

## II. Failure of Public Schools

### A. GENERAL ANALYSIS

To thousands of Americans, the American Indian is, and always will be, dirty, lazy, and drunk. That's the way they picture him; that's the way they treat him.

A Kansas newspaper in the middle of the 19th century described Indians as "a set of miserable, dirty, blanketed, thieving, lying, sneaking, murdering, graceless, faithless, gut-eating skunks as the Lord ever permitted to infest the earth, and whose immediate and final extermination all men, except Indian agents and traders, should pray for." In its investigation into the conditions of Indian education in all parts of the country, the subcommittee found anti-Indian attitudes still prevalent today in many white communities. In every community visited by the subcommittee there was evidence among the white population of stereotyped opinions of Indians. The subcommittee research record is full of examples verifying the presence of such attitudes.

Superior Court Judge Robert L. Winslow of Ukiah, Calif., told the subcommittee that in Mendocino County, Calif., there was a "common feeling that Indians are inferior to non-Indians."<sup>1</sup> A study of Indian-white relations in Ukiah said that whites generally looked upon Pomo Indians as "lazy, shiftless, dirty, biologically and culturally inferior."<sup>2</sup> A Pomo Indian testified, "Some think the Indian is not very much or probably not even human."<sup>3</sup> A Southwest study found many people convinced that Apaches were hostile, mean, lazy, and dumb.<sup>4</sup> An Oklahoma principal said of his Indian students, "(they) are even worse than our coloreds and the best you can do is just leave them alone."<sup>5</sup>

The basis for these stereotypes goes back into history—a history created by the white man to justify his exploitation of the Indian, a history the Indian is continually reminded of at school, on television, in books and at the movies.

It is a history which calls an Indian victory a massacre and a U.S. victory an heroic feat. It is a history which makes heroes and pioneers of goldminers who seized Indian land, killed whole bands and families and ruthlessly took what they wanted. It is a history which equates Indians and wild animals, and uses the term "savages" as a synonym for Indians.

It is this kind of history—the kind taught formally in the classroom and informally on street corners—which creates feelings of inferiority among Indian students, gives them a warped understanding of their cultural heritage and propagates stereotypes.

The manner in which Indians are treated in textbooks—one of the most powerful means by which our society transmits ideas from generation to generation—typifies the misunderstanding the American public as a whole has regarding the Indian, and indicates how misconceptions can become a part of a person's mind-set. After examining more than a hundred history texts, one historian concluded that the American Indian has been obliterated, defamed, disparaged, and disembodied.<sup>6</sup> He noted that they are often viewed as subhuman wild beasts in the path of civilization, that "Indian menace" and "Indian peril" and "savage barrier" are commonly found descriptions. Other authors talk about the "idle, shiftless savage" who "was never so happy as when, in the dead of night, he roused his sleeping enemies with an unearthly yell, and massacred them by the light of their burning homes."<sup>7</sup>

Textbook studies by a number of States indicate that misconceptions, myths, inaccuracies and stereotypes about Indians are common to the curriculum of most schools. A report prepared for the subcommittee by the University of Alaska showed that: (1) 20 widely used texts contain no mention of Alaska Natives at all, and in some cases, no mention of Alaska; (2) although some textbooks provide some coverage of the Alaskan Eskimo, very few even mention Indians; and (3) many texts at the elementary and secondary level contain serious and often demeaning inaccuracies in their treatment of the Alaskan Native.<sup>8</sup>

A similar study by the University of Idaho found Indians continually depicted as inarticulate, backward, unable to adjust to modern Euro-American culture, sly, vicious, barbaric, superstitious and destined to extinction.<sup>9</sup> Minnesota has for years been using an elementary school social studies text which depicts Indians as lazy savages incapable of doing little more than hunting, fishing, and harvesting wild rice. Some schools continue to use the text. California, with its progressive public school program, found in a study of 43 texts used in fourth, fifth, and eighth grades that hardly any mention at all was made of the American Indian's contribution or of his role in the colonial period, gold rush era or mission period of California history, and, when mentioned, the reference was usually distorted or misinterpreted.<sup>10</sup>

The president of the American Indian Historical Society told the subcommittee, "There is not one Indian child who has not come home in shame and tears after one of those sessions in which he is taught that his people were dirty, animal-like, something less than a human being."<sup>11</sup>

For the most part, the subcommittee's field research bore out the findings of these reports. There were some examples, though, of concerned school officials providing special materials. In Grand Portage, Minn., for example, a husband-and-wife teaching team found themselves teaching Chippewa students, but without textbooks on Chippewa culture or language. So they prepared their own Chippewa texts.<sup>12</sup>

<sup>6</sup> Vogel, Virgil J., "The American Indian in American History Textbooks," *Integrated Education*, VI: 3:16-32, May-June 1968.

<sup>7</sup> *Ibid.*, p. 21.

<sup>8</sup> Hearings, pt. 1, 1969, p. 511.

<sup>9</sup> *Ibid.*

<sup>10</sup> Hearings, pt. 1, p. 243.

<sup>11</sup> Hearings, pt. 1, p. 243.

<sup>12</sup> Hearings, pt. 1, 1969, p. 93.

<sup>1</sup> Senate Subcommittee on Indian Education Hearings, pt. 1, appendix, p. 491.

<sup>2</sup> Frederick E. Robin, "Culture Contact and Public Opinion in a Bicultural Community": M.A., Columbia University, 1941.

<sup>3</sup> Hearings, pt. 1, p. 248.

<sup>4</sup> Hearings, pt. 3, p. 1141.

<sup>5</sup> Hearings, pt. 2, 1969, appendix, p. 1550.

Textbook changes have been made in the State of California, and the State of Idaho has undertaken the development of new materials. In Tuba City, Ariz., public school officials have recognized some of the special needs of their 90-percent Indian school population and have developed bilingual programs.<sup>13</sup> New York State now includes State Indian history in its sixth and seventh grade social studies programs.<sup>14</sup> But these examples are the exceptions not the rule, and the improvements rarely go far enough either in terms of quantity or quality. These are all of very recent date.

While visiting the public schools serving Indian students on the Fort Hall Reservation in Idaho, Senator Robert F. Kennedy asked if the school had any books about Indians. After a frantic search in the back closet of the school's library a school administrator came running up to the Senator with his find. It was a book entitled "Captive of the Delawares," which had a cover picture of a white child being scalped by an Indian.<sup>15</sup> When the Senator later inquired whether the culture and traditions of the Indians there were included in the school's curriculum he was informed that "there isn't any history to this tribe."

With attitudes toward Indians being shaped, often unconsciously, by educational materials filled with inaccurate stereotypes—as well as by teachers whose own education has contained those same stereotypes and historical misconceptions—it is easy to see how the "lazy, dirty, drunken" Indian becomes the symbol for all Indians. When the public looks at an Indian they cannot react rationally because they have never known the facts. They do not feel responsible for the Indian because they are convinced that the "savages" have brought their conditions upon themselves. They truly believe the Indian is inferior to them. The subcommittee found this climate of disrespect and discrimination common in off-reservation towns which educate many Indian students in their public schools. The Indian is despised, exploited, and discriminated against—but always held in check by the white power structure so that his situation will not change.

At the heart of the matter, educationally at least, is the relationship between the Indian community and the public school and the general powerlessness the Indian feels in regard to the education of his children. A recent report by the Carnegie Foundation described the relationship between white people, especially the white power structure, and Indians as "one of the most crucial problems in the education of Indian children." The report continued: "This relationship frequently demeans Indians, destroys their self-respect and self-confidence, develops or encourages apathy and a sense of alienation from the educational process, and deprives them of an opportunity to develop the ability and experience to control their own affairs through participation in effective local government."<sup>16</sup>

One means the white power structure employs to limit Indian control, or even participation, is to prevent Indians from getting on local school boards. The subcommittee uncovered numerous instances of school districts educating Indians with no Indian members on the

school board. When Ponca City, Okla., Indians tried to crack the white power structure by electing an Indian to the board of an all Indian public school, some were threatened with loss of their rented homes while others were led to believe registration procedures were extremely complicated and would place them in jeopardy of having their land taxed.<sup>17</sup> The election of the Indian marked the first time in 20 years that an Indian sat on the board. Chippewas of the Leech Lake Reservation in Minnesota have alleged that their school district has been redrawn to prevent Indians from being elected to the all-white school board.<sup>18</sup> The Mesquakie Tribe of Tama, Iowa, send most of their children to South Tama County public school, yet the Indians cannot vote for members of the school board.<sup>19</sup>

The subcommittee does not mean to suggest that Indians are never on public school boards or that a board will necessarily be effective if it contains Indian members. There are a number of public school districts in which Indians exercise some influence in school decision-making. But the point is that there are far too many instances of school boards in districts containing Indians making policies which adversely affect Indian students. This is sometimes due to a willful intent by the board to keep Indians in check, but more often to a lack of understanding about the Indian community and the special needs of Indian students.

History provides several examples of Indian-controlled school systems which have had great success. In the 1800's, for example, the Choctaw Indians of Mississippi and Oklahoma operated about 200 schools and academies and sent numerous graduates to eastern colleges. Using bilingual teachers and Cherokee texts, the Cherokees, during the same period, controlled a school system which produced a tribe almost 100 percent literate. Children were taught to read and write in both their native language and English. Some used these skills to establish the first American Indian press, a newspaper printed in Cherokee and English. Anthropologists have determined that as a result of this school system, the literacy level in English of western Oklahoma Cherokees was higher than the white populations of either Texas or Arkansas.

But the Cherokee and Choctaw school systems were abolished when Oklahoma became a State in 1906. Now, after almost 70 years of Federal and State controlled education, the Cherokees have the following education record: 40 percent of adult Cherokees are functionally illiterate in English; only 39 percent have completed the eighth grade; the median educational level of the tribe's adult population is only 5.5 years; dropout rates of Indian students are often as high as 75 percent. Wahrhaftig and others who have studied this dramatic decline, feel that the primary cause is the almost complete alienation of the Cherokee community from the white-controlled public school systems.<sup>20</sup>

The Carnegie report cited an example of the problems Indian parents face in dealing with the power structure. Indians were trying to get a course in Ponca history and culture included in the curriculum

<sup>13</sup> Ibid.

<sup>14</sup> Conference between Leech Lake Chippewas and Senator Walter F. Mondale in March 1969.

<sup>15</sup> Hearings, pt. 1, 1969, p. 16.

<sup>16</sup> Hearings, pt. 2, v. 551.

<sup>13</sup> Hearings, pt. 3, p. 1036.

<sup>14</sup> Committee print, "The Education of American Indians: Field Investigation and Research Reports."

<sup>15</sup> Committee print, "Field Investigation and Research Reports."

<sup>16</sup> Hearings, pt. 2, 1969, appendix, p. 1599.

of their all-Indian public school. The superintendent's response to their request is explained in the Carnegie report:

He had reviewed the schedule and found that if the course were taught, the children would be deprived of 54 hours of subjects they needed, such as math, English, science, and so forth. Further, he said, the teachers were doing very well in incorporating Indian culture into their teaching. Besides, he didn't see the value because this was "a competitive world and their culture was going to be lost anyway and they would be better off in the long run if they knew less of it." He also said that many felt the theme of the course would be to "teach the children to hate white people."<sup>21</sup>

The principal of a Chinle, Ariz., public school had similar feelings about the teaching of Navajo culture in his school. He told an Office of Economic Opportunity evaluating team that he considered it "not American" to help any "faction" perpetuate its way of life. He felt the Rough Rock Demonstration School, with its emphasis on the Navajo culture, was a "backward step," and that the country had never moved ahead by "catering" to ethnic groups.<sup>22</sup>

One outcome of the Indians' powerlessness and the atmosphere of the white community in which Indians attend school is discrimination within the public schools. Indian students on the Muckleshoot Reservation, in western Washington, for example, were automatically retained an extra year in the first grade of their public school. School officials felt that, for the Indians, the first year should be a non-academic, socializing experience. The Nooksack Indians of western Washington, were automatically placed in a class of slow learners without achievement testing.<sup>23</sup> The subcommittee found a tracking system operating in the Nome public schools which several officials described as highly discriminatory. The system assigned most natives to the lowest level and most whites to the highest. A similar tracking system was recently declared unconstitutional in Washington, D.C., in the case of *Hobson v. Hansen*, 269 F. Supp. 401 (DDC 1967). The school superintendent in Chinle, Ariz., admitted that his district has a policy of falsifying the Indian achievement test results. He told OEO evaluators that these children were so far behind national norms that "it just wouldn't look good. People who don't know conditions here just wouldn't understand."<sup>24</sup> (This is a district which depends upon Federal money for a major share of its operating budget.)

Oklahomans for Indian Opportunity, a responsible Indian organization aimed at assisting Indians, reported to the subcommittee that the non-Indian teachers of northwest Oklahoma "usually are lacking in even the most elementary understanding of or respect for the Indian students. The report quotes a principal as saying, "To tell the truth, our Indians are even worse than our coloreds and the best you can do is just leave them alone." The report concludes that "in general, the teachers and administrators in the schools of northwest Oklahoma

<sup>21</sup> Hearings, pt. 2, 1969, appendix, p. 1599.

<sup>22</sup> Donald A. Erickson and Henrietta Schwartz, "Community School at Rough Rock, An Evaluation for the Office of Economic Opportunity," April 1969, p. 3.4.

<sup>23</sup> Letter to Adrian Parmeter from Dr. Lionel de Montigny, Deputy Director, Division of Indian Health, Portland, Oreg., Feb. 28, 1969.

seem incapable of treating the Indian students as sensitive human beings with the same needs and desires that non-Indian people have."<sup>24</sup>

Excerpts from the records of Indian students attending public schools in Idaho indicate how teachers' views of certain students develop. One student was rated "very good" by his 3d grade teacher, "good aptitude" by his 4th grade teacher, and "poor work, makes no effort" by the time he was in 7th grade. Another student went from "a good 3d grade student, has developed greatly" to "poor student, no initiative" in the 5th grade. A further study of Indians in these schools found that they fall progressively further behind the longer they continue in school.<sup>25</sup>

A freshman Indian high school student's statement after Senator Robert Kennedy visited his school indicated the kind of concern he felt the school administration had toward Indians:

When Robert Kennedy came, that was the only time they ever showed any respect for the Indians; just on that one day, and after that they could care less.<sup>26</sup>

Language is another area in which the Indian is discriminated against in school. The Bureau of Indian Affairs contends that one-half to two-thirds of Indian children enter school with little or no skill in the English language. Dr. B. Gaarder of the U.S. Office of Education estimated that more than half of the Indians in the United States between the ages of 6 and 18 use their native tongues.<sup>27</sup> It is estimated that for half the Indians in New Mexico public schools, English is a second language.<sup>28</sup> Unfamiliarity with the language of the classroom becomes a tremendous handicap for the Indian student, and records indicate he immediately falls behind his Anglo classmates.<sup>29</sup> Most public school teachers are not trained to teach English as a second language. The student's position is complicated by the insistence of teachers, who have no understanding of Indian cultures, that he disregard the language spoken by his parents at home.

The Indian thus feels like an alien in a strange country. And the school feels it is its responsibility not just to teach skills, but to impress the "alien" Indian with the values of the dominant culture. Teachers, textbooks, and curriculums, therefore, are programed to bring about adoption of such values of American life as competitiveness, acquisition, rugged individualism, and success. But for the Indian whose culture is oriented to completely different values, school becomes the source of much conflict and tension. He is told he must be competitive, when at home he is taught the value of cooperation. At school he is impressed with the importance of individual success, but at home the value of good interpersonal relations is emphasized.

The teacher complains about him not being motivated. But anthropologist Anne M. Smith asks if can be expected to be motivated

<sup>24</sup> Hearings, pt. 2, 1969, appendix, p. 1550.

<sup>25</sup> Committee print, "Field Investigation and Research Reports."

<sup>26</sup> *Ibid.*

<sup>27</sup> Gaarder, B., "Education of American Indian Children," U.S. Office of Education (not official USOE policy), June 1967.

<sup>28</sup> Miles V. Zintz, "Problems of Classroom Adjustment of Indian Children in Public Elementary Schools in the Southwest," *Science Education*, XLVI: 261-269, April 1962.

<sup>29</sup> Dr. Brewton Berry, "The Education of American Indians, a Survey of the Literature," prepared for the Special Subcommittee on Indian Education, 91st Cong., first sess., February 1969, p. 64.

when to do so means rejection of his parents and their teachings, as well as his religion, race, and history.<sup>30</sup>

Condemned for his language and his culture, berated because his values aren't those of his teacher, treated demeaningly simply because he is Indian, the Indian student begins asking himself if he really isn't inferior. He becomes the object of a self-fulfilling prophecy which says "Indians are no good." Dr. Brewton Berry explains it thus:

The theory is that if teachers and other members of the dominant group are convinced that the Indian is innately inferior and incapable of learning, such attitudes will be conveyed in various and subtle ways, a child will come to think of himself in the negative way and set for himself lower standards of effort, achievement, and ambition. Thus the teacher's expectation and prediction that her Indian pupils will do poorly in school, and in later life become major factors in guaranteeing the accuracy of her prediction.<sup>31</sup>

Study after study confirms this is exactly what the dominant society, and the dominant school society in particular, is doing. Study after study shows Indian children growing up with attitudes and feelings of alienation, hopelessness, powerlessness, rejection, depression, anxiety, estrangement, and frustration.<sup>32</sup> Few studies, if any, show the public schools doing anything to change this pattern. The public school becomes a place of discomfort for the Indian student, a place to leave when he becomes 15 or 16. According to Dr. Lionel H. DeMontigny, deputy Indian Health director of the Division of Indian Health in Portland, Oreg., the Indian child comes to believe "he can only succeed if he were white."<sup>33</sup>

Substantial evidence indicates that the question of identity is uppermost in the minds of Indians and that feelings of alienation, anxiety, and inadequacy are problems with which they are trying to cope.<sup>34</sup> One of the most significant of recent studies in this area is the Coleman report, the "Equality of Educational Opportunity" study funded by the U.S. Office of Education. Among its findings were:

One-fourth of elementary and secondary schoolteachers, by their own admission, would prefer not to teach Indian children.

Indian children, more than any other group, believe themselves to be below average in intelligence.

Indian children in the 12th grade have the poorest self-concept of all minority groups tested.<sup>35</sup>

The report offers evidence showing the close relationship between the achievement of disadvantaged children and the way they feel about themselves and their future. The report states, "A pupil attitude factor which appears to have a stronger relationship to achievement than do all school factors together, is the extent to which

<sup>30</sup> Anne M. Smith, "The Status of the American Indian," the New Mexico Review, September 1969, p. 11.

<sup>31</sup> Dr. Brewton Berry, op. cit., p. 34.

<sup>32</sup> Ibid., p. 66.

<sup>33</sup> Hearings, pt. 5, p. 1963.

<sup>34</sup> Dr. Brewton Berry, op. cit., p. 66.

<sup>35</sup> Coleman, James S., et al., "Equality of Educational Opportunity," U.S. Government Printing Office, Washington, 1966.

an individual feels that has control over his own destiny." The report discovered that Indian students "have far less conviction than whites that they can affect their own environments and futures." In the book, "The Disadvantaged Learner," Johntz stated unequivocally, "The primary causal factor in the low achievement of culturally deprived children is the low, negative image they have of themselves."<sup>36</sup>

On many occasions in the field, subcommittee staff members heard Indian children describe themselves as "dumb Indians." A survey of Oglala Sioux high school students in South Dakota found a majority of the Indians expressing negative attitudes toward Indians. "Indians have greater problems because they're real stupid," one student said. Ironically, a majority of white students who have contact with the Oglala Sioux students blamed discrimination on the part of their own ethnic group as the major reason for Indians having problems.<sup>37</sup>

What then happens to the student who is told he is dirty, lazy, and inferior and must undergo school experiences daily which reinforce these attitudes? The statistical data speak for themselves:

87 percent dropout rate by the 6th grade at an all-Indian public elementary school near Ponca City, Okla.<sup>38</sup>

90 percent dropout rate in Nome, Alaska, public schools, with about one-fourth of the students (primarily Eskimo) taking two to three years to get through the first grade.<sup>39</sup>

21 of 28 Indian students in a Washington 8th grade were non-readers; one-third of the 123 Yakima Indians enrolled in 8th grade of a Washington public school were reading two to six grades below the median level; 70 percent Indian dropout rate; average grade was "D" for the Indian senior high students in public school serving Yakima Indians.<sup>40</sup>

62 percent Indian dropout rate in Minneapolis Public Schools; between 45 and 75 percent statewide Indian dropout rate;<sup>41</sup> 70 percent Indian dropout rate in parts of California.<sup>42</sup>

80 percent of the 74 Indian students who entered school in three Idaho public school districts in 1956 dropped out of school before their class graduated.<sup>43</sup> A 1968 study of graduates and dropouts of Lothrop High School in Fairbanks showed a 75 percent dropout rate among native students. A student transferring from a state-operated rural school had the least chance of graduating, and native students receiving the majority of their elementary education in state-operated schools had the highest dropout rate. Seventy-five percent of the native dropouts tested revealed more than enough intelligence to complete high school.<sup>44</sup>

<sup>36</sup> Websten, Staten W. (ed.), "The Disadvantaged Learner," Chandler Publishing Co., San Francisco, 1966.

<sup>37</sup> Hearings, pt. 4, p. 1862.

<sup>38</sup> Hearings, pt. 2, 1969, appendix, p. 1599.

<sup>39</sup> City of Nome Comprehensive Development Plan, by Alaska Consultants, 1968, pp. 128-130.

<sup>40</sup> Hearings, pt. 5, p. 1935.

<sup>41</sup> Minnesota State Plan for the Education of Indian Children, Minnesota Department of Education, 1969, pp. 23-24.

<sup>42</sup> California Indian Education: Report of the First All-Indian Statewide Conference on California Indian Education, Ad Hoc Committee on California Indian Education, 1349 Crawford Road, Modesto, Calif.

<sup>43</sup> Committee print, "Field Investigation and Research Reports."

<sup>44</sup> Ibid.

Public schools which have been educating Indians for some time reveal by their statistics their failure in educating Indian students. The 10-year-record of Indian students at Union High School near Warm Springs, Oreg., is indicative of the public school record since the 1930's: no progress. In fact, the Indian students graduating from the school between 1956 and 1965 actually showed regression in grade point average in comparison with non-Indians.<sup>45</sup>

Indians have been attending public schools in Klamath, Oreg., for 27 years, yet the Indian dropout rate is 90 percent. That is a 30 percent increase just since the tribe was terminated in 1954.<sup>46</sup> A public school district in western Oklahoma with a 25-percent Indian enrollment has been educating Indians for 40 years. During that period, 11 Indians have stayed in school long enough to graduate.<sup>47</sup> Since the 1930's nine States (California, Idaho, Michigan, Minnesota, Nebraska, Oregon, Texas, Washington, and Wisconsin) have assumed total responsibility for the education of their Indians, but data on Indian education from most of those States, as indicated in some of the examples above, is far from impressive.<sup>48</sup> These public schools have indeed failed their Indian constituents.

Some public schools have made significant attempts in recent years to reach Indian students. There are Elementary and Secondary Education Act funds, for example, which are benefiting Indian students. Five bilingual projects affecting 773 Indian children are being funded under ESEA title VII (\$306,000 out of a \$7.5 million program). One dropout prevention program affecting 750 Indian children is being funded under ESEA title VIII (\$220,000 of a \$5 million program). The number of Indian students in public schools affected by the other titles is not known because data on race are not available. Several Teacher Corps programs are aimed at educating Indian children, along with Upward Bound programs involving 1,241 Indians in 17 States. The Indian Upward Bound programs constitute about 5.5 percent of the total Upward Bound budget.<sup>49</sup>

These initiatives are a recognition that a longstanding problem has never been dealt with adequately, that the public schools have not provided their Indian students with an equal educational opportunity. Yet, in toto, these various new program efforts are just barely scratching the surface of the problem, and few if any have had much effect on the core problem of the powerlessness and alienation of Indian communities from the schools their children attend.

But the question needs to be raised whether public schools are entirely to blame for not solving their Indian education problems. Dr. Leon Osview of Temple University, in his consultant report to the subcommittee, says "No."<sup>50</sup> He contends the Federal Government has failed to live up to its responsibilities in providing funds and leadership for assisting public school districts to better understand and meet the special needs of Indian students. He states:

<sup>45</sup> Comparative Study of Educational Attainment of Warm Springs Indians and non-Indians in the Madras Union High School for the years 1958-65. Dissertation by Robert Severt Johnson, Washington State University, 1967.

<sup>46</sup> Hearings, pt. 5, pp. 1985-1986.

<sup>47</sup> Hearings, pt. 2, p. 846.

<sup>48</sup> Committee print, "Field Investigation and Research Reports."

<sup>49</sup> Data supplied by the U.S. Office of Education.

<sup>50</sup> Hearings, pt. 1, 1969, p. 284.

Of course, Federal control in public school education is prohibited, and anything which looks like control is potentially disturbing. Even so, the Federal Government has assumed responsibility for Indians, including their education. How then does this responsibility get discharged? Is it ethical for the Government to give over Indian children to public schools, even with Johnson-O'Malley money, and leave it at that? I doubt it.

Indian children are special, if for no other reasons than that they are seriously disadvantaged economically and socially. With respect to Anglo culture they are also culturally disadvantaged. The evidence of widespread lack of positive self-concept, the greater than normal incidence of mental health problems which characterizes the Indian teenage population, the need to provide strong additional language education (English as a second language), as well as all the special problems of acculturation is quite clear. Public schools cannot be assumed to be attuned to all these needs, to have developed programs to deal with them, or to be willing to spend their resources in doing so.

I was shocked to find that BIA does not, apparently as a matter of policy, engage in any programmatic cooperation with public school people, of whose desire and willingness to do justice to their Indian students there can be no doubt. BIA knows about Indian children, or if they don't, they should. Public schools don't, and can't really be expected to, on their own.

How can this leadership best be provided? Dr. Osview's report suggests that more than a change of policy will be required. Federal schools must have the quality and effectiveness that will permit them to become centers of leadership for assisting public schools in meeting the special needs of Indian children. This will be no easy task, for his report also finds the Federal school system woefully inadequate.

Ever since the policy of educating Indians in public schools was adopted, it was assumed that the public schools, with their integrated settings, were the best means of educating Indians. The subcommittee's public school findings—high dropout rates, low achievement levels, anti-Indian attitudes, insensitive curriculums—raise serious doubts as to the validity of that assumption.

## B. FEDERAL LEGISLATION

The public school education received by Indian students has been subsidized to some extent by the Federal Government since the 1890's. At that time legislation was passed authorizing the Office of Indian Affairs to reimburse public schools for the extra expense incurred by instructing Indian children.

The purpose of the legislation appeared to be twofold. First, it gave legislative authority to the policy of integrating Indians into the white culture, thus establishing the goal of assimilation and the public schools as the vehicle for attaining that goal. Second, it established the precedent of providing subsidies to public schools in order to get



them to assume responsibility for Indian education. The Federal subsidy was necessary, both because there was a reluctance on the part of Indians to enter the schools and because the school district was reluctant to assume the extra costs (in many cases the Indian students lived on nontaxable trust land) and problems anticipated with Indian students. The subsidy was, in effect, an inducement which the State or school district was almost always willing to take in exchange for providing a chair and a desk in a classroom for an Indian.

This subsidizing approach was formalized by the Johnson-O'Malley Act of 1934, which permitted the Bureau of Indian Affairs to contract with States to provide for the education of Indian students. Indian education was further subsidized in the 1950's with passage of Public Laws 81-815 and 81-874, impacted aid legislation which later became applicable to Indians. These three laws, treated separately in this chapter, provide the basic Federal subsidy for public school education of Indian students.

Congress in 1950 enacted two pieces of legislation which, although adopted primarily as the result of defense and military activities, had important implications for Indian education. The acts, Public Laws 81-815 and 81-874, have become known as the federally impacted areas legislation.

Essentially, Public Law 815 provided financial assistance for the construction of school facilities in districts which experienced an increased enrollment due to the presence of federally connected children. Public Law 874 provided moneys to local educational agencies for the additional expenses of education caused by the increase in attendance as the result of Federal activities. The acts have been interpreted, not as a means of providing aid, but as a means of providing payments in lieu of taxes.<sup>51</sup> Indians were included only minimally in the original Public Law 815, and at the request of State directors of Indian education, were excluded from Public Law 874.<sup>52</sup> A 1953 amendment to Public Law 815 brought Indians under its purview, while it wasn't until 1958 that Public Law 874 was amended to include Indians.

#### 1. PUBLIC LAW 81-815, SEPTEMBER 23, 1950

This law, called the "School Facilities Construction Act," provided for the transfer of a number of Indian students from Federal schools to public schools during the 1950's by authorizing Federal assistance in construction of public schools attended by Indians.

The original act made payments to school districts on the basis of a sudden and substantial increase in school enrollment of children who either (1) resided on Federal property with a parent employed on Federal property; (2) resided on Federal property or resided off Federal property with a parent employed on Federal property; (3) were attending a school because of activities of the U.S. Government. Districts received a different amount of money depending upon the

<sup>51</sup> Report of Education Subcommittee of the Senate Committee on Labor and Public Welfare, "Impacted Areas Legislation," August 1965, p. 20.

<sup>52</sup> Statement by B. Alden Lillywhite, Deputy Associate Commissioner, Office of Education, Department of Health, Education, and Welfare, at Brigham City, Utah, Sept. 19, 1956. (At the time of the address, Dr. Lillywhite was Associate Director of the School Assistance in Federal Affected Areas Division.)

categories in which its "increased" enrollment fell. They received the most money, for example, for the section 3(a) pupils because they caused the greatest impact to a district's tax base (their parents lived and worked on tax-exempt land).

Initially, the act contained no specific provisions for assisting school districts educating children living on Indian lands. Indian reservations were included, though, under the definition of "Federal property." But because of the enrollment-increase requirement, most districts educating Indians did not qualify for assistance. Their problem wasn't one of large increases in school enrollment, but rather of large numbers of children not attending public schools because no facilities were available to them.<sup>53</sup>

In 1953, a provision was added to the act to include Indians under its jurisdiction.<sup>54</sup> This amendment was designed specifically to provide facilities to districts which did not qualify under the act's eligibility provisions because the districts were not characterized by the substantial increases which occurred around military installations. Almost all funding for Indians has been made under this section of the act, which is now designated as "section 14." Funds are granted under this section for construction of minimum school facilities for Indian students, when the district has neither bonding capacity nor other resources sufficient to construct the needed facilities.

#### 2. PUBLIC LAW 81-874, SEPTEMBER 30, 1950

The Federally Impacted Areas Act was passed on September 30, 1950, to provide school districts affected by Federal activities with funds for general operating expenses. It is regarded as "in lieu of taxes" legislation because it provided money to school districts which suffer a loss in tax revenue because of the presence of Federal property. The rate of payment depends upon whether the student and his parent live and/or work on Federal property, and the cost of education in comparable communities.

Since the law's inception, "Federal property" has been defined to include Indian reservations. But because many public schools educating Indians were utilizing Johnson-O'Malley money for general operations, Indians were excluded from the act's provisions until 1958. (The Johnson-O'Malley Act provided money to districts for the needs of Indian students in public schools.) In 1958 the differentiation was made that whereas Johnson-O'Malley funds were to be used for special services for Indian students, special services didn't necessarily mean educational services.<sup>55</sup> A district receiving Johnson-O'Malley money could therefore also seek Public Law 874 money for educational purposes. Congress permitted this dual funding because it recognized a distinction between providing general educational budget support in lieu of taxes and providing special programs, such as transportation and hot lunches, to meet special needs of Indian students.<sup>56</sup>

<sup>53</sup> Statement by Dr. B. Alden Lillywhite, at Window Rock, Ariz., Feb. 18, 1962.

<sup>54</sup> Public Law 82-276, Aug. 8, 1953.

<sup>55</sup> Lillywhite, Brigham City, op. cit.

<sup>56</sup> Statement by Dr. B. Alden Lillywhite to Navajo Education Conference at Window Rock, Ariz., Feb. 18, 1962.

The distinction in use of funds under the two laws is obliterated, though, by the continued use of JOM money for general budget support in lieu of taxes. In fact, JOM money now is used primarily as a budget-balancing device to make up the difference between a school district's expenditure and revenues after Public Law 874 money has been added. JOM assistance is not given until after a district's eligibility is determined under Public Law 874.<sup>57</sup> The "in lieu of taxes" provision rather than special needs has thus become the determining factor.

In 1968-69, Public Law 874 provided about \$19 million for public school districts educating Indians. Approximately 60,000 Indian students benefited from the act because their parents lived and worked on Federal property. Another 20,000 Indians received partial benefits because their parents lived on and worked off, or lived off and worked on Federal property.<sup>58</sup> (See chart at end of section.) Nationwide, about 300,000 students are eligible for assistance under the "live and work on Federal property" category, and about 2 million qualify under the remaining categories.<sup>59</sup> In fiscal 1969, \$505.9 million was appropriated under this act.

### 3. THE FUNDING PROBLEM

Public Laws 815 and 874 have served as inducements for a number of years to public schools to get them to accept Indian children, but insufficient funding in recent years has left many districts with Indian students but no funds to educate them.

#### *Public Law 815*

In the first fiscal year that section 14, the section applicable to Indians, was used in effect, \$6.6 million was appropriated for school construction. The following year, 1955, the appropriation was \$4 million. Since that year the appropriation for construction of schools educating Indians has decreased. Because of limited appropriations, requests for 1968 and 1969 under sections 5, 8, and 14 have not been funded.<sup>60</sup>

Section 14 has not been getting funded because the language of the law gives priority in funding to other sections. First priority goes to section 16 funds, which provide assistance in disaster situations. The law authorizes use of funds appropriated for other sections of the act if necessary to provide the disaster assistance needed. The other priority sections are section 9, where the effect of Federal activities will be temporary, and section 10, where tax revenues are not available for free public education and no local agency is able to provide suitable free public education.

In 1968, requests under the full act totaled about \$80 million. Congress appropriated about \$22.9 million. In 1969 when requests again totaled about \$80 million, Congress appropriated \$14.7 million, or 19 percent of authorization.<sup>61</sup>

<sup>57</sup> Interview with Charles Zellers, BIA Assistant Commissioner for Education, May 22, 1969.

<sup>58</sup> School Assistance to Federally Affected Areas (SAFA) Division, U.S. Office of Education.

<sup>59</sup> Seventeenth annual report of the Commissioner of Education, Part II "Administration of Public Laws 874 and 815." Office of Education, Department of HEW, June 30, 1967.

<sup>60</sup> SAFA Division, U.S. Office of Education.

<sup>61</sup> Legislative Division, Office of Education.

### PUBLIC LAW 81-815

	Authorization	Appropriation	Percent of authorization
Fiscal year:			
1951	74,500,000	74,500,000	100
1952	75,000,000	50,000,000	67
1953	195,000,000	195,000,000	100
1954	125,000,000	125,000,000	100
1955	118,500,000	118,500,000	100
1956	33,900,000	33,900,000	100
1957	108,500,000	108,500,000	100
1958	98,650,000	98,650,000	100
1959	75,400,000	75,400,000	100
1960	61,135,000	61,135,000	100
1961	63,392,000	63,392,000	100
1962	61,942,000	61,942,000	100
1963	63,686,000	63,686,000	100
1964	60,406,000	23,740,000	39
1965	58,400,000	58,400,000	100
1966	50,078,000	50,078,000	100
1967	58,000,000	52,837,000	91
1968	80,000,000	22,837,000	29
1969	79,162,000	14,745,000	19
1970	79,347,000		

Source: School Assistance for Federally Affected Areas Division (SAFA), U.S. Office of Education.

PUBLIC LAW 81-815, SCHOOL CONSTRUCTION PROJECTS: ASSISTANCE TO SCHOOL DISTRICTS CLAIMING CHILDREN RESIDING ON INDIAN LANDS (1951-69)

State or territory	Number of projects	Sec. 5	Sec. 14	Total federal funds	Non-Federal funds	Total cost	Facilities provided				Teacher averages
							Classrooms	Multi-purpose rooms	Libraries	Administration space	
Total.....	238	\$6,845,765.78	\$42,313,024.57	\$49,158,790.35	\$6,014,383.18	\$55,173,173.53	1,418	78	63	68	81
Alaska 1.....	5	303,000.00	722,948.75	1,095,948.75	229,552.01	1,255,500.76	21	1	2	2	2
Arizona.....	47	3,130,022.36	16,820,680.25	19,957,271.75	177,102.31	20,144,374.10	260	23	18	24	32
California.....	6	160,500.00	860,600.00	1,021,100.00	151,876.82	1,172,976.82	35	1	2	2	2
Colorado.....	3	127,312.00	1,089,411.00	1,216,723.00	274,585.97	1,491,308.97	19	3	3	3	3
Guam.....	3	1,089,411.00	1,089,411.00	2,178,822.00	318,308.40	2,497,130.40	24	4	4	1	1
Idaho.....	3	51,875.00	174,276.97	226,151.97	211,249.90	437,401.87	119	10	3	8	10
Minnesota.....	7	366,494.00	3,137,023.40	3,503,517.40	871,170.90	4,374,688.30	9	1	1	1	1
Montana.....	32	187,660.31	1,095,948.75	1,283,609.06	14,072.02	1,297,681.08	8	1	1	1	1
Nebraska.....	2	60,000.00	187,660.31	247,660.31	50,105.03	297,765.34	2	1	1	1	1
Nevada.....	1	2,281,034.00	13,734,979.25	16,016,013.25	1,446,693.57	17,462,706.82	300	15	2	16	27
New Mexico.....	40	24,575.00	312,119.00	336,694.00	406,924.83	643,618.83	34	7	8	8	8
North Dakota.....	5	82,780.00	2,107,604.41	2,190,384.41	786,764.15	2,977,148.56	153	2	2	2	2
Oklahoma.....	47	262,040.22	2,084,616.00	2,346,656.22	668,437.70	3,015,093.92	333	7	1	1	2
South Dakota.....	11	149,995.00	144,965.00	294,960.00	38,745.00	333,705.00	7	3	1	1	1
Utah.....	3	660,741.64	660,741.64	1,321,483.28	35,197.00	1,356,680.28	2	2	1	1	21
Washington.....	8	951,529.22	951,529.22	1,903,058.44	274,915.05	2,177,973.49	32	2	1	1	1
Wisconsin.....	8	65,058.00	345,320.06	410,378.06	147,375.02	557,753.08	15	1	1	1	1
Wyoming.....	7										

1 The Alaska State Department of Education makes application with respect to schools in unorganized areas. During the period 1951 through 1967 the Alaska State Department of Education received \$3,801,132 in Public Law 81-815 funds under sec. 5 of the act. Membership data for earlier years are not available. However, under the 1967 application, a substantial portion of children were claimed with respect to homesteads (including military allotments and townships) Indian health hospitals, Indian schools, native reserve lands, public lands, restricted lands and townships (unpartiated). The number of children living on and having a parent employed on such lands (subsec. 3(a)(1) category) was 1,643, or 39.2 percent of the total membership of all children (4,196). The number of children living on such properties (subsec. 5(a)(2) category) was 322, or 7.7 percent of the total membership. The maximum grant under the application is \$797,439. Based on above percentages, \$373,999 may be considered attributable to children claimed with respect to Alaska Indian lands. Public Law 81-815 funds in amount of \$395,000 have been reserved for a project now under construction; at a regional high school near Nome, to provide a new physical education facility, exercise room, and remodeling of existing building to provide 2 homemaking instruction rooms and one general classroom. Table includes projects completed, under construction, and for which funds have been reserved during fiscal 1969.

Source: SAFA Division, U.S. Office of Education.

Public Law 874

One of the main problems with Public Law 874 has been late funding. Many districts educating Indians, particularly those on Indian reservations, depend upon Public Law 874 for a substantial part of their budgets. The Ingebretson, North Dakota, school district, for example, depends upon Public Law 874 funds for 74.9% of its operating budget. For Lower Brule, South Dakota, the figure is 63.9%, for Eudora, Kansas it is 57.1% and for Kayenta, Arizona School District it is 58%. Other states with districts having substantial Public Law 874 entitlement for Indians include Montana, Alaska, Colorado, Michigan, Minnesota, Nebraska, New Mexico, Oklahoma, Washington, Wisconsin, and Wyoming.<sup>62</sup> Late payments of Public Law 874 money means an excessive hardship to all these districts. The subcommittee has reports from a number of such districts who have indicated that late funding and partial entitlement annually places them in an uncertain position as to whether they will have to reduce their faculties or services in midyear.<sup>63</sup> The legislation has been between 90 and 100 percent funded every year. The fiscal 1969 appropriation was 90 percent of full entitlement.<sup>64</sup>

PUBLIC LAW 81-874

Fiscal year:	Authorization		Appropriation		Percent of authorization
	1961-69	1970	1961-69	1970	
1951.....	29,686,010	29,080,788	29,686,010	29,080,788	98
1952.....	51,570,000	51,570,000	51,570,000	51,570,000	100
1953.....	60,500,000	60,500,000	60,500,000	60,500,000	100
1954.....	72,350,000	72,350,000	72,350,000	72,350,000	100
1955.....	75,287,517	75,000,000	75,000,000	75,000,000	100
1956.....	90,000,000	90,000,000	90,000,000	90,000,000	100
1957.....	113,050,000	113,050,000	113,050,000	113,050,000	100
1958.....	127,000,000	127,000,000	127,000,000	127,000,000	100
1959.....	157,362,000	157,362,000	157,362,000	157,362,000	100
1960.....	186,300,000	186,300,000	186,300,000	186,300,000	100
1961.....	217,300,000	217,300,000	217,300,000	217,300,000	100
1962.....	251,330,356	247,000,000	247,000,000	247,000,000	98
1963.....	282,322,000	282,322,000	282,322,000	282,322,000	100
1964.....	320,670,000	320,670,000	320,670,000	320,670,000	100
1965.....	359,450,000	332,000,000	332,000,000	332,000,000	92
1966.....	388,000,000	388,000,000	388,000,000	388,000,000	100
1967.....	433,400,000	416,200,000	416,200,000	416,200,000	96
1968.....	598,130,000	598,130,000	598,130,000	598,130,000	100
1969.....	560,950,000	505,900,000	505,900,000	505,900,000	90
1970.....	622,246,000	-----	-----	-----	-----

Source: SAFA Division, U.S. Office of Education.

<sup>62</sup> SAFA Division, U.S. Office of Education.  
<sup>63</sup> Letter from Superintendent D. L. MacKinnon, Jr., of Hoonah, Alaska, public schools to Senator Ernest Gruening, Feb. 5, 1968.  
<sup>64</sup> Division of Legislation, Office of Education, Department of Health, Education, and Welfare (see accompanying chart).



## NUMBER OF PUPILS CLAIMED AGAINST INDIAN PROPERTIES (1968-69) UNDER P.L. 874

	Categories of Entitlement			Number of Public Law 874 applicants claiming	Amount of entitlement	Total Public Law 81-874 entitlement
	sec. 3(a)	sec. 3(b)1	sec. 3(b)2			
United States.....	59,694	6,380	14,376	695	19,461,040	84,061,892
Alaska.....	1,354	198	202	18	888,405	15,542,869
Arizona.....	13,769	342	1,436	79	3,862,972	7,619,009
California.....	871	800	759	51	433,652	5,042,608
Colorado.....	752	22	218	6	306,489	638,431
Florida.....	155	29	34	4	46,879	1,471,643
Idaho.....	803	80	568	18	316,220	1,251,903
Iowa.....	58	115		1	46,300	46,300
Kansas.....	57	13	193	9	64,569	296,402
Michigan.....	104	63	20	4	39,900	184,243
Minnesota.....	1,742	158	78	17	519,092	661,794
Montana.....	4,168	209	1,244	52	2,023,226	2,409,572
Nebraska.....	497	12	76	5	203,284	213,715
Nevada.....	875	381	210	12	311,852	3,850,472
New Mexico.....	13,541	1,092	3,146	26	3,915,934	10,288,980
North Carolina.....	205		82	2	61,624	107,278
North Dakota.....	1,179	49	341	21	382,430	1,308,319
Oklahoma.....	4,759	1,194	1,538	199	1,665,696	8,709,827
Oregon.....	586	19	144	10	255,471	1,137,735
South Dakota.....	3,904	142	1,221	47	1,567,265	10,922,236
Utah.....	1,327	12	755	14	429,286	5,993,964
Washington.....	2,563	934	1,897	78	1,089,109	5,169,242
Wisconsin.....	603	513	55	14	312,219	417,707
Wyoming.....	1,041	3	159	8	718,166	777,643

Source: School Assistance to Federally-Affected Areas, SAFA Division, U.S. Office of Education.

## 4. JOHNSON-O'MALLEY ACT, APRIL 16, 1934

The Johnson-O'Malley act authorized the Secretary of Interior to contract with States or territories for the education, medical attention, agricultural assistance, and social welfare of Indians in the State.<sup>65</sup> In 1936 the act was amended to its present form. The amendment expanded the contracting authority of the Secretary of the Interior, giving him the authority to contract with State universities, colleges, schools, or with any appropriate State or private corporation, agency, or institution.

The intent of the act as expressed in the identical reports submitted to each House of Congress, was to "arrange for the handling of certain Indian problems with those States in which the Indian tribal life is largely broken up and in which the Indians are to a considerable extent mixed with the general population."<sup>66</sup> The report noted that in many areas Indians are mixed with the white population, and therefore "it becomes advisable to fit them into the general public school scheme rather than to provide separate schools for them."<sup>67</sup> The act thus gave legislative authority to the Bureau's policy of gradually turning over its education function to the public schools. The act also facilitated Federal-State cooperation by making contracts negotiable at the State level rather than the local. It has become one of the primary means of Federal subsidization of Indian education.

In 1935, California became the first State to contract for and under Johnson-O'Malley, and by 1940, contracts had also been negotiated with Arizona, Minnesota, and Washington.<sup>68</sup> By 1951, 14 States and

<sup>65</sup> 48 Stat. 596.

<sup>66</sup> H. Rept. 864, Mar. 2, 1934, and S. Rept. 511, Mar. 20, 1934.

<sup>67</sup> *Ibid.*

<sup>68</sup> Felix Cohen, "Handbook of Federal Indian Law," 1940 ed., p. 241.

five districts within States were receiving \$2,505,933 in Johnson-O'Malley funds. The estimated expenditure for fiscal 1969 is \$11,552,000, or approximately \$174 per student.<sup>69</sup>

Since the act's inception, the number of Indian students in public schools has increased to about two-thirds of all Indian students. Although the act brought about increased enrollment of Indians in public schools, its success in meeting the educational needs of those students is open to serious question.

Why hasn't the Johnson-O'Malley act dealt adequately with the needs of Indian students? The problem lies not so much with the act itself, as with the manner in which it has been interpreted. For though the language of the act is broad, its interpretation has been narrow, and therefore the intent of the legislation has not been realized.

The Bureau of Indian Affairs, for example, has adopted a more restricted eligibility requirement than that suggested by Congress. Congressional intent was to service Indians in States "in which the Indian tribal life is largely broken up and in which the Indians are to a considerable extent mixed with the general population."<sup>70</sup> The Bureau's policy is to serve Indian children (one-fourth or more Indian blood) "whose parents live on or near Indian reservations under the jurisdiction of the Bureau of Indian Affairs." The policy statement declares that "the tax-free status of land where the parents live will be the major consideration in determining the eligibility of the children."<sup>71</sup>

Despite the act's expressed intent to deal only with Indian needs, the Johnson-O'Malley money has been traditionally used by school districts to supplement their general operating budget, thus benefiting all their students. The Code of Federal Regulations (1958) sanctions this use by stating that Johnson-O'Malley money can be used to meet the financial needs of those school districts which have "large blocks of nontaxable Indian-owned property \* \* \* and relatively large numbers of Indians which create situations which local funds are inadequate to meet."

Use of the money for "meeting educational problems under extraordinary and exceptional circumstances" is limited by regulation to those districts which receive Public Law 81-874 money to meet partial costs of normal school operation. (Public Law 81-874 funds provide "in lieu of taxes" money to districts which, because of the presence of tax-exempt land, need additional money for normal school operations.) With the inclusion of Indians in Public Law 81-874 in 1958, that law took care of some of the basic support money heretofore provided by Johnson-O'Malley. Yet the policy of the Bureau continues to place the tax-exempt status of land as the prime determiner of Johnson-O'Malley eligibility rather than educational need.<sup>72</sup>

The Johnson-O'Malley money not used for basic support (operation and maintenance) is used to provide lunches, transportation, administrative costs and—occasionally—special instructional services. Twenty to twenty-five percent of Johnson-O'Malley expenditures are for school lunches for Indian students, as compared to 3.8 percent of Title I, ESEA, expenditures for feeding programs. About 5 percent of the

<sup>69</sup> BIA Branch of Public School Relations.

<sup>70</sup> H. Rept. 864, Mar. 2, 1934.

<sup>71</sup> Indian Affairs Manual, 62 IAM 3.5.

<sup>72</sup> Indian Affairs Manual, 62 IAM 3.25.

annual expenditure is for administration, an amount generally in line with expenditures for administration under the ESEA. Indian Education directors in State departments of education which hold Johnson-O'Malley contracts are paid out of the Johnson-O'Malley appropriation. The Bureau reports that in 1969, it budgeted 30 percent of the funds for "special services."

In some States, special services means providing bus service for Indian children. In others it means buying volleyball standards and tumbling pads. Some use it to pay off the mortgage on a bus, increase teacher salaries, or hire attendance officers. In a few cases it is used to hire teacher aides and provide libraries and study halls for Indians. There is no detailed accountability of the use of the money.

Today, 35 years after it was originally adopted, it is still highly questionable if the Johnson-O'Malley Act is fulfilling the intent of Congress. It is true that more Indians are in public schools, but it is doubtful if the needs of these Indian children are being met any more than they were 35 years ago.

#### *Conflict with Public Law 874*

One of the main problems with the act has been the conflict between it and Public Law 874. Public Law 874 provides funds for school districts which educate large numbers of children whose parents live or work on tax-exempt property. The law became applicable to Indians in 1958, and since that time, school districts educating Indian children have received compensation for the nearby presence of tax-exempt reservations.

Congress never intended that duplicate payments should be made to the same school for the same purpose by two different Federal agencies. But often, both Public Law 874 and Johnson-O'Malley money do just that. The Federal regulation permits such use of Johnson-O'Malley money when Public Law 874 funds are insufficient for general school operations.<sup>75</sup> Few local administrators are likely to admit they have enough money for normal school operations when they know they can get more, and thus Johnson-O'Malley is continually drained for normal operating budget purposes.

Dr. Alphonse Selinger of the Northwest Regional Educational Laboratory testified before the subcommittee that he had encountered at least one principal who admitted giving passing grades to Indian students only to keep them in school so the district could receive Johnson-O'Malley money. Officials from two different schools told Dr. Selinger there was very little they could do for Indian children, so they kept them in the school for the additional funds they brought into the system.<sup>74</sup>

Generally, though, the regulation limits Johnson-O'Malley funds to districts not qualifying under Public Law 874 and to those Public Law 874 districts in which there are "educational problems under extraordinary and exceptional circumstances." (To qualify under Pub-

<sup>75</sup> 62 IAM 3.27.

<sup>74</sup> Hearings before the Senate Subcommittee on Indian Education, pt. VI.

lic Law 874 a district must meet a 3-percent impact requirement and have a minimum daily attendance of 10 federally connected pupils.)<sup>75</sup> In practice, the money is used as a budget-balancing device for those districts receiving Public Law 874 money. Johnson-O'Malley makes up the difference between a district's education expenditures and its revenues after Public Law 874 has been included.<sup>76</sup>

When Public Law 874 became applicable to Indians in 1959, the Johnson-O'Malley budget suffered considerably. The 1959 Johnson-O'Malley appropriation of \$7,953,000 was cut to \$5 million in 1960. Although Johnson-O'Malley and Public Law 874 serve different functions, Public Law 874 was, and continues to be, interpreted by BIA officials as replacement money for Johnson-O'Malley.

The problem with a school district replacing Johnson-O'Malley funds with Public Law 874 aid is that there is no guarantee the Public Law 874 money will be used to benefit Indian students. Such money goes to the school district itself, and any benefit received by Indian children would only be indirect. Johnson-O'Malley funds, though, are supposed to aid only Indian children.<sup>77</sup>

Congress also has no control over the use of Public Law 874 money. School districts apply it in their operating budget as they see fit. The Federal Government is prohibited from setting standards for its use or requiring, for example, that it be used for special Indian needs.

#### *Excludes Many Indians*

A most important problem with Johnson-O'Malley is that, as presently administered, it excludes from participation Indians who have left the reservation. Thousands of such Indians now live in urban areas, where Indian children attend public schools. Their needs are being ignored just as much there as in rural areas. In Minneapolis, Minn., for example, an estimated 10,000 Indians live in the city. The Indian dropout rate in the city's public school system is more than 60 percent.<sup>78</sup> Some 45,000 Indians live in California cities.<sup>79</sup> The Indian dropout rate in some public schools there approaches 70 percent.<sup>80</sup> Most urban school districts are not eligible for either Johnson-O'Malley or Public Law 874 because the Indian parents do not live or work on tax-exempt reservations. Thus these Indians are not eligible for the special-needs funds Congress intended for them.

A special case exemplifying Johnson-O'Malley problems can be found in California, where some 80,000 Indians are now without Johnson-O'Malley assistance. The first State to enter into a contract

<sup>75</sup> Impacted areas legislation report and recommendation, prepared for Senate Subcommittee on Education by the U.S. Department of Health, Education, and Welfare, August 1965, pp. 537-538.

<sup>76</sup> Interview with Charles Zellers, BIA Assistant Commissioner for Education, May 22, 1969.

<sup>77</sup> 48 Stat. 596 (Johnson-O'Malley Act).

<sup>78</sup> Minnesota State plan for the education of Indian children, Minnesota Department of Education, 1969.

<sup>79</sup> "The Education of American Indian: An Evaluation of the Literature," Brewton Berry, p. 25.

<sup>80</sup> *Ibid.*, p. 29.

with the BIA under this act, California has since had its Johnson-O'Malley program phased out. It was completely terminated in 1958.

The reasons for the withdrawal of services are many. Many people, including BIA personnel, were under the impression that the termination policy espoused in the midfifties would lead to termination of all Indian aid policies, and California seemed as good a place as any to start cutting programs. There were some who claimed Indians were already receiving an adequate education in California without Federal funds. Others were led to believe—falsely—that Public Law 874 and Public Law 815 would adequately replace Johnson-O'Malley funds. Then in 1953, California's annual Johnson-O'Malley funding of \$318,000 was reduced by \$50,000. The California appropriation was reduced another \$50,000 every year until 1958, nothing was appropriated.

Noting such evidence as the fact that California high schools with relatively large Indian enrollments have dropout rates three times higher for Indians than for non-Indians, California has sought the return of Johnson-O'Malley money. California educators have argued that many Indians have educational problems requiring special attention and that Public Law 874 has not replaced the need for Johnson-O'Malley funds. But the BIA appears to be following a policy of "once withdrawn, always withdrawn," and thus California Indians continue without the moneys for programs to meet their special needs.<sup>81</sup>

Three other eligible States west of the Mississippi are not under Johnson-O'Malley State contracts. Oregon terminated its contract after being led to believe that Public Law 815 and Public Law 874 would take care of the education of the Indian, and that the BIA intended to terminate all services to Indians shortly anyway. Utah terminated its contract because officials felt the State could get more money under Public Law 874 than Johnson-O'Malley.<sup>82</sup>

In 1969, Wyoming sought a State contract for its Indians, but has been unable to get approval from the Bureau's Washington office. Wyoming school officials claimed their plan called for liaison people between Indian communities and school districts to assist in developing better relationships between the two groups. The Wyoming State education superintendent said the BIA completely rewrote the State's proposed plan, and that the "watered-down" version offered in its place was hardly worthwhile.<sup>83</sup> Bureau officials have indicated their reluctance to give Wyoming Johnson-O'Malley money because they contend that Public Law 874 money is adequately serving the needs of Indians in Wyoming public schools.<sup>84</sup>

Complaints are innumerable regarding the administration of Johnson-O'Malley. For one thing, the levels of aid are extremely uneven. In

<sup>81</sup> A Johnson-O'Malley educational program for California Indians, State Advisory Commission on Indian Affairs, June 1967.

<sup>82</sup> *Ibid.*

<sup>83</sup> Interview with Wyoming State Superintendent of Education, June 1969.

<sup>84</sup> *Op. cit.*, interview with Zellers.

1967-68, Alaska received \$690 per Johnson-O'Malley pupil while Oklahoma received \$37. Arizona received \$236 per pupil while neighboring New Mexico received \$135. Even within States, the levels vary greatly. In 1966-67, Santa Fe County, N. Mex., received \$310 per Johnson-O'Malley pupil, while McKinley County (Gallup), N. Mex., received \$41. According to Dr. Anne M. Smith, anthropologist and author of "Indian Education in New Mexico," "It has not proved possible to discover on what policy basis the allocation of funds is made."<sup>85</sup>

One State, Arizona, has been reducing State aid to districts which receive Johnson-O'Malley funds. Several States were doing the same thing with regard to Public Law 874 money, but the courts ruled against the practice. (See, for example, *Shepherd v. Godwin*, 280 F. Supp. 869, 1968) BIA officials are hopeful the Arizona legislature will resolve the problem before court action is necessary.

#### *Poor accountability*

A major problem with the Johnson-O'Malley program is poor accountability of the funds administered. The legislation requires the State or contracting district to submit an annual report showing expenditures, but far too often these reports are summary and undetailed. Except for a school enrollment data form, there is little uniformity in reporting techniques. One State, for example, will report transportation expenditures under basic support, whereas another State will report such expenditures under special services. In neither case is an explanation of the purpose of the transportation given. The special services sections are almost entirely devoid of meaningful explanations of the services provided.

The reports also provide no evaluation of the previous year's programs. There is apparently never any attitudinal or achievement testing to test the effect, if any, the Johnson-O'Malley programs in particular school districts are having upon Indian students.

#### *Utilizing the amendment*

The Bureau of Indian Affairs has not been particularly creative in using the expanded contracting authority granted by the 1936 amendment to the act for educational projects. This amendment authorized the Bureau to contract Johnson-O'Malley projects with State universities, colleges, schools, and appropriate State or private corporations, agencies, and institutions. In the past the amendment has been used for such contracts as those with: (1) The Idaho Elks Rehabilitation Center at Boise for the care of Alaska native children in specialized schools; (2) The Utah School for the Deaf and Blind, for its Indian patients;

<sup>85</sup> Anne Smith, *Indian Education in New Mexico*, University of New Mexico, 1968.

and (3) The Salvation Army Booth Memorial Home at Anchorage for the care of native children and eligible adults.

In recent years, the contracting authority has been used for more innovative programs. Johnson-O'Malley money went to the Rough Rock Demonstration School, for example, since it was a nonprofit corporation. A contract was negotiated with the University of Alaska to develop a model of a cultural and educational center for Alaskan natives. And most recently, a contract has been negotiated with the United Tribes of North Dakota, set up as a nonprofit corporation, for the operation of a training center.<sup>86</sup>

#### *Lack of Indian participation*

Johnson-O'Malley is supposed to serve the needs of Indian students, but Indians rarely get an opportunity to decide how the money should be spent. The proposals are usually drawn up by school administrators of white, middle-class backgrounds who direct the money toward general school operations or problem-solving techniques which might work for the middle-class student, but not the Indian. The people who are affected most by the law have little to say about how the money should be used to help their children.

#### *New approaches by the BIA*

In recent years, the Bureau has looked at Johnson-O'Malley a little more imaginatively than in the past, and has funded a few programs which deal more specifically with the needs of Indian students. A home-visitation program in Oklahoma, for example, is working to improve relations between the Indian home and the school. A night study hall for Indians was established in Nevada. Teacher workshops designed to help teachers in dealing with the special needs of Indian students have become more common. A resource center which sends out a circuit rider is now operating in Alaska. In an attempt to get away from the institutional boarding school concept, Johnson-O'Malley money is also being used to set up a home boarding program so that students can live-in with families. Bureau officials also have their sights on Johnson-O'Malley kindergarten programs as well as model school programs for each State with a Johnson-O'Malley contract.

To streamline Johnson-O'Malley procedures, the Bureau tries to confer regularly with State education officials so that the States can share information and hear new Johnson-O'Malley approaches. Two field men, one in Albuquerque and one in Aberdeen, devote a good share of their time to working with State directors and tribal groups in helping them formulate the best possible Johnson-O'Malley budget. The field men are also expected to meet with tribal groups and consider their recommendations for Johnson-O'Malley usage. Bureau officials report that funding for this kind of activity is low, and that such activity often has to be conducted on a limited basis.

<sup>86</sup> Interview with J. Leonard Norwood, BIA Acting Commissioner, June 1969.

#### *Johnson-O'Malley Education Contracts, 1969*

<i>Area and State</i>	
Aberdeen -----	\$1,295,000
Nebraska -----	240,000
North Dakota -----	310,000
South Dakota -----	745,000
Albuquerque: Colorado -----	170,000
Anadarko: Kansas -----	20,000
Billings -----	200,000
Montana -----	180,000
Wyoming -----	20,000
Juneau: Alaska -----	1,485,000
Minneapolis -----	665,000
Minnesota -----	375,000
Wisconsin -----	285,000
Iowa (Tama) -----	55,000
Muskogee -----	587,000
Oklahoma -----	580,000
Mississippi -----	7,000
Navajo -----	3,275,000
New Mexico -----	1,655,000
Peripheral -----	1,620,000
Phoenix -----	3,465,000
Arizona -----	3,370,000
Nevada -----	95,000
Portland -----	370,000
Idaho -----	195,000
Washington -----	175,000
Seminole (agency): Florida -----	20,000
<b>Total -----</b>	<b>11,552,000</b>

NOTE.—Total number of students, 66, 218.  
Source: Bureau of Indian Affairs.

## JOHNSON-O'MALLEY EXPENDITURES, BY STATE AND PURPOSE, FISCAL YEAR 1968

State	Adminis- tration	Lunches	Other parental cost <sup>1</sup>	Operation and mainte- nance (basic support) <sup>1</sup>	Special services <sup>1</sup>	Total expenditures
Alaska.....	\$60,000	\$135,216		\$735,584		\$930,800
Arizona.....	75,437	307,608		2,571,902	\$51,464	3,006,411
Colorado.....	4,000	20,520	\$9,800	68,000	40,300	142,620
Florida.....		10,128			200	10,328
Idaho.....	13,437	29,150		108,028	10,835	161,450
Iowa.....		4,865		45,135		50,000
Kansas.....	3,263				17,737	21,000
Minnesota.....	50,462	109,842		104,696	18,000	283,000
Montana.....	29,018	80,895		5,096	12,036	127,045
Nebraska.....	9,681	27,322		85,145	71,350	193,498
Nevada.....	9,761	41,243		5,308	35,688	92,000
New Mexico.....	50,000	589,055		354,326	531,489	1,524,870
North Dakota.....	13,470	56,129		204,901		274,500
Oklahoma.....	46,364	316,267	5,746	75,736	105,887	550,000
South Dakota.....	22,840	112,994		456,911	36,255	629,000
Washington.....	20,061	23,863		42,288	63,813	150,025
Wisconsin.....	22,237	48,810		73,953	35,000	180,000
Wyoming.....				12,525		12,525
Peripheral (dormitories).....		27,068	34,020	1,403,876	46,000	1,510,964
Oshrin (hospital).....					7,000	7,000
Total.....	430,031	1,940,975	49,566	6,353,410	1,083,054	9,857,036

<sup>1</sup> The remainder of the expenditures was placed in these 3 general categories and represents a variety of items.

Note: The above information was taken from the States' annual reports. The cost of lunches and administration was in sufficient detail to provide an accurate breakdown.

Source: Bureau of Indian Affairs.

## JOHNSON-O'MALLEY ENROLLMENTS, AND EXPENDITURES, 1967-68

State	JOM enrollment	JOM expenditure	Estimated expenditure per pupil
Alaska.....	1,349	930,800	690
Arizona.....	12,765	3,006,411	236
Colorado.....	707	142,620	202
Florida.....	219	10,328	47
Idaho.....	1,492	161,450	108
Iowa.....	116	50,000	431
Kansas.....	91	21,000	231
Minnesota.....	2,577	283,000	110
Mississippi.....	20	4,500	225
Montana.....	2,300	127,045	55
Nebraska.....	675	193,498	287
Nevada.....	1,535	92,000	60
New Mexico.....	11,320	1,524,870	135
North Dakota.....	1,553	274,500	176
Oklahoma.....	14,584	550,000	38
South Dakota.....	4,187	629,000	150
Washington.....	3,763	150,025	40
Wisconsin.....	1,183	180,000	152
Wyoming.....	20	12,525	626
Peripheral dorms (Navajo).....	2,220	1,510,964	681
Oshrin Hospital.....	7	7,000	1,000
Total.....	62,676	9,861,536	157

Source: Bureau of Indian Affairs.

## JOHNSON-O'MALLEY FUNDS APPROPRIATED FOR FISCAL YEARS 1944-69

Fiscal year	Amount ap- propriated	Fiscal year	Amount ap- propriated
1944.....	\$1,020,055	1957.....	\$6,381,000
1945.....	970,215	1958.....	7,353,000
1946.....	449,455	1959.....	7,953,000
1947.....	1,237,719	1960.....	5,000,000
1948.....	1,442,826	1961.....	5,100,000
1949.....	1,636,847	1962.....	6,598,000
1950.....	2,250,000	1963.....	7,298,000
1951.....	2,503,190	1964.....	7,398,000
1952.....	2,548,190	1965.....	7,898,000
1953.....	2,761,109	1966.....	8,648,000
1954.....	3,168,535	1967.....	9,452,000
1955.....	3,535,430	1968.....	9,952,000
1956.....	5,425,475	1969.....	11,552,000

Source: Bureau of Indian Affairs.

## C. THE TRANSFER POLICY

Despite evidence of the failure of public schools to provide Indian students with an adequate education and despite the absence of a commitment by local, State or National authorities to provide Indians with an equal education, the Bureau of Indian Affairs continues its policy of transferring Indians into public schools. Between 1930 and the present, the number of Indian students attending public schools has increased from one-half to two-thirds of all Indian students enrolled in schools. In 1926, about 37,700 Indian students were in public schools.<sup>87</sup> In 1968 there were about 90,000.<sup>88</sup> Nine States (California, Idaho, Michigan, Minnesota, Nebraska, Oregon, Texas, Washington, and Wisconsin) had assumed complete responsibility for educating Indians within their States.

## 1. ANALYSIS

The transfer procedure employed by the Bureau has been discretionary. When the Bureau felt a public school was ready to handle Indian students, the change was effected. The transfer was often a gradual process, involving a phasing out of the educational services at the Indian school.

Former Bureau Commissioner Robert Bennett testified before the subcommittee that after 1950 the Bureau undertook a "mutual agreement" policy in regard to transfer. When the Bureau decided that the Indian community and the school district were mutually agreeable to the transfer, the transfer was made. Bennett said the Bureau's latest policy was one of "mutual readiness"—with the stipulation that no transfer be effected without the majority approval in a referendum of the Indian people affected.<sup>89</sup>

<sup>87</sup> "The Problem of Indian Administration," Lewis Meriam, p. 416.

<sup>88</sup> Division of Public School Relations, Bureau of Indian Affairs.

<sup>89</sup> Hearings before the Subcommittee on Indian Education, U.S. Senate, pt. VI.

Since Bennett is no longer Commissioner, and since the Bureau has not issued a statement regarding its transfer policy under its new commissioner, the exact policy of the Bureau is not known. The Bureau's official policy on transfer, recorded in a 1952 regulation, states that Indian students should be enrolled in public schools when public schools are "within normal transporting distance of Indian homes," and that "the transfer of responsibility for education of Indian children to public schools should be completed wherever such a transfer of responsibility is feasible."<sup>90</sup>

No particular criteria appear to be used to determine when a school is "ready" to accept Indian students. This determination continues to be made arbitrarily by the Bureau of Indian Affairs. No evaluation of the quality of education in the public school is done before the transfer is effected. According to a Bureau official, "We know generally what their education program is." The Bureau's only requirement seems to be that the public school has enough space and personnel to handle the additional students.

The Bureau's means of determining when Indians are "ready" for a transfer is even more puzzling. In the past it appears that the determination was made by the Bureau without consulting with the Indians affected by the change. The Indians were usually informed of the transfer after the decision had been made.

## 2. MESQUAKIE CASE STUDY<sup>91</sup>

A case exemplifying the Bureau's transfer policy involves the Mesquakie Tribe of Tama, Iowa. The tribe's conflicts with the BIA over the closing of their settlement day school and the transfer of those students to the local public school are recorded in the following case study.

The Mesquakie Indians of Tama, Iowa, have had a history of conflict.

In the early 1700's their raiding practices on French shipping made them an object of extermination. In 1856, they disagreed with their Sac and Fox brethren in Kansas over the issue of acculturation, and moved to Iowa, establishing their own settlement on the Iowa River near Tama.

In 1897, they became embroiled in a controversy with the BIA over sending their children to a boarding school which educated "in the white man's way," and for 3 years in the 1930's, they withheld their children from the white man's public schools because of the hostile attitude toward Indians in the nearby white community.

It was not unusual, therefore, that when the Bureau of Indian Affairs announced in July, 1968 its intention to transfer all Indian children from the Settlement Day School to the Tama public schools that the Mesquakies refused to comply.

The Mesquakies had been sending their children to a day school operated in their settlement by the BIA since 1940. The school contained grades one through eight. Most Mesquakie children attended high school at boarding schools. A few attended the local public

schools, but the Indians were not looked upon fondly by the area's white citizenry, and thus the Indians shied away from the public schools.

But in 1954, the Bureau began to phase out the day school. In 1954, the eighth grade went. In 1957, it was the seventh grade. In the mid-1960's, the sixth grade was eliminated, and in 1967, the day school's fifth grade was reduced by half. In most cases the students were transferred to public schools in the South Tama County School District.

By 1968, more than 150 Mesquakies, or about 75 percent of Mesquakie children, were being educated in the South Tama County public schools. The Mesquakie settlement school, or the Sac and Fox day school as it is officially known, was anticipating a 1968 enrollment of 56 children for grades one through four. Then, in early July 1968, the tribal chairman was notified that all Mesquakies were being transferred to public schools beginning the fall of 1968.

It was evident from the Bureau's phaseout procedure that its eventual goal was termination of the day school, and public school education for all Mesquakies. In October 1967, the Bureau had announced such intentions at a meeting attended by representatives of the county school board and the tribal council. Subsequent meetings, which sometimes included Mesquakies, laid the groundwork for the fall 1968 transfer.

On July 26, the tribal council met and responded with a motion opposing the closing of the day school. The Mesquakies maintained that treaty rights would be violated if the BIA did not provide education for Indians. On August 2, the council urged a boycott of the public schools in grades one through five, and in the first week of September, the tribe filed for an injunction in Federal court against the closing of the school. In late September, the court ruled that the day school be reopened by October 31, and that the Mesquakies and the Bureau of Indian Affairs both submit proposals for resolution of the problem. The school was reopened and staffed with teachers contracted by the BIA through the public school system.

The Bureau sought dismissal of the suit in November, arguing that "sovereign immunity" prevented the court from issuing an injunction against a governmental body such as the BIA. The court denied the Bureau's motion in February 1969.

The Mesquakies submitted to the court a proposal for a Mesquakie operated and controlled school on the settlement to include grades kindergarten through nine. The school would be contracted through the BIA, and would include course work in Mesquakie history and culture and the teaching of English as a second language. The BIA responded with a plan that the status quo—a Mesquakie day school for grades one through four—continue for another year, and that the public school takeover of Mesquakie education be delayed another year. The Mesquakie tribal council voted to accept the Bureau's offer to continue operation of the Mesquakie settlement school for grades one through four for another year, and the lawsuit was withdrawn. The Bureau has also stated that it has extended its mutual readiness policy so that no transfer will occur without approval by referendum of the Indian people. No such provision has been written into the Bureau's transfer regulation, though.

<sup>90</sup> Indian Affairs Manual, sec. 201.

<sup>91</sup> Information compiled from hearing testimony of Mesquakies (pt. 1, 1969), correspondence from Bureau of Indian Affairs officials, the report prepared for the subcommittee by Paul Petrafeso, and court records of the U.S. district court, Cedar Rapids, Iowa.



The Mesquakie situation provides a glaring example of many of the problems involved in the Bureau's transfer policy.

The Bureau admits to initiating the transfer of all Mesquakies to the local public schools, but it contends there were no objections until the last minute.

Some Mesquakies complained they weren't informed of the intended transfer, or the meetings in which it was discussed. Questions were also raised as to how many Mesquakies actually thought transfer was in the best interest of their children.

But one of the main problem areas highlighted by the situation was the Bureau's "mutual readiness" policy, and the Bureau's means of determining such readiness.

The impetus for the decision to transfer came from the Bureau's determination (or assumption) that the South Tama County public schools were "ready" to educate all Mesquakie children, and that the Mesquakies were ready for the public schools to handle that function.

In a July 2, 1968, letter to the Mesquakie Tribal Council from the Minneapolis Area Office Director making the transfer official, the Bureau noted that "the South Tama County officials are willing and ready to assume the responsibility of providing quality education for all children of the settlement, and have geared their educational program for this transfer."

In response to a request by the subcommittee, Charles Zellers, BIA Assistant Commissioner for Education, explained how the BIA had determined the South Tama County public schools and the Mesquakies "ready" for complete transfer. In regard to the readiness of the Mesquakies, he made the following comments:

"The criteria used for initiating plans for the transfer of the Mesquakie children to the public school are in keeping with the overall policy of the Bureau to transfer the responsibility for the education of Indian children to public schools whenever feasible and when it is in the best interest of the people.

Strong consideration was given to the fact that a progressive number of Mesquakie children in the upper grades and high school were attending public school with no serious objections from the people.

The tribal council's resolution to support construction of public school facilities to accommodate 200 of their children would certainly indicate their interest in the transfer of all their children to the South Tama schools. (In March 1966, the tribal council passed a resolution favoring a proposal to utilize \$200,000 of Public Law 81-815 funds to construct an addition to the schools.)

The following excerpts from the BIA response explain how the public school's "readiness" was determined:

For many years, the district has enrolled approximately 75 percent of the Mesquakie Indian children in its schools and the teachers of these children have had considerable experience in working with them.

The larger, modern public school facilities offer a better learning environment, better teachers, an integration factor, and the latest equipment and facilities. Through the various contacts with new students, teachers, and community, Mesquakie pupils will be better prepared to become a part of the larger society.

Records indicate that Mesquakie students who have attended public schools from kindergarten on, score better on achievement tests, have better attendance records, and remain in school longer than those who begin their education in the Sac and Fox day school. (When asked to produce these records, Zellers said he had never seen them, but had been advised of their substance by his fieldmen. The subcommittee sought such records from the Minneapolis area office of the BIA and the South Tama County school officials, but neither was able to come up with them.)

As a regular part of the in-service training of teachers and the administration, a workshop especially geared to receiving the additional Mesquakie children was conducted prior to the opening of school. This included an information address by the school superintendent.

Special education is available to disadvantaged children, but no special curriculum is being offered the Mesquakie Indian students at the South Tama schools. Teachers are made aware of special needs of Indian students.

Indian culture and history are taught only as a part of the State social studies curriculum. The school library contains many references to Indian history and culture.

The Mesquakies maintained they were not ready for the public schools because the public schools were not ready for them.

"The program or the curriculum has not been geared to our tribal way of thinking," Don Wanatee of the Mesquakies Tribal Council testified before the subcommittee. Mr. Wanatee also noted that "the Indian children in their early years do not have the English language well enough to compete with the white children," but the school has no special program of teaching English for these students. He indicated the whole Tama atmosphere was hostile to the Mesquakies because the white people refused to try to understand Mesquakie viewpoints on education or the Mesquakie cultural heritage.

An investigative report prepared for the subcommittee by Paul Petrafeso of the Upper Midwest Regional Educational Laboratory bore out many of the Mesquakie complaints. Among the report's findings were:

(1) The public school has not adopted any programs that deal specifically with the teaching of disadvantaged youth or Indian children.

(2) The school superintendent did not acknowledge any language problem for Mesquakie children. He admitted "hearing about" a study made by a teacher which showed that upon entering school many Mesquakie children are more familiar with Mesquakie language than English, but he said he had never read it.

(3) In the past there have been no inservice training programs for teachers to acquaint them with problems of teaching Indian children. In a telephone interview with the subcommittee staff, the superintendent said, "There has never been time" to provide such training and that any orientation to teaching Mesquakies was usually restricted to "a one-shot affair on the peculiarities of the Mesquakies."

Mr. Petrafeso noted in his report that three school staff members will be attending a BIA sponsored workshop on Indian culture in the summer of 1969, and that they are expected to set up an inservice program for the remainder of the South Tama County public school staff.

(4) The only steps taken toward acknowledging the presence of Indians in the school are the addition to the library of a number of books on Indian history and culture, and the high school history department's present project of developing an Indian history unit in the American history course.

(5) No accurate data is kept on dropouts.

(6) Despite an awareness that the achievement test scores of Indian children show them several years behind the average level, school officials do not individualize instruction or even prescribe special programs that would allow the child to catch up.

(7) During the 1968-69 school year, Mesquakie students averaged about 20 days of absence per student.

(8) Most Indian students are placed in the general course of study track. Only eight Indians are in the college prep course, and none are enrolled in the vocational education track.

The Bureau's Assistant Commissioner for Education has said that the Bureau conducts no formal evaluation of a public school's educational program before Indians are transferred into public schools. "We know generally what their education program is," he stated in an interview. There seem to be enough discrepancies between the Bureau's analysis of Mesquakie education in the public schools and Mr. Petrafeso's report to indicate the need for a formal evaluation before any transfer of Indian students is effected.

The 1969-70 school year has begun with the South Tama school district operating the Sac and Fox Day School for grades 1 through 4. The remaining Mesquakie children attend the Tama public schools. The lawsuit has been withdrawn, but no one knows at this time what the Mesquakies' school situation will be next year.

#### D. SUMMARY OF PUBLIC SCHOOL FINDINGS

##### 1. Indian Participation and Control

*American Indians have little, if any, influence or control in the education of their children in the public schools.*

A. Indian membership on school boards which have jurisdiction in districts educating Indians is rare.

B. The white power structure often thwarts Indian attempts to gain representation on school boards.

C. Indian attempts to win curriculum reforms which recognize Indian history and culture are often met with resistance from school administrators.

D. A strong feeling of powerlessness pervades Indian communities in regard to their attempts to improve the education provided in public schools.

##### 2. Curriculum

*Public schools educating Indians rarely include coursework which recognizes Indian history, culture or language, and often use materials and approaches which are derogatory toward Indians.*

A. Public schools in many States use history and social studies textbooks which ignore the Indian's role in history or grossly distort that role.

B. The primary result of the manner Indians are treated in the history textbooks in use today is a propagation of inaccurate stereotypes.

C. Most public schools do not take into consideration the language difficulties of many Indian students.

D. There is a definite lack of bilingual and bicultural materials in schools educating Indians.

##### 3. Attitudes

*Many school administrators and teachers consider Indian pupils inferior to white students, and thus expect them to fail, both in school and in life.*

A. An anti-Indian attitude is often prevalent in white communities in which Indians receive public school education.

B. Many school districts relegate Indians to the lowest level in their tracking systems.

C. Some administrators refuse to cooperate with the Indian community in their school district and discourage or do not permit Indian participation in decisionmaking.

D. Indians are often promoted each year regardless of grades just so they can be kept in school, thus assuring the local district of receiving Federal aid because of the presence of Indian students. One public school district goes so far as to falsify Indian achievement-test results because the students were so far behind national norms that "it just wouldn't look good."

E. Teachers and administrators are often insensitive to Indian values and ignorant of Indian culture.

##### 4. Transfer from BIA to Public Schools

*Little attention is paid to whether Indians want their students transferred from a Bureau of Indian Affairs-operated school to a public school, or whether the public school is ready to accept Indian students, when the decision to make such a transfer is made.*

A. The Bureau's policy on transferring students from Federally-operated to public schools has changed periodically over the years, and at this point, the official policy remains unclear.

B. Public schools are rarely equipped to handle the unique problems with which they must deal when they accept Indian students, without special preparation and effort.

C. Indians have not been given the opportunity to decide for themselves if they want their children educated in Federal schools, public schools, or in some other educational program.

## 5. Federal Legislation and Indian Education in Public Schools

### (a) Public Law 81-815

*Lack of funding for Public Law 81-815 prevents any construction of public school facilities for Indian students.*

A. Indians are not included in the sections of the law which are given priority in funding.

B. Many public schools accepted Indian students under the impression they would receive Federal money for constructing the additional facilities necessary to educate those Indian students, yet such Federal money has rarely been appropriated.

### (b) Public Law 81-874

*While Indian education is receiving some financial assistance through Public Law 81-874, it is hardly enough to provide students with an equal educational opportunity.*

A. Many public school districts educating Indians use Public Law 81-874 funds for a good share of their operating budgets, which results in a situation where Indian students receive insufficient benefit.

B. Indian districts are in greater need of financial assistance than many other districts receiving aid under Public Law 81-874.

C. Late funding for this law has created crises in school planning and has been especially harmful to Indian districts which depend upon it for so much of their budget.

### (c) Johnson-O'Malley Act

*The intent of the Johnson-O'Malley Act to provide for the special needs of Indian students is not being fully satisfied.*

A. Johnson-O'Malley money is traditionally used by school districts to supplement their general operating budgets rather than to provide for special Indian needs.

B. The question of whether an Indian lives on or near Federal property plays a more important part in deciding if a district receives JOM money than does the question of need.

C. There is very poor accountability for the use of JOM money.

D. Urban Indians receive no benefits under JOM as it is presently administered.

E. Some States with substantial Indian populations are excluded from JOM contracts.

F. The expanded contracting authority granted the act by a 1936 amendment has not been utilized to the fullest extent.

G. Indians rarely have an opportunity to decide how the JOM money, designed to serve their needs, is to be spent.

H. JOM has not been funded at a level adequately meeting the special problems of Indian students.