

UNITED STATES
DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
Washington

January 20, 1934

Indian
Self-government.

To Superintendents, Tribal Councils and Individual Indians.

In the reorganization of Indian administration it is desired to have the tribal organizations participate to as large an extent as possible in self-government and the management of matters of purely local policy and interest.

In order that this may be accomplished with as much satisfaction as possible to the Indians themselves, and realizing that varying problems on the different reservations will require varying solutions to meet local conditions, it is desired that the Indians of each reservation be given an opportunity to consider plans for enlarged self-government and to formulate and present for administrative consideration suggested methods of organization.

While the Interior Department hopes that additional lands may be supplied to Indians needing land, and that the settlement of tribal claims may be greatly speeded up, it is important for the Indians to know that these advantages will be largely dependent on (a) a revision of the existing land-laws, particularly the allotment-laws, and (b) the formulation of plans for Indian self-government and organized self-help. It is with these matters (the land system and self-government) that this communication primarily deals.

Two outstanding questions which should be considered by the tribes are the better enforcement of law and order regulations and the better administration of land holding and ownership.

In considering law enforcement regulation particular study should be made of the extent to which state laws, both civil and criminal, should be made applicable on Indian reservations; what judicial, police and official organizations should be created to administer such laws; and to what extent the Indians themselves should participate in such administration and promulgate necessary laws and ordinances for themselves.

In considering land administration a free and frank presentation should be made by the superintendent and agency officials showing the tendency and eventual result of the present allotment regulations; that is, to gradually effect the alienation of the landed assets of the tribe

and of individual Indians. Free discussion of alternatives to the allotment system should be invited and encouraged, and the advantages of corporate or cooperative organization in the administration of Indian economic affairs should be thoroughly canvassed.

Discussion of other questions vital to the tribes of the reservations may be desired; and the Office should be advised of the conclusions reached by the Indians as resulting from such discussions.

In jurisdictions where a tribal business council is already organized and functioning, these matters can be taken up with that organization; but where such an organization does not now exist, the Office desires that the superintendent arrange for a tribal meeting or meetings and such action as will afford full publicity and knowledge among all members of the tribe of the matters under consideration, and that final action be taken and recommendation made by a body of members which will be fully representative of the entire membership of the tribe.

As a guide for discussion and consideration, the following is submitted as a tentative program. Varying conditions in some jurisdictions may require departures from this outline.

1. THE EVILS OF THE ALLOTMENT SYSTEM.

Experience under the allotment system reveals two major evils:

1. The loss of local self-government and the breakdown of the Indian Community.
2. The loss of Indian lands and the uneconomic and unequal distribution of lands remaining in Indian ownership.

1. The aim of the allotment system was the ultimate absorption of the Indian population in the surrounding white community. It looked forward to the day when the Indian would become absolute owner of his property and manager of his own affairs.

The immediate objective of the Indian Administration during the period of guardianship was to develop the competence of individual Indians in economic affairs. This policy necessitated the establishment of a large body of white officials whose duty was and is to supervise in close detail the every-day life of the Indian wards. During this process of so-called education of the Indian, the community life and political responsibility of the Indian have largely been destroyed.

2. The Federal Government has failed to substitute any satisfactory alternative for the Indian Community which it attempted to destroy. The Indians for the most part have not found economic or social opportunities in the surrounding white communities, and have generally returned to the reservation.

The allotment system also threatens to dissipate or prevent the use of the principal remaining assets of the Indians, their lands. On most reservations where it has been in effect for any considerable number of years, the best lands of the Indians have been lost to the whites through voluntary sales, frequently for a small consideration quickly squandered, or through tax sales or mortgage foreclosures or through sales by the government of heirship allotments. The allotment system also prevents the proper use of the lands that remain in Indian possession. The concentration of the Indian population on the Indian reservation was not anticipated by the framers of the allotment system. Under these conditions the allotment system is unworkable. In the absence of new lands for settlement it compels endless subdivision of the family holdings or else the sale of the lands.

At the outset the allotment of Indian lands broke up grazing and forest areas which had best been maintained in large units. With the death of the original allottee, and especially after the death of some of the heirs, even farm lands were frequently further subdivided among so many individual owners that no one of them was able to make profitable use of the land. The consequence has been the sale or lease of the lands to outsiders.

Furthermore, the inequalities in inheritance have aggravated inequalities in individual holdings. Since the Indian population tends to concentrate on the limited area of the reservation, this must lead to a loss of economic opportunity for many.

The breaking up of the landholdings under the allotment system has seriously impaired the necessary program of education of the Indian in the proper use of his land. The leasing of the lands has not only prevented the Indian from using it himself, but has absorbed much of the energies of the Indian Bureau officials and funds of the Government which might have been devoted to the economic development of the Indian.

II. THE PROGRAM OF THE ADMINISTRATION.

It is the belief of the administration that these evils can be remedied by a program directed toward two fundamental principles:

1. To establish Indian self-government and to promote a healthy and satisfactory community life.
2. To preserve and develop Indian lands in Indian ownership and to provide the opportunity of economic livelihood for all who choose to remain within the Indian Community.

1. Self-Government.

It is recognized that the Indians of each reservation have a right to participate to the fullest extent possible in the handling of their own affairs. It is, therefore, suggested that under suitable legislation Indian communities, wherever they desire increased powers of self-government and are equipped by tradition, experience, or education to exercise such powers, should be organized and chartered as municipal corporations, and that such municipal corporations should be entrusted with powers and responsibilities similar to those customarily exercised by a village or county government.

Powers of government now exercised over the Indians by employees of the Indian Bureau should be gradually transferred to the chartered Indian community, as its members progress in the ability to administer the functions of government. Meanwhile every effort will be made to train and employ Indians qualified for the service. While Federal employees continue to exercise governmental powers over Indians they should be responsible to the chartered Indian Community, should be required to report their plans and achievements to the regular government of the Indian Community, and should be subject to transfer from the reservation, at the request of the Indian Community, where they are unable to work effectively with the community.

Finally, the Indian Community should be given the maximum measure of control over its economic life and, in particular, over expenditures of its own funds. It is recognized that the effectuation of this policy depends upon the development of Indian responsibility in financial matters, and to this end every effort should be made to give Indians an intelligent understanding of their existing rights and obligations in such matters and to encourage free discussion of their present financial problems.

2. Tenure of Land.

It is essential to a satisfactory community life that a firm economic basis be established for the livelihood of the members. To this end the Administration proposes to preserve Indian lands in Indian ownership. Any system of land tenure which may be substituted for the present system must prevent the alienation of Indian lands to outsiders so long as there are Indians in the community who need this land.

It is the belief of the Administration that any satisfactory community plan must be based upon a system of land tenure which secures the economic use of the land. In place of the present system with its scattered individual holdings, growing more complicated with every inheritance, the Indian Community should be empowered to promulgate a plan of community development, to block out Indian lands in economic units fit for farming, grazing, or timber operations, and adaptable to satisfactory location of private homes and community buildings, and to secure the most satisfactory use of Indian lands by Indians.

Finally, it is the belief of the Administration that a satisfactory solution of the land problem requires measures to prevent the growing inequality of land holdings which the allotment system encourages. Because of the limited land available, or which can be purchased by the Government for the Indians, it is necessary to prevent such an increase in the holdings of a few individuals as would deprive others of an opportunity to make a livelihood on the reservation. The duty of the United States Government towards the Indians is a duty towards the unborn, as well as towards those Indians now alive. The United States Government cannot, therefore, transfer its governmental functions to an Indian Community unless that community is prepared to establish a system of land holding which will assure to all Indians born on the reservation a fair share of land. It is hoped that the Government will be able to cooperate, where such a system is established, by providing some aid in the acquisition of new lands needed to supplement present Indian holdings.

Various ways in which the evils of the allotment system can be eliminated and the constructive purposes here set forth can be achieved are suggested in the remainder of this paper.

III. SUGGESTED PROBLEMS AND POSSIBLE SOLUTIONS.

The following matters are outlined not for the purpose of dictating to the Indians the form of their community government and land tenure, but simply as matters which the Indians must consider in attempting to work out a satisfactory method of government and land tenure for themselves.

1. FORM OF SELF-GOVERNMENT.

(a). Officers.

How many officers shall there be and what shall be their titles? One possible arrangement would be to have a council of about six to twelve councilmen and to give this council the right to choose, either from its own members or from outside its members, a chief executive ("president", "governor", "chief" or "chairman"), subordinate executive officials, judges, policemen, and special individuals or committees to take care of leasing of lands, land distribution, finances and credit, timber land, irrigation, community buildings, etc.

Furthermore, where a reservation is divided into several districts it will be necessary to decide whether the districts of the reservation should have special officers assigned to them by the central governing body, and whether such officials should be members of the district to which they are assigned.

(b). Manner of elections.

How, where and in what manner should elections be held? When and how should nominations be held?

(c). Membership in community.

Shall all the residents of the reservation who are of Indian descent, or married to an Indian, be admitted to citizenship or membership in the proposed community, or shall any restrictions, depending upon degree of blood or length of residence on the reservation, be provided?

(d). Method of legislation.

Shall complete legislative power be given to officials, or shall they be required to submit to popular vote certain kinds of legislative proposals?

(e). Recall or impeachment of officers.

Some procedure should be provided whereby particular officers who fail in the duty of their office may be recalled or impeached, either by the community or by a trial and vote by certain other officers.

(f). Constitution.

The rules and regulations concerning the manner of government that may be agreed upon among the Indians should be formulated into a written Constitution and if approved by the United States Government,

this constitution will be incorporated into the Charter which the Government will issue to the Community as a guarantee of the rights of the Indians of the reservation.

2. FUNCTIONS OF GOVERNMENT.

It is not expected that the Indians of the tribes will want to take over immediately all the powers and functions of the government. It is expected, for instance, that they will want the United States to continue, for some time, health and educational services and the provision of certain advisory officials. The Indians of the reservations should consider all the different tasks which the Federal Government now performs on their behalf and make recommendations as to which of these tasks should be transferred to the Indian Community, and which should remain in the hands of the Federal Government. The following matters are listed as matters which the Indians should consider in forming a constitution and a set of ordinances for self-government.

(a). Ordinances.

It is expected that the Indian Community will have its own ordinances similar in scope to the ordinances of a county, town, or territory. These ordinances should lay down specified punishments for misdemeanors and for any offenses which do not come into the Federal Courts (for instance, drunkenness, disorderly conduct, adultery, perjury, dishonesty, etc.). In order to avoid possible complaints, it is advisable that these ordinances be drawn up prior to the granting of a Charter of self-government, so that the United States Government may grant specific power to the community to deal with such matters through its own courts and through its own police.

(b). Cooperative marketing and purchasing.

One of the functions which may be assigned to the community is that of purchasing machinery and supplies for the use of the members of the community. It may also sell the products of the community, insofar as such sale is not managed by voluntary cooperative associations. If such associations continue as independent organizations, they will be subject to the rules and regulations of the community as a whole.

(c). Contributions to Community projects.

It is not expected that the Federal Government will cut down the Federal funds available for the reservations. On the contrary, to the extent that the Indians of the reservations take over the functions now performed by paid white employees, the money now paid to such employees will be increasingly available to the Indian Community. It

may still be necessary, however, for the Indian Community to require all its members to take part in community labor (e.g. irrigation, fencing, construction of community houses), and to contribute toward the salaries of community officials, if it is decided such officials should receive a salary. It may be noted that among the Pueblo Indians many of the officials work without salary, receiving only traveling expenses from community funds. At one of the Pueblo communities the Governor receives an annual salary of \$50, and other officials receive an annual salary of \$35.

(d). Charity.

Every community endowed with self-government must accept the responsibility of caring for its needy and providing for public improvements. So long as the economic necessity continues, the Federal Government will, in all probability, continue to provide rations for indigent old Indians. But if the industrial program of the administration succeeds in bringing greater prosperity to the Indians, the Community must be prepared to assume gradually the obligation of providing for charity, and the responsibility of deciding what charity is necessary and how the need for charity may be avoided by a wise system of land distribution and inheritance.

3. TENURE OF LAND.

It is an essential element of the Administration's program for the protection and encouragement of Indian use of Indian lands that the Indian Community should be given the power to plan and regulate the use of land so as to procure the greatest benefits for the community.

As a possible solution for the evils of the heirship and like problems caused by the allotment system, it is suggested that the underlying principle of the modern corporation be applied to Indian communities. In brief, it is suggested that instead of retaining their interest in particular pieces of land the Indians transfer control over their lands to an incorporated Indian Community and receive in exchange a proportionate interest in the entire land-holdings of the community. Such a system would permit the establishment of proper economic timber units, grazing units and farm tracts as well as home and garden areas.

Within these units each member of the Indian Community would be entitled to use a certain amount of the Indian land for farming and grazing. In addition, each member of the Indian Community would

be entitled to a regular dividend out of the income which the community receives from grazing fees, leases of surplus lands, sales of timber, satisfaction of tribal claims, and other sources of community income. Finally, each member of the proposed municipal corporation would have the right to receive from the community a plot of land for home, garden, corral, etc.

These rights would terminate only at death. The need for a general system of inheritance would be ended since each child would be entitled to a dividend from the community (perhaps one-fourth of the adult dividend for children under 18) and would also be entitled to use community land when he was capable of working it.

Inheritance would, however, be continued to the extent of allowing a man to assign to his widow or children those improvements which he has made upon the land assigned to him. Where such improvements are inseparably connected with the land (for instance, houses or barns), inheritance of such land as well as of improvements might be recognized. If such right is recognized, the community should, wherever possible, require that such improvements be built in an area apart from grazing and farming units, in order to prevent the breaking up of these units. Continued subdivision of improved home and garden sites could be avoided if adjacent lands were reserved by the community for future assignment to young people who wish to build homes of their own.

If it be found impracticable to establish an immediate equality in the holding of community assets it may be possible to preserve the present disproportionate holdings by granting disproportionate dividends in the Community income and right to use the land. Experience in many reservations, however, demonstrates the necessity for establishing an ultimate limitation on the rights of any one individual, in order to grant every member of the Community some economic opportunity.

In working out the details of a system of land tenure suitable to a given reservation, the basic objective must be to secure to each Indian born on the reservation the land he needs to earn a livelihood. The Indians cannot rely upon the Federal Government to continue forever to allot lands to landless Indians. The lands now subject to Indian ownership must be held in trust by the Indian community for its future children, and the use of this land must be controlled and assigned by the laws of the Indian community so as to secure the greatest benefit for all its members. Only where the Indian Community is using its available land to its greatest capacity, and where no Indian controls more land than he needs or is able to use, can the Indian community appeal to the Federal Government for gifts of new lands.

4. CONTROL OF FUNDS.

The Indian Community, where it is equipped to deal efficiently and wisely with financial matters, should be given substantial control over all expenditure of community assets. This would include, for example, moneys recovered by judgment of the Court of Claims, existing tribal funds, and future profits from community enterprises. Some provision may be made, however, to prevent loss of the capital resources of the community. The power to expend community assets in excess of a certain sum (fixed for each community on the basis of its resources and standard of living), might be limited either by requiring that such assets be used for capital expenditures and permanent improvements or by retaining in the Indian Office some power of veto over the improvident disposition of community funds.

Ultimately, it is hoped that some measure of control over the expenditure and administration of Federal appropriations may be secured for the Indian Community, when it has shown its capacity to administer its own funds efficiently, and wisely. For the present, the Indians should be encouraged to examine the budget of Federal expenditures made on their behalf, and to make detailed recommendations as to future expenditures to the Indian Office through the Superintendents. The pending "alternative budget", if adopted by Congress, will greatly assist the intelligent participation by Indians in their own affairs, as well as giving to Congress itself an effective control over Indian service expenditures.

5. CONTROL OF EMPLOYEES.

The Administration is desirous of giving to those Indian Communities which demonstrate their capacity for political organization the largest practicable measure of control over Federal employees, in the hope that ultimately the Indian Bureau may serve the Indians in an advisory capacity, on a purely voluntary basis, as, for instance, the Department of Agriculture serves the American farmer. Where the Government withholds from the tribes, for the time being, any measure of control over Indian affairs, officials charged with the exercise of such control should nevertheless consider themselves, and be considered by the Indians, as responsible to the Indian communities. The Indian Community might well require of all Federal employees now assigned to its service regular reports at council meetings concerning the plans and activities of such employees. Furthermore, some power of recall over such employees should be given, either to the community council or to the members of the community at large. Such power should, however, be limited so as to assure Federal employees a full and fair opportunity to demonstrate the worth of their policies over a stated period of time, perhaps two years, before being subject to recall. It might further be provided that recall should be effected only by a two thirds or three fourths vote. It would be understood, of course, that employees recalled

from one reservation could be transferred to other locations whenever they could be so transferred without impairing the standards of the Indian Service.

6. JURISDICTION OF INDIAN COMMUNITY.

It is the Intent of the Administration that a charter of self-government should be granted to each Indian community which is prepared to accept the elementary tasks and responsibilities of self-government. Such charter would specify the powers given to the Indian community and the duties and the responsibilities which the government of the Indian community agrees to assume. Among other things, the charter would provide that the governing officials of the Indian community must not inflict excessive or unreasonable punishments, must not divert or squander the assets of the community, and must abide by a just and reasonable system of land tenure which the members of the community would adopt before the charter was granted. The officers of the Indian community will be responsible to the Federal Government and to the members of the community for carrying out the duties laid upon them by the charter.

In so far as possible it is desired to free the community from supervision wherever the serious danger of abuse of power may be avoided. The grant of self-government must be considered with relation to two problems: (1) The internal affairs of the Indian community; and (2) the relation of the Indian community to the outside white world.

In so far as possible the Indian community should be given complete supervision over its internal affairs. Thus, for example, the Indian community might be given the power to administer its own system of land tenure. Furthermore, it might in addition be given the power to define typical misdemeanors by ordinance, the enforcement of which would be entrusted to the judicial and police officers of the Indian community. The danger of serious abuse can be removed by charter provision restricting the kinds of offenses which the Indian community may define, and limiting the fines and penalties. More serious offenses would remain subject to those Federal criminal laws which now apply to reservation Indians, except in so far as these laws might be removed or modified by Congress. The Indian community might decide to adopt for itself certain State laws such as those governing contracts, marriage, game preservation, road management, etc.

As has already been noted, certain restrictions probably would be imposed in the charter upon the power of the community over its internal affairs. Several methods of enforcing these restrictions are possible. It might be provided that a special Court of Indian Affairs, its judges appointed by the President or the Secretary of

the Interior, should be empowered to enforce the provisions of the charter and constitution of every Indian community, and to require the officers of the Indian community to abide by the fundamental provisions of such constitution and charter. As an alternative, a power of veto over acts of the Indian community violating its charter or constitution might be retained within the existing Indian bureau.

The problem of the relations between whites and Indians remains to be considered. This problem includes the relations between whites and Indians off the reservation as well as on. The power to regulate such relations could be reserved by Congress, could be delegated to the Secretary of the Interior or could indeed, in some measure, be delegated to the Indian community. The judicial enforcement of such rules and regulations might be entrusted by Congress either to the existing Federal or State courts or to the Indian community courts. It has also been suggested that the function of adjusting such relations between whites and Indians might be granted to the special Federal Court of Indian Affairs already described, which would have authority over whites as well as Indians.

Finally the Indian community might find it desirable to avail itself of the various services of the State, such as educational and health facilities. In the event that such services should be provided by the State rather than the Federal Government or the Indian community payment might be made to the State by Federal appropriation.

The whole problem of defining the powers and duties of the Indian community in its relations with its members and with outsiders is one to which the Indians are invited to give their most serious attention, and the Administration will value considered expression of the diverse needs and desires of the various Indian reservations. Such expressions undoubtedly would be given weight by the committees.

This study is undertaken for the purpose of determining what legislation is necessary to effect the largest benefits in policy and administrative methods. It is desired, therefore, that the meetings, conventions, or councils of the Indians to discuss this program be held in the very near future, and that reports be prepared and forwarded to the Office not later than February 15, 1934.

Sincerely yours,

JOHN COLLIER,

Commissioner.