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Title

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Permalink

<https://escholarship.org/uc/item/5zv30803>

Journal

American Indian Culture and Research Journal , 29(1)

ISSN

0161-6463

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Publication Date

2005

DOI

10.17953

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Buffalo Tiger, Bobo Dean, and the “Young Turks”: A Miccosukee Prelude to the 1975 Indian Self-Determination Act

HARRY A. KERSEY JR.

On 12 June 1971 United States Commissioner of Indian Affairs Louis R. Bruce journeyed to the Florida Everglades to meet with Miccosukee chairman Buffalo Tiger and members of the tribal business council. The purpose of his visit was to celebrate the signing of a contract on 14 May in Washington between the Bureau of Indian Affairs and the Miccosukee Tribe of Indians of Florida, allowing the tribe to operate comprehensive social and educational programs formerly administered exclusively by government bureaucrats. Under the headline “Florida Indians Assume Own Rule,” the *New York Times* reported, “The accord signed after six months of difficult negotiations, is the first such agreement reached between an Indian tribe and the federal government since President Nixon, in a 1970 message to Congress, announced that he favored a policy of Indian Self-determination.”¹

Arguably this transaction placed the Miccosukee tribe in the vanguard of the Indian self-determination movement. The following is an account of the Miccosukees’ struggle to wrest control over their own economic destiny from conservative elements within the Bureau of Indian Affairs (BIA) and Department of the Interior and is based heavily on recent interviews with former Miccosukee tribal chairman Buffalo Tiger, who engineered the groundbreaking agreement, and Washington attorney S. Bobo Dean, who represented the tribe in the negotiations, as well as Bradley J. Patterson Jr., an official in the Nixon administration who was intimately involved in framing the president’s 1970 message.

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BACKGROUND

Immediately following World War II there was intense pressure from a Republican-controlled Congress to end the federal government's historical treaty obligations and other statutory commitments to the tribes. As a prelude to terminating these relationships, Congress created the Indian Claims Commission (ICC) in 1946. The ICC was to function for ten years and settle all outstanding tribal economic claims as a precondition for getting the government out of Indian affairs.² In 1953 the "termination era" was launched with the passage of House Concurrent Resolution 108 (HCR), stating the sense of Congress that tribes should "be freed from all Federal supervision and control and from all disabilities and limitations specifically applicable to Indians" and to "end the wardship status of the Indians and to grant them all of the rights and prerogatives pertaining to American citizenship."³ Despite this language of emancipation and equality, the goal was to dissolve the special relationship that historically existed between the federal government and Indian tribes. Bills were introduced terminating services for each of the tribes identified in HCR 108, and others were placed in potential jeopardy. Eventually, more than one hundred tribes, bands, and California rancherias were terminated and lost their status as sovereign communities.⁴ In addition, Public Law 280, passed during the same session, assigned full civil and criminal jurisdiction over Indians to five specified states and opened the way for other states to do likewise.⁵ The Florida Indians—including the Miccosukees living in the lower Everglades and along the Tamiami Trail—appeared on the list of tribes to be terminated but avoided that fate as a result of the strong resistance of the Indian people and their Florida supporters.⁶ Profoundly shaken by their near-termination experience, the Indians living on federal reservations in Florida formally organized as the Seminole Tribe of Florida in 1957.⁷

On 8 July 1970 President Richard M. Nixon sent a message to Congress calling for the end of termination and announcing a new federal policy of Indian self-determination.⁸ However, it is widely understood that this concept did not originate with the Nixon administration; rather it gestated within the American Indian community's struggle against termination. Peter Iverson argues that Indian communities established the basis for self-determination during the darkest years of the termination era.⁹ Although the Eisenhower administration tacitly disavowed the policy as early as 1958, Congress continued to express a sentiment for termination well into the 1960s, and it remained a priority early in the Kennedy and Johnson administrations. Vine Deloria claims that the National Congress of American Indians (NCAI) coined the term *self-determination* in 1966—perhaps appropriated would be more accurate—to counter Secretary of the Interior Stewart Udall's efforts to perpetuate termination.¹⁰ In time the "Great Society" provided Indian tribes an opportunity to run their own community-based programs, and President Johnson himself embraced the idea of Indian self-determination in a 1968 message to Congress titled "The Forgotten Americans."¹¹ Nevertheless, historians of Indian policy have frequently accepted the Nixon pronouncement as a symbolic point of demarcation between the philosophy of assimilation and a new federal policy of allowing Indian tribes maximum control.

As with so many aspects of the Nixon administration, there remains a scholarly controversy over the extent of the president's involvement and his motivation in setting a new direction for Indian policy. This controversy was clearly prefigured in two studies during the 1980s, by Emma R. Gross and Jack D. Forbes, that examined Indian policy during the Nixon years and came to strikingly different conclusions. The major premise of Gross's study is that during the 1970s there was a liberal shift in federal policy making that allowed all Indian constituency interests to become well represented in major legislation. She identified two themes that made this possible. First, significant public officials and academics recognized that Indians had been mistreated and were sympathetic to tribal aspirations for self-determination, and that paved the way for political action. Second, a broad national support for minority rights developed out of the black civil rights movement, which was at its apogee in the 1960s. This support was accompanied by a backlash against the Vietnam War, with its implied neocolonialism, that developed into a more general distrust of government by significant segments of the population. In this context American Indian issues moved to the forefront of the nation's social consciousness.

Gross suggests that Nixon had strong personal and political interests in riding this tide and issuing his Indian self-determination message. He needed to refurbish his anti-minority image and dim any association with the termination policies of the Eisenhower administration prior to the 1972 election. The president also shared the Indian value of local community control, which was generally consistent with Republican principles. Also, there was Nixon's Quaker background and often-expressed admiration for his college football coach, who was a Native American. Whatever his reasons, the president's message made it clear that federal Indian policy would no longer be paternalistic, but rather the government would work with tribes to define the trust relationship. It pointed out the harmful effects of termination and called for Congress to repeal the policy expressed in HCR 108 of 1953. On this point Gross believes, "President Nixon's unprecedented disavowal of the termination policy significantly stands alone as the clearest, least compromised, rejection of this policy to date."¹² Finally, the president introduced a list of legislative and bureaucratic reforms that would further the goal of Indian self-determination.

Although there were some legislative successes, such as the restoration of Blue Lake to the Taos Pueblo and the still controversial Alaska Native Claims Act of 1971, most of Nixon's proposals stalled on Capitol Hill. Gross is rather benign in her assessment that the Nixon administration was sincere in its policy pronouncements and believes that failure to enact reforms which would have treated Indian communities like local governments was due in great part to Democratic congressional resistance to a Republican president. Nevertheless, most of the president's proposals had been passed by 1975. As to the question of whether Nixon himself or the White House staff was responsible for formulating the 1970 message, she wrote, "In an important sense the question of how much of the Nixon policy was Nixon's or that of his creative and zealous staff, is moot. The President's willingness to back his

staff's initiatives . . . made it possible for them to act boldly, and with as much confidence, as they did."¹³

Forbes's analysis of Nixon policy is less forgiving. Taking the view that "most Indians did not look favorably on the election of Richard Nixon,"¹⁴ he details the problems faced by the administration that took office in 1969. They began with the selection of Walter Hickel, former governor of Alaska and a friend of big oil, who, as secretary of the Interior, appeared opposed to Indian interests. This did nothing to allay the suspicions of Native America, and one immediate response was the occupation of Alcatraz Island by a group of Indian activists. Therefore the choice of Louis R. Bruce, a Mohawk-Sioux and a Republican from New York, as commissioner of Indian affairs was designed to place an Indian in charge of implementing the Nixon policies. Bruce put together a team of seasoned BIA officials who were Indian and committed to devolving control to the tribes. A conservative "Old Guard" in the BIA and Interior Department along with congressional allies would oppose them.

Forbes views Nixon's message not as a triumph of new policy but rather as the first stage in a battle between "liberal" elements within the administration and the "Old Guard." The small cadre of liberals at the White House, led by Leonard Garment (Nixon's former law associate and special assistant for minority affairs) and Bradley Patterson (Garment's assistant for Indian matters) fought for reform using the report of the newly reconstituted National Council on Indian Opportunity (NCIO). However, this liberal triumph was short-lived. "On January 26, 1971 President Nixon urged Congress to act on his Indian proposals, but the appointment of Rogers C. B. Morton as Sec. of the Interior set the stage for comeback of the 'Old Guard' in the BIA/Interior."¹⁵ Many Interior officials remained aligned with water, mineral, and timber interests that had access to Indian resources, while old-line BIA bureaucrats who opposed any change from management of Indian affairs to a service role were positioned to veto proposals by Bruce and his team. Thus Forbes believes Nixon's rhetoric was contradicted by administrative actions designed to contain Indian militancy while continuing the exploitation of Indian resources.

Although Bruce regained nominal policy control prior to the 1972 election, the occupation of the BIA building by Indian militants that November, plus National Tribal Chairman's Association lobbying, returned the "Old Guard" to power and ended his effectiveness; he was replaced as commissioner in 1973. In concluding an assessment of the 1969-72 period, Forbes states, "Commissioner Bruce had suggested on several occasions that the commissioner should be elected by Indian people. He, and some of his 'new team,' may have hoped for the genuine strengthening of tribal governments but it would appear that the rest of Nixon's people never did actually believe in what most Indians meant by self-determination, which is the creation of democratic self-governing communities."¹⁶ But he added, "If the Nixon people score low marks it must also be noted that their scores were *no lower* than those of the Kennedy, Johnson, Ford and Carter Indian Affairs staffs."¹⁷

Members of the Nixon staff charged with formulating the president's message to Congress recall it as a complex undertaking. Bradley J. Patterson

Jr., who “handled the nuts and bolts of Native American policy,”¹⁸ believes there were multiple origins for the idea of Indian self-determination. In 1970 Patterson and Garment met with a number of individuals and groups that had long urged self-determination. Most influential was the NCIO, a holdover agency from the Johnson era chaired by Vice President Spiro Agnew, with Robert Robertson as executive director. Included among the NCIO members were Alvin Josephy, whose 1969 report on Indian affairs later appeared as a chapter in *Red Power: The American Indian’s Fight for Freedom*; and Edgar Cahn, author of *Our Brother’s Keeper: The Indian in White America*, which exposed BIA weaknesses.¹⁹ Another legacy from the previous administration was the Office of Economic Opportunity (OEO) antipoverty program in which local communities and groups organized themselves to manage and run their own social service programs. “I think,” said Patterson, “that is where the idea of Indian self-determination got started—and Cahn and company were energetic and committed messengers. Some of the Indian representatives on the NCIO, especially LaDonna Harris, were leaders with this message (and her husband was a Senator).”²⁰

When Nixon’s domestic policy aide, John Erlichman, asked senior staff what legislative initiatives the president should undertake in 1970, Patterson recalls that “Leonard and I promptly suggested an initiative on Native American issues. Erlichman and the President bought that idea immediately and Garment was charged with the rather major task of doing the staff work for a Special Message to Congress for delivery some time during 1970.”²¹ Patterson credits Barbara Green Kilberg, a White House Fellow and assistant to Erlichman, and Erlichman himself, with crucial support for the policy. There were further consultative efforts with the NCIO, Commissioner Louis Bruce, and members of the Indian bar in Washington such as Jerry Straus. When these efforts jelled, the raw information was given to one of Nixon’s principal speech writers, Lee Huebner, who put the first draft of the message together with the assistance of Pat Moynihan. Patterson also confirmed the president’s commitment to the process. “The concept of self-determination fitted Nixon’s own ideas to a ‘T’—I suppose it could be said that the strengthening of local governments and shifting responsibility and authority away from Washington were good Republican notions, but it must be very strongly emphasized that none of us—Garment or me or Robertson or Erlichman or Nixon—couched this reform in partisan terms. These were reforms that desperately needed enactment—and we looked for—and received—bipartisan support, e.g. from [Oklahoma senator] Fred Harris and many other Democrats.”²²

There was a tendency among pro-Indian activists to view the White House and BIA as incapable of supporting self-determination. Critics such as Philip S. Deloria have questioned whether Nixon really understood or intended the consequences that followed, while Alvin Josephy called the 1970 message “largely rhetoric.”²³ But as George Castile notes, “The Nixon policies set forth in 1970 seem to have simply eluded the notice of many. . . . Vine Deloria for one, entirely ignored the 1970 presidential statement on Indian policy in his account of Indian militancy, *Behind the Trail of Broken Treaties* (1974).”²⁴ In any case, BIA officials in Washington were not very well prepared to implement

the new self-determination policy. Moreover, the tribes had to stretch themselves to comprehend what it meant and were hesitant to go out on a limb.

Philip Deloria implies that there was a residual bitterness between tribal governments and the BIA stemming from direct infusions of OEO funds under the Great Society programs of the 1960s that bypassed the BIA bureaucracy.²⁵ If not bitterness, there was a concern among officials such as Commissioner Philleo Nash and his associate commissioner, James Officer, who were interested in promoting strong tribal governments. In a study of BIA policy during the 1960s George Roth found that “probably the single strongest focus of the Nash administration [1961–66] was on economic development, with education and employment training being given a lot of attention as well. Extensive review was made of the means of facilitating development of resources on reservations. This was in part intended to give tribal governments a strong economic base. Efforts to strengthen tribal governments were to a significant degree focused on developing their capacity to handle financial and economic matters, i.e., to support economic development.” Moreover, “the context in which these policies and programs were developed was an era when tribal resources were very limited, tribal budgets generally tiny, and tribal bureaucracies limited or nonexistent. Tribal chairmen and council members were part-time or completely unpaid.”²⁶ Thus the infusion of OEO funds set up alternative power centers that frequently were at variance with both elected tribal officials and the BIA bureaucracy.²⁷ Nevertheless, with federal poverty program funds waning by 1970, the tribes were again largely dependent on federal largess funneled through the Bureau of Indian Affairs. It would take courageous tribal leaders to step forward and test the waters on the potentially volatile issue of self-determination.

WHY THE MICCOSUKEES?

The small, isolated Miccosukee tribe had always been a risk-taker. Even with the threat of termination looming the Miccosukees adamantly maintained their independence as a people; they wanted nothing to do with the federal government. This was brought out dramatically in Washington and Florida hearings on the Seminole termination bill. During that period Buffalo Tiger emerged on the national scene as a spokesman for the Miccosukee Council before congressional committees and at the state capitol in Tallahassee. At age thirty-four Tiger was not a hereditary leader; rather, he was selected by the traditional tribal elders because of his ability to speak English and because he had lived and worked among white people in Miami.

At a 1954 Washington hearing on the Seminole termination bill Tiger expressed the view that Miccosukees were opposed to any government action that would impair their existing way of life in the Everglades. Senator George Smathers of Florida, a member of the Joint Indian Affairs Subcommittee, sought to identify conditions under which the Miccosukees would accept termination. He asked if they would object if the government assured them that their land would not be stolen, if their land was placed in a corporation for the benefit of all their people. When Tiger demurred, Smathers asked,

“You say we should do nothing. Is that what you are saying, to leave everything as it is?” Tiger replied calmly, “It would be easier for you I imagine.”²⁸ Smathers never convinced Buffalo Tiger that the bill could protect his people by vesting title to the land in the Indians themselves. Then Senator Arthur Watkins of Utah—the most ardent exponent of Indian termination—proposed the idea that Indians would have ownership of the land, something that their children could inherit. He totally missed the point that Miccosukees believed they already had a right to the land through treaties and prior usage; at that point they had no interest in the concept of property in severalty. “I will tell you now,” Tiger stated, “I am pretty sure my people won’t like that. . . . This bill you are speaking about is just a bad thing for the Seminoles.”²⁹

The Miccosukees—often called “Trail Indians” because their Everglades camps were near a cross-state highway called the Tamiami Trail—are closely related by language, lineage, and culture to the Seminoles who live on federal reservations in Florida. Yet, despite strong government urging, they refused to be included in the Seminole tribe when it received federal recognition in 1957. By the late 1950s a faction headed by Buffalo Tiger broke with the medicine men who traditionally led the Miccosukees and shunned contact with the federal government. Tiger’s group, advised by the aggressive Miami attorney Morton Silver, recognized that they needed federal recognition as a separate tribe and had to secure land of their own if they were to remain independent. Although the state of Florida chartered the small tribe in 1957, the BIA was adamantly opposed to recognizing another tribe. After protracted negotiations failed, Buffalo Tiger took a bold move by going to Cuba to meet with Fidel Castro.³⁰ The revolutionary Cuban government formally recognized what it called the “Miccosukee Seminole Tribe” and even offered the members possible asylum in Cuba. Alarmed by the prospect of a native minority consorting with the communist dictator and the propaganda bonanza this would provide in the struggle for Third World loyalties during the Cold War, the Department of State reportedly put pressure on the BIA to grant recognition to the Miccosukees quickly. Although both federal and state authorities quickly contacted Buffalo Tiger and promised recognition, there was foot dragging at the BIA for more than eighteen months. In 1961 the new commissioner, Philleo Nash, reinvigorated the process and sent a BIA expert to determine how the Miccosukees could be organized. In the process a dissident group, encouraged by attorney Morton Silver, who had switched loyalty, challenged Buffalo Tiger for the right to organize the Miccosukee tribe. Eventually the bureau determined that Tiger’s group had the strongest following and allowed it to develop a constitution and bylaws; the Miccosukee Tribe of Indians of Florida received federal recognition in January 1962.³¹ Buffalo Tiger was elected tribal chairman and held that position for twenty-three years.

The nascent tribal organization struggled for the first eight years of its existence.³² There was minimal BIA support for an elementary school, but lack of funds severely limited development opportunities. Miccosukees had some oil exploration lease fees from the state of Florida and received Great Society funds for community development projects. It also borrowed from a BIA revolving fund to establish a restaurant and service station on the

Tamiami Trail. A succession of Indian agents were both paternalistic and insensitive to Miccosukee needs. Moreover, the Miccosukee agency was located at Homestead, a town some forty miles from the tribal population center along the Tamiami Trail. Frustrated at this treatment and anxious to move his people forward economically and socially, Buffalo Tiger saw the 1970 Nixon pronouncement as an opportunity to be taken. What he needed was legal assistance to present his case in Washington.

DYNAMICS OF THE NEGOTIATIONS

S. Bobo Dean is a native Floridian whose career reflects a passionate dedication to seeking justice for American Indian tribes. He holds degrees from Yale and Oxford University as a Rhodes Scholar and is a graduate of the Yale Law School.³³ In 1965 Dean joined the Washington office of a New York law firm then known as Strasser, Spielberg, Fried, Frank, and Kampelman to work on Indian issues. The firm's Washington office was founded by the legendary Felix Cohen, a seminal figure in redefining tribal sovereignty during the New Deal and author of the definitive *Handbook of Federal Indian Law*.³⁴ Dean became closely associated with another notable figure in Indian law, Arthur Lazarus (best known for his work with Sioux land claims), who assigned him to work with the Miccosukees.³⁵ The Association on American Indian Affairs (AAIA), a leading national Indian rights group, had long supported the Miccosukees in their struggle to obtain land and recognition. In 1970 the executive director of the AAIA, Bill Byler, informed Lazarus and Dean that Buffalo Tiger wanted to take over BIA services, primarily the Miccosukee school. This issue was raised just prior to the Nixon statement on Indian self-determination and received strong backing from a group identified as the "Young Turks" of the BIA—Bill King,³⁶ Ernie Stevens Sr.,³⁷ and Alexander (Sandy) MacNabb³⁸—who worked under Commissioner Bruce and were widely recognized as a cadre committed to furthering tribal self-government. In this respect they perpetuated the progressive approach initiated in the 1960s by Philleo Nash and James Officer.³⁹

During a 1998 interview Bobo Dean shared a file of documents with me and recounted how negotiations for a comprehensive Miccosukee contract unfolded:

As of 1970 there was no situation in which an Indian tribe had entered into a contract to run all of the federal programs provided through BIA. There were two instances I can recall that were supposed to reflect the new policy of allowing tribes to run those programs that the BIA typically do. There had been in the statutes since the nineteenth century a provision allowing the BIA employees to work under tribal direction. It was an old statute almost never used. In two instances, at the pueblo of Zuni and the Tlingit and Haida, that had been utilized. From the bureau point of view that was their great breakthrough, that they were allowing the tribal chairman to give direction to the BIA superintendent. That was one option to achieve what the tribe wanted.

In looking into that, I discovered that there were many who felt that was a phony, that it was not real self-determination. I do not know that in terms of my personal knowledge, but I heard that. We decided in consultation with Mr. Tiger and the Business Council simply to submit a proposal to contract for everything that could be contracted, which would be primarily the school but, also, there was resource management and some other small programs. We also proposed to contract for the salary they were paying the superintendent and pay Buffalo to administer the programs.⁴⁰

Dean was quick to acknowledge the support and encouragement that the Miccosukee tribe received from Commissioner Bruce's progressive team within the BIA:

I want to mention three individuals whom I regard as being key in this, what really was an epic-making new initiative. Bill King, Ernie Stevens, Sr., and Sandy MacNabb were, among a few others, described as the Young Turks in the BIA under Louie Bruce. . . . They were looking for ways to turn a new leaf and really allow tribal governments to function as governments. I called Bill King and described what the Miccosukees wanted to do, and he told me "this is just what the Nixon administration is thinking of; we are about to send a message." That was Nixon's message to Congress in 1970. It was just about to be signed off. They were going to propose to Congress that any tribe that wishes can take over and operate the programs within, I think, 90 or 120 days, some specified period. They were delighted that a tribe was interested in doing this and Bill would work with us. [It was accomplished] with the help of Bill King, MacNabb, and Stevens, all of whom got involved at some point. (Dean interview)

In December 1970 Commissioner Bruce advised Tiger that the Miccosukee proposal was sound and promised that the bureau would complete its examination on receipt of certain information from the Miccosukee Indian Agency; Bruce also requested a copy of the Miccosukee General Council resolution authorizing Tiger to sign a contract with the BIA, which was provided. Dean pressed the tribe's position, and on 15 January 1971 Anthony Lincoln, a Navajo area director who was acting commissioner (Bruce was out of town) wrote a letter advising Tiger of the bureau's willingness to enter into an agreement for tribal operation of the Miccosukee Agency, Miccosukee Indian Day School, and related activities.⁴¹ Dean believes the letter from Lincoln was a key document in the negotiations. Based on the conditions set forth in Lincoln's letter, a proposed agreement was prepared and submitted in February 1971, only to confront bureaucratic objections that necessitated numerous revisions. When the tribe sat down and began to negotiate terms that spring, there was one obstacle after another. This must be seen in the context of returning the "Old Guard" to power. Two strong supporters of the Miccosukee position came under immediate pressure. In March of

1971 Ernest Stevens announced his resignation as director of community services, and by June—shortly after the Miccosukee contract was signed—authority over contracting with Indian tribes was taken away from Alexander MacNabb.⁴²

The associate solicitor for Indian affairs asked whether there was legal authority for comprehensive contracting. He reasoned that Congress would have to pass legislation and that until it was enacted, the contracting could not take place. The Miccosukee position was that if it is legal to have procurement contracts with the tribes to run police departments, why can't they do everything? Dean argued there is an area of things that cannot be contracted, so-called inherent federal functions, but most things that are done at the agency level are not in that category. So, why not contract everything in the agency? The area office would pull those things that cannot be contracted back. Associate Solicitor Charles Soller took the position that there was no authority to contract with a tribe, but Miccosukees could do it if they relied on the authority of the Johnson-O'Malley Act, which had been passed in the 1930s, and authorized contracts by the bureau with private corporations to provide educational and social welfare services to tribes. It really was not a self-determination act. It was to let the bureau go out and contract with some, maybe non-Indian, private entities to provide those services. But Soller said that if the tribe had a nonprofit corporation the contract would be legal.

Rather than fighting the point, Dean recommended to Tiger that the tribe should simply form a corporation. Tribes have the inherent authority to charter corporations that are distinct legal entities from the tribe. The solicitor had already ruled in favor of that position. So a charter was drafted for the Miccosukee Corporation, and it was incorporated or chartered by the business council under its inherent authority as a tribal government. The charter was brought to the associate solicitor, and he said that was fine. An opinion by the associate solicitor for procurement and patents also said there was no legal authority to do this, but after a discussion he was turned around. There were also problems with the Interior Department, especially from the staff of Harrison Loesch, who was at that time the assistant secretary above the commissioner. The Office of Survey and Review questioned whether there was legal authority to do this. Although the Miccosukees had negotiated an agreement with the BIA, they learned that unless the authorizing and appropriations committees of Congress approved, the bureau would not honor the commitment that had been made in the letter signed by Mr. Lincoln. The bureaucrats had concluded that Congress did not want them to act. Dean recalled:

I became increasingly irritated. Mr. Tiger, having been faced with this sort of thing from the government all of his life, was very patient. . . . I keep referring to him as Mr. Tiger. That arose out of my concern that when we met with government officials, they would always call him either Buffalo or Buff, as though they were great personal buddies. That struck me as inappropriate, so I felt, as his attorney, I would always call him Mr. Tiger. The unfortunate result of that is that he took

up the practice of calling me Mr. Dean! I think we are still on that, although I feel that I know him well enough now to call him Buffalo. But in the context of negotiations by the tribal Chairman of the sovereign Indian tribal government, I felt that the way they behaved towards him was inappropriate, and I tried to make that clear. (Dean interview)

At one point Dean expressed concern that the Miccosukee tribe had been placed in an awkward position by the absence of clear policy to implement the president's announced goal of contracting with Indian tribes for BIA services and threatened to have his client withdraw the proposal altogether. Bureau officials supportive of the Miccosukee contract pleaded for more time to work things out and dissuaded him from doing so, but there remained stiff opposition. Finally, in total frustration the attorney confided to Tiger:

I am now convinced that what we have encountered over the past few months is not merely a state of confusion and disorganization, but internecine strife within the Bureau and the Department so bitter that our efforts may have been wasted and that further negotiation with the Bureau at this time is in my view absolutely fruitless unless the President's policy is promptly implemented by the execution of this contract. . . .

There are, indeed, within the Bureau and within the Department dedicated individuals who are sincerely trying to improve the lot of Indian people. However, we are dealing here with a bureaucratic faction which has not accepted the idea that Indian people should have a share in the determination of their future, a clique which is determined to keep its own power and privileges, and which views the administration of Indian affairs from the standpoint of its own selfish interests and not with a view to the improvement of the life of Indian people. . . . I sincerely believe that the present Commissioner of Indian Affairs is trying to do a good job and that the problem is that he may not be able to break the power of the little faction of bureaucrats whose interest is not in the welfare of Indian people, but in their own jobs and influence. As you know, the proposal which you have made to the Bureau is completely consistent with the Indian policy of the Nixon Administration set by the President himself. Unfortunately, the Administration may not be able to command sufficient loyalty from the bureaucracy to carry through on the promises held out in the President's statement.⁴³

Evidently writing this lengthy letter served as a catharsis for Dean, and he returned to the fray with vigor, spending the next two months lobbying key members of the Florida congressional delegation and other Washington figures. Then on 1 April 1971 Commissioner Bruce informed Dean that the Interior Department had instructed him not to enter into a contract with the Miccosukees notwithstanding the favorable decisions by the solicitor's office

and favorable recommendations from the BIA program staff. Incensed at this news, Dean immediately fired off letters of protest to significant government figures—with positive results.⁴⁴

Dean later pointed to James A. Haley (Dem., 7th District) as a prime mover in securing a favorable outcome:

I think a key was Haley, the Congressman from Sarasota. He had been the Ringling Brothers manager and had been an acrobat, I believe, a fascinating person—he met with us, was convinced it was a good idea, and wrote a really sharp letter to the Department [of the Interior] that they ought to get on with us. He was chairman of the committee that was responsible for Indian affairs, so he was a key player. Ultimately, there was a lot of congressional pressure, and the committees approved it, which was helpful even though their approval was not required. Now, in all this negotiation, basically, the main program was the school. That is where most of the money went. We had started in the summer of 1970, before the school year started. We negotiated up until May and when the contract was finally signed and put in effect, I believe it was like three or four days of the school year were left. But they did go through with it. They turned over the programs to the tribe, and the Tribe has operated all the bureau services from 1971 to the present.⁴⁵

In July of 1970 the Zuni tribe took over direction of BIA employees, utilizing congressional authorization from an act of 30 June 1834. Therefore, Zuni is often cited as the first example of Indian self-determination through contracting. However, as Dean explained it, basically what made the philosophy of the Miccosukee contract distinct from those at Zuni, Tlingit, and Haida, was the view that if the tribe was paying the employees, then it would have control over what was going on. As long as the employees were federal, they would worry about the federal position. If the Miccosukee tribe could hire and fire, it would really control the programs.

THE INDIAN PERSPECTIVE

Buffalo Tiger had his own recollections about the struggle for self-determination. In the beginning the tribe didn't know how to run the schools or any other business and had no funds; it was totally dependent on the government. Yet Tiger always believed the tribe would eventually take control of its affairs. One major obstacle to closing the Miccosukee Agency and transferring its functions to the tribe was determining how to organize the school curriculum. Another was deciding what to do about BIA employees:

We didn't know too much about running the school or any business, and of course we didn't have any funds to do that. The Bureau seemed to have funds to operate the school and pay the teachers and whatever. But we had a lot of concerns about how the school should work. Particularly my people—not me but my people—didn't want to see

Miccosukee youngsters learning strictly English and never speaking their own language. . . . So we decided half-a-day in English, and Miccosukee the other half of the day; in other words, we split the day so it wouldn't just be learning English because we realize Miccosukees should keep their culture and language. . . .

As far as contracting the school and programs, not only the school but everything—self-determination we called it—we had an idea that's what we were [eventually] going to do when we accepted the constitution and bylaws. We didn't want the Bureau running our affairs. We didn't want the Bureau telling us what to do. We were old enough, and we have been here long enough, so let us run it ourselves. If we make mistakes, then we make mistakes.

Commissioner Louis Bruce—he is part Indian—approved that, and we both signed a contract agreement. . . . The paper I signed people called “buy Indian,” and that's when we had to let the Bureau people [at the Miccosukee Agency] know either they were going to be working for us or they could go to other reservations for a job if they wanted to. They had a chance to keep their office by working for us. They didn't want that. There used to be an office in Homestead, and the Bureau said go ahead and take the furniture and everything there, and if the employees do not want to work with you, let them go back where they came from. And we did that; they closed down, and we took over.

Everybody knows about contracting, but some tribes didn't want to do that. I didn't have it easy. Really, it was not easy. The Cherokees didn't want me to do it. The Seminoles didn't want it. Nobody wanted what I was doing. I didn't see how the other reservations like Cherokee and Choctaw and big tribes have the Bureau running affairs for them; some of them liked it that way, but we didn't. We never lived under the Bureau and we didn't want it.⁴⁶

Bobo Dean confirmed the significance of Buffalo Tiger's role in opening the way for other tribes to pursue contracting with the federal government. He is convinced that the success of the Miccosukee contract made it easier to pass PL 93-638.⁴⁷ Moreover, it was not a case where attorneys drafted all the documents and tribal leaders merely rubber-stamped them. Dean took his directions from the Indian tribal leadership. Tiger, despite his lack of formal education, exercised wise leadership and had a clear vision of what his people wanted and needed. Some officials thought they were not going to be able to handle it and would remain dependent on the BIA. But—due largely to the wisdom of Tiger and the tribal business council—the Miccosukees did not employ tribal members who lacked the skills needed at that time. They brought in some non-Indians, and have continued to employ non-Indians, when they felt tribal members lacked the requisite skills for a job. The handle they have on the non-Indians, however, is that they can hire and fire them, and they have fired people when they did not do what the tribe wanted, and sometimes when they just got tired of them.

There was always a suspicion in some quarters that the Miccosukee tribe, because of the low level of educational attainment among the tribal leadership, was being manipulated by attorneys and consultants. Dean vigorously denies this:

What I can say is that I, meticulously, I think he would agree with this, followed his direction. I of course cannot speak Miccosukee. Although more Miccosukees speak English today, in the 1960s and 1970s many older Miccosukees were not fluent in English, and Buffalo Tiger was the person who communicated their wishes. The contracting was, in fact, a political issue. It was Buffalo who led the Tribe and persuaded the Tribe. In an election, I think in the early 1970s, there was an opposition and the vote came out for Buffalo, which was a sanction from the Tribe for going forward. So, I would have to say that Buffalo is far wiser and far more effective than many people that I have worked with in Indian affairs, many of whom are federal and some tribal officials, or folks, and who are far more fluent in English than he is. I worked closely enough with him to be absolutely convinced of that. (Dean interview)

From 1971 to 1975 the Miccosukee tribe, together with tribal contract schools, were the pioneers in practicing self-determination through contract. On the Navajo Reservation a number of local school boards contracted their schools; at Pine Ridge and around the country were other schools. Again, that was a situation in which the money went to the tribe or tribal organization. They would hire the employees, sometimes using the Intergovernmental Personnel Act assignments so the people would stay federal. Meanwhile, the administration's request languished in Congress, partly because of the tribal feeling that the Nixon administration's proposal was too revolutionary. It did not allow the BIA to refuse to contract even if it was convinced that the tribe was totally incapable of administering the program. It was entirely up to the tribe. That was the "Young Turk" approach, but it was about to change:

Calvin Brice drafted a bill, which would eliminate contracting problems, and the concerns in the Department that this was beyond what they had authority to do. That bill was sent as a compromise. That would have basically authorized, expressly, what we were doing at Miccosukee. [It was] the key to the Indian Self-determination legislation, as it was finally adopted, and I cannot take credit for this. I reviewed and made suggestions and consulted with Mr. Tiger about how we should get this legislation done. Another attorney for the Ramah [Navajo] school board, Mike Gross—the Ramah school board was a contract school—proposed in his testimony that, where the bill said the Bureau of Indian Affairs was authorized to contract with tribes, they change it to authorized *and directed*. With that direction came a provision allowing the bureau to decline to contract based on specific standards. To me, that has been the key to the success of 638,

as it became known, Public Law 93-638. . . . That legislation was passed in 1975 and became the Indian Self-Determination Act. I think the contracts that took place prior to 1975, the Miccosukee Tribe's contract and the various school contracts, were the precedent and led the way in that. That makes Buffalo's role in self-determination very important. (Dean interview)

Evidently there was no consensus among tribal leaders concerning the advisability of accepting responsibility for conducting their own affairs free of BIA supervision. After years of federal paternalism many Indians were hesitant, while others suspected it was a ploy to further termination policies. Buffalo Tiger was never hesitant; once given the legal opportunity to dump the Indian Agency and contract directly with Washington, the Miccosukees seized it. Furthermore, the soft-spoken Tiger was a conciliatory and moderating influence among Indian leaders in the Southeast. Following passage of the Indian Self-Determination Act in 1975, there was a meeting at the Eastern Area Office to go over proposed regulations. Philip Martin, chairman of the Mississippi Band of Choctaw Indians and an outspoken proponent of self-determination, criticized the bureau for trying to limit tribal rights, while John Crow from the Eastern Band of Cherokees roundly denounced the act and said that this is just like the termination legislation and that no consultation had taken place. He called it the Indian Self-Termination Act and didn't want anything to do with it. Two strong leaders were taking opposite positions, and the meeting was getting tense. At that point Buffalo Tiger got up and said, "Now, I have great respect for my good friend Chief Martin. I really think that everything he said was very good, for his tribe. And I have a lot of respect for my good friend, Chief Crow, and I think everything he said was good for his tribe. The thing that we need to be clear on is that each tribe has the right to follow its own way."⁴⁸ This speech calmed the consultation meeting. The point gradually emerged that a tribe did not have to contract if it did not want to. This was not something being forced on tribes, but it would give tribes an option to contract. Dean concluded:

I have watched him, in many instances, play that kind of role which, to me, was impressive in terms of his understanding of the people that he was dealing with, in what I would describe as wisdom which has very little to do with formal education. I think of the old expression about "educated fools." People can have many degrees but not really have a perception about the people they are dealing with or not be able to communicate effectively. The Tribe has gone on. It has always been in the forefront of self-determination and played a role in the amendments to the act to strengthen it, and in the development of better regulations. It continues to do that. (Dean interview)

CONCLUSION

The tenacity of Buffalo Tiger and his tribe, with the support of Bobo Dean, Commissioner Bruce, and the “Young Turks,” helped pave the way for American Indian tribes to assume control over their own affairs following passage of the 1975 Indian Self-Determination Act. In the ensuing thirty years since that initial contract with the Bureau of Indian Affairs, the Miccosukee tribe has developed in its own unique way. The people have benefited from educational and social programs developed with federal funds sent directly to the business council. Miccosukee health care benefited significantly from a health clinic set up under a contract with the Indian Health Service.⁴⁹ The Miccosukee Day School organized a community-centered curriculum and used bilingual education funds to develop materials in both Miccosukee and English languages.⁵⁰ In 1976, utilizing Law Enforcement Assistance Administration funds, the Miccosukees established a public safety department to provide police and fire protection on the reservation; they also initiated a tribal court to exercise jurisdiction over civil offenses committed on reservation land.⁵¹ This was in marked contrast to the Seminole tribe of Florida, which retained a federal Indian agency and opted not to set up a tribal court even after it was permitted to do so by Florida law. However, both Florida tribes would eventually prosper economically from high-stakes bingo emporiums on their reservations.⁵² These gaming activities have withstood challenges in federal court and perhaps represent the ultimate exercise of self-determination within defined—although rapidly evolving—legal boundaries.⁵³ In retrospect, though, it all began with the 1971 Miccosukee struggle to secure a contract that set the course for other tribes. Buffalo Tiger, now eighty-five years of age and a venerated tribal elder, remains proud of that legacy.

NOTES

1. *New York Times*, 13 June 1971.
2. H. D. Rosenthal, *Their Day in Court: A History of the Indians Claims Commission* (New York: Garland, 1990), 47–50.
3. 67 *Stat.* B132 (1 August 1953).
4. David E. Wilkins, *American Indian Politics and the American Political System* (New York: Rowman and Littlefield, 2002), 21.
5. 67 *Stat.* 588 (15 August 1953).
6. Harry A. Kersey Jr., *An Assumption of Sovereignty: Social and Political Transformation among the Florida Seminoles, 1953–1979* (Lincoln: University of Nebraska Press, 1996), 23–50.
7. Bureau of Indian Affairs, *Constitution Bylaws of the Seminole Tribe of Florida, Ratified August 21, 1957* (Washington, DC: Government Printing Office, 1958).
8. *Public Papers of the Presidents of the United States, 1970* (Washington, DC: Government Printing Office, 1971), 564–76; Samuel R. Cook, “Self-Determination without Termination: Richard Nixon’s Indian Policy Revisited,” *Native American Studies* 12, no. 1 (1988): 1–11.
9. Peter Iverson, “Building Toward Self-Determination in the 1940s and 1950s,” *Western Historical Quarterly* 16, no. 2 (April 1985): 163–73.

10. Vine Deloria Jr. and Clifford Lyle, *The Nations Within: The Past and Future of American Indian Sovereignty* (New York: Pantheon, 1984), 216.

11. Thomas Clarkin, *Federal Indian Policy in the Kennedy and Johnson Administrations, 1961–1969* (Albuquerque: University of New Mexico Press, 2001), 259–62; Daniel M. Cobb, “Philosophy of an Indian War: Indian Community Action in the Johnson Administration’s War on Indian Poverty, 1964–1968,” *American Indian Culture and Research Journal* 22, no. 2 (1998): 71–102.

12. Emma R. Gross, *Contemporary Federal Policy toward American Indians* (New York: Greenwood Press, 1989), 36.

13. *Ibid.*, 69.

14. Jack D. Forbes, *Native Americans and Nixon: Presidential Politics and Minority Self-Determination, 1969–1972* (Los Angeles: American Indian Studies Center, 1981), 31.

15. *Ibid.*, 42.

16. *Ibid.*, 121.

17. *Ibid.*, 122.

18. Dean J. Kotlowski, *Nixon’s Civil Rights: Politics, Principle, and Policy* (Cambridge, MA: Harvard University Press, 2001), 197.

19. Alvin M. Josephy Jr., “The American Indian and the Bureau of Indian Affairs: A Study with Recommendations, February 11, 1969,” in *Red Power: The American Indian’s Fight for Freedom* (New York: McGraw-Hill, 1971); Edgar S. Cahn, ed., *Our Brother’s Keeper: The Indian in White America* (Washington, DC: New Community Press, 1969).

20. Bradley J. Patterson Jr., personal correspondence, 9 May 2002.

21. *Ibid.*

22. *Ibid.* Essential elements of Patterson’s account also appear in George Pierre Castile, *To Show Heart: Native-American Self-Determination and Federal Indian Policy, 1960–1975* (Tucson: University of Arizona Press, 1998), 84–85.

23. Philip S. Deloria, “The Era of Indian Self-Determination: An Overview,” in *Indian Self-Rule: First-Hand Accounts of Indian-White Relations from Roosevelt to Reagan*, ed. Kenneth R. Philp (Salt Lake City, UT: Howe Brothers, 1986), 202. Alvin Josephy, “Modern America and the Indian,” in *Indians in American History*, ed. Frederick E. Hoxie and Peter Iverson (Wheeling, IL: Harlan Davidson, 1998), 212.

24. Castile, *To Show Heart*, 160.

25. Deloria, “Era of Indian Self-Determination,” 197–200.

26. George Roth, “The BIA Program for Building Tribal Governments under Philleo Nash and James Officer, 1961–1966” (paper presented at the annual meeting of the Society for Applied Anthropology, Seattle, WA, 8 March 1997), 3–4.

27. Donald L. Parman, *Indians and the American West in the Twentieth Century* (Bloomington: Indiana University Press, 1994), 151; Stephen Cornell, *The Return of the Native: American Indian Political Resurgence* (New York: Oxford University Press, 1988), 193–94; Vine Deloria Jr., *Custer Died for Your Sins: An Indian Manifesto* (Norman: University of Oklahoma Press, 1988), 138–39; S. Lyman Tyler, *A History of Indian Policy* (Washington, DC: Government Printing Office, 1973), 244–47.

28. US Congress, *Termination of Federal Supervision over Certain Tribes of Indians: Joint Hearing before the Subcommittee of the Committee of Interior and Insular Affairs on S 2747 and HR 7321, pt. 8: Seminole Indians, Florida*, 83rd Cong., 2nd sess., 1 and 2 March 1954 (Washington, DC: Government Printing Office, 1954), 1088.

29. *Ibid.*, 1089.

30. Harry A. Kersey Jr., "The Havana Connection: Buffalo Tiger, Fidel Castro, and the Origin of Miccosukee Tribal Sovereignty, 1959–1962," *American Indian Quarterly* 25, no. 4 (fall 2001): 491–507.

31. Bureau of Indian Affairs, *Constitution and Bylaws of the Miccosukee Tribe of Indians of Florida, Ratified December 17, 1961* (Washington, DC: Government Printing Office, 1962).

32. Kersey, *An Assumption of Sovereignty*, 190–92.

33. S. Bobo Dean, "Making a Difference: The Federal Policy of Indian Tribal Self-Determination and Self-Governance," *American Oxonian* 87, no. 1 (winter 2000): 9–16.

34. Felix Cohen, *Handbook of Federal Indian Law* (1942; repr. Albuquerque: University of New Mexico Press, 1972).

35. Edward Lazarus, *Black Hills/White Justice: The Sioux Nation versus the United States, 1775 to the Present* (New York: Harper Collins, 1991). This work provides a summary of Lazarus's legal work for the Sioux.

36. William King was a former superintendent at the Salt River Agency and a close friend of Associate Commissioner James Officer. See Castile, *To Show Heart*, 5–7, 47–48; Alexander (Sandy) MacNabb, "Federal Indian Policy, 1960–1976," in Philp, *Indian Self-Rule*, 213.

37. Ernie Stevens, a former American Indian Policy Review Commission staff member, was often mentioned as one of the "good guys" at the BIA. Ada Deer stated, "There are good bureaucrats and there are bad bureaucrats. Ernie Stevens, Sandy McNabb [*sic*], and Louis Bruce were some of the very good people in the Bureau of Indian Affairs" (Ada Deer, "Activism and Red Power," in Philp, *Indian Self-Rule*, 233–34). On the same topic activist Hank Adams noted, "The NTCA [National Tribal Chairman's Association] requested a police action to 'take those people out' of the BIA building. They meant kill them, because members of the American Indian Movement and other activists were in there. Some of the good guys such as Ernie Stevens, Sandy McNabb [*sic*], LaDonna Harris, and Louis Bruce were even talking about assaulting the building" (Hank Adams, "Activism and Red Power," in Philp, *Indian Self-Rule*, 241).

38. Alexander (Sandy) MacNabb was a supporter of contracting with the tribes. He served as acting commissioner of Indian affairs in the Nixon administration. See MacNabb, "Indian Policy, 1960–1976," 213–15.

39. Tyler, *History of Indian Policy*, 204–7.

40. S. Bobo Dean, interview by author, 30 October 1998, Samuel Proctor Oral History Program, Gainesville, FL, SEM 217. Subsequent references are cited parenthetically in the text.

41. Anthony Lincoln to Buffalo Tiger, 15 January 1970 (correspondence on file at Hobbs, Straus, Dean, and Walker [HSDW], Washington, DC).

42. Forbes, *Native Americans and Nixon*, 43–44.

43. S. Bobo Dean to Buffalo Tiger, 31 March 1971, HSDW.

44. A partial list of this correspondence includes S. Bobo Dean to Hon. Lawton Chiles, 2 April 1971, HSDW; S. Bobo Dean to Hon. Sam J. Ervin Jr., 2 April 1971, HSDW; S. Bobo Dean to Hon. Paul J. Fannin, 2 April 1971, HSDW; S. Bobo Dean to Hon. James A. Haley, 2 April 1971, HSDW; S. Bobo Dean to Hon. Edward J. Gurney, 2 April 1971, HSDW; S. Bobo Dean to Bradley H. Patterson Jr. (Executive Assistant to Mr.

Garment), 2 April 1971, HSDW; S. Bobo Dean to Hon. Claude Pepper, 2 April 1971, HSDW; S. Bobo Dean to Hon. Rogers C. B. Morton, 2 April 1971, HSDW; S. Bobo Dean to Hon. Paul G. Rogers, 2 April 1971, HSDW.

In reviewing this article Bradley Patterson commented:

Why didn't the Miccosukees, or Dean, not pick up the phone and complain to Garment or me about foot-dragging going on there? I don't remember either of them ever doing that. I would have immediately called Soller or anyone else in the BIA or Department of the Interior and would have given them a stiff White House reminder to get with the program. The Alaska Natives, for instance, never hesitated to let us know when the Interior legislative draftsman was sliding off the policy in drafting the Alaska Native Claims Act (which had been fought out all the way to Erlichman's office). Bobbie and I would call up the Interior draftsman and give him a kick in the shins—until we got a draft bill that was exactly to our specifications. There were countless other examples of our office being pulled into the implementation of the Nixon policy, and we never hesitated to use strong White House pressure to straighten lesser officials out. (Bradley J. Patterson Jr., personal correspondence, 6 July 2002)

45. Dean interview. James Haley was an accountant who married one of the Ringling heirs and assumed management of the Ringling Brothers Circus. See Henry Ringling North and John Alden Hatch, *The Circus King* (New York: Doubleday, 1960), 321–31.

46. Buffalo Tiger and Harry A. Kersey Jr., *Buffalo Tiger: A Life in the Everglades* (Lincoln: University of Nebraska Press, 2002), 111–14.

47. 88 *Stat.* 2203 (4 January 1975).

48. Quoted in Dean interview.

49. See Tiger and Kersey, *Buffalo Tiger*, 108–10.

50. See Harriet P. Lefley, "Effects of a Cultural Heritage Program on the Self-Concept of Miccosukee Indian Children," *Journal of Educational Research* 67 (July-August 1974): 462–66; US Senate, *Hearings before the Special Subcommittee on Indian Education of the Committee on Labor and Public Welfare on the Study of the Education of Indian Children, pt. 1*, 90th Cong., 1st and 2nd sess., 14 and 15 December 1967, Washington, DC, and 4 January 1968, San Francisco, CA (Washington, DC: Government Printing Office, 1969), 79–80. A condensed version of Buffalo Tiger's testimony is found in Virginia Irving Armstrong, comp., *I Have Spoken: American History through the Voices of the Indians* (Chicago: Sage, 1971), 155–56.

51. Kersey, *An Assumption of Sovereignty*, 195.

52. *Seminole Tribe of Florida vs. Butterworth*, 658 F.2d 310 (5th Cir. 1981); Brian M. Greene, "The Reservation Gambling Fury: Modern Indian Uprising or Unfair Restraint on Tribal Sovereignty?" *BYU Journal of Public Law* 10, no. 1 (1996): 93–116.

53. *Seminole Tribe of Florida vs. Florida*, 116 S. Ct. 1114 (1996); Charles Irwin, *A Discussion of the Seminole Decision* (Washington, DC: Tribal Gaming Commission Administrators, 1996).

