MN: West Publishing Co., 1894-1897). Coven 1789-1880.

**Federal Reporter,** 1st Series, 300 Vols. (St. Paul, MN: West Publishing Co., 1880-1925). (P.P.4030.f.2) 2nd Series, 776 Vols. (St. Paul, MN: West Publishing Co., 1925-). To 1985.

**Federal Reporter Supplement** (St. Paul, MN: West Publishing Co., 1933-; 620 Vols. by 1985). (P.P.4030.f.3)

**U.S. Court of Claims.** Cases Decided. 1855- 1980, volumes 1-224 (A.S.169-170); post-1980 (SPR Mic AS ju.3.9)

[Indian Claims Commission]. **General Rules of Procedure, etc** (Washington, DC, 1947). (AS .99 1)

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### 3.National Archives

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***American Indians: A Select Catalog of National Archives Microfilm Publications*** (Washington: National Archives, 1984). Very useful resource and reel-by-reel description of the various collections available on microfilm.

***Guide to the Records of the United States House of Representatives at the National Archives, 1789- 1989*** Charles E. Schamel, et al., eds. (Washington: U.S. House of Representatives, 1989). (OPL.973.0076)

***Guide to the Records of the United States Senate at the National Archives, 1789-1989*** Robert J. Stewart, ed. (Washington: U.S. Senate, 1989). (OPL 973.0076)

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## ***PERIODICALS***

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## ***APPENDIX A***

### ***MAJOR FEDERAL LEGISLATION: NATIVE AMERICANS***

#### ACTS/STATUTES

1786 -Ordinance for the Regulation of Indian Affairs

1787 -Northwest Ordinance

1790 -Trade and Intercourse Act

1796 -Establishment of Government Trading Houses

1802 - Trade & Intercourse Act

1806 - Superintendent of Indian Trade

1816 - Exclusion of British Traders

1818 - Authorization of Indian Agents

1819 - Civilization Fund Act

1822 -Abolition of the Government Trading Houses

1822 - Act for Regulating the Indian Trade

1824 -Creation of a Bureau of Indian Affairs in War Department

1824 -Authorization of Treaties; Trade Regulations

1830 - Indian Removal Act

18P -Authorization of a Commissioner of Indian Affairs

1834 -Organization of the Department of Indian Affairs

1849 - Transfer of Indian Affairs to the Department of Interior

1867 - Report of the Doolittle Committee

1867 - Creation of the Indian Race Commission

1868 - Report of the Indian Peace Commission

1869 - Authorization of the Board of Indian Commissioners

1870 - Abolition of Treaty Making

1885 - Major Crimes Act

1887 - General Allotment Act (Dawes Act)

1891 - Amendment to the Dawes Act

1898 - Curtis Act

1901 - Citizenship for Indian in the Indian Territory

1906 - Burke Act

1907 - Lacey Act

1921 - Snyder Act [Authorization of Appropriations & Expenditures for Indian Affairs]

1924 - Indian Citizenship Act

1928 - Meriam Report

1934 - Johnson-O'Malley Act

1934 - Wheeler-Howard Act (Indian Reorganization Act)

1935 - Indian Arts and Crafts Board

1946 - Indian Claims Commission Act

1953 - House Concurrent Resolution 108

1953 - Public Law 280

1954 - Relocation of Indians in Urban Areas

1968 - Civil Rights Act of 1968



1970 -President Nixon--Special Message on Indian Affairs

1971 - Alaska Native Claims Settlement Act

1972 - Indian Education Act

1974 - Indian Financing Act

1975 -Establishment of American Indian Policy Review Committee

1975 -Indian Self-Determination & Education Assistance Act

1976- Indian Crime Act of 1976

1976 -Indian Health Care Improvement Act

1977 -Final Report of American Indian Policy Review Commission

1977 -Establishment of Assistance Secretary--Indian Affairs

1978 -American Indian Religious Freedom

1978 -[Guidelines for] Federal  
Acknowledgement of Indian Tribes

1978 -Tribally Controlled Community College Assistance Act

1978 - Education Amendments Act of 1978: Title XI--Indian Education

1978 -Indian Child Welfare Act

1979 - Archaeological Resources Protection Act

1983 - Indian Land Consolidation Act

1988 -Amendments to the Alaska Native Claims Settlement Act

1988 - Tribally Controlled Schools Act

1988 - Indian Gaming Regulatory Act

## ***APPENDIX B***

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

1823 - Johnson & Gramham's Lessee v. Win. McIntosh

1831 - Cherokee Nation v. Georgia

1832 - Worcester v. Georgia

1870 - Cherokee Tobacco Case

1879 - Standing Bear v. Crook

1882 - McBratney v. U.S.

1883 - Ex Parte Crow Dog

1884 - Elk v. Wilkins

1886 - U.S. v. Kagwa

1899 - Stephens v. Cherokee Nation

1903 - Lone Wolf v. Hitchcock

1908 - Winters v. U.S.

1959 - Williams v. Lee

1959 - Native American Church v. Navajo Tribal Council

1963 - Arizona v. California

1965 - Warren Trading Post v. Arizona State Tax Commission

1965 - Colliflower v. Garland

1968 - Menominee Tribe of Indians v. U.S.

1973 - McClanahan v. Arizona State Tax Commission

1974 - U.S. v. State of Washington

1974 - Morton v. Mancari

1974 - Oneida Indian Nation v. Country of Oneida [NY]

1975 - Passamaquoddy Tribe v. Morton

1975 - Antoine v. Washington

1976 - Bryan v. Itasca County [Minnesota]

1977 - Puyallup Tribe, Inc. v. Department of Game

1978 - Oliphant v. Suquamish Indian Tribe

1978 - U.S. v. Wheeler

1978 - Santa Clara Pueblo v. Martinez

1979 - Washington v. Washington State Commercial Passenger Fishing Vessel Association

1980 - U.S. y. Nation of Indians

1980 - White Mountain Apache Tribe v. Bracker

1982 - Merrion v. Jicarilla Apache Tribe

1983 - New Mexico v. Mescalero Apache Tribe

1984 - U.S. v. Dann

1985 - County of Oneida [NY] v. Oneida Indian Nation

1988 - Lyng v. Northwest Indian Cemetery Protective Association