

The Colorblind Turn in Indian Country: Lumbee Indians, Civil Rights, and Tribal State Formation

by

Harold Walker Elliott

A dissertation submitted in partial fulfillment
of the requirements for the degree of
Doctor of Philosophy
(History)
in the University of Michigan
2019

Doctoral Committee:

Professor Philip Deloria, Co-Chair, Harvard University
Professor Matthew Lassiter, Co-Chair
Associate Professor Matthew Countryman
Professor Barbra Meek
Professor Tiya Miles, Harvard University

Harold Walker Elliott

hwelliot@umich.edu

ORCID iD 0000-0001-5387-3188

© Harold Walker Elliott

2019

DEDICATION

To my father and mother,
Hal and Lisa Elliott

And for Lessie Sweatt McCloud,
her ancestors,
and her descendants

ACKNOWLEDGMENTS

This dissertation is the culmination of eight years of graduate study and nearly a decade of research, writing, and editing. The result is deeply imperfect. Its faults come from my many shortcomings as an author. For anything this project does accomplish, I owe credit to the many people who have helped me along the way.

Completing this project would have been impossible without the love, support, and inspiration of my parents, Hal and Lisa Elliott. During my upbringing, they instilled the values that guided me through the moral choices that a project like this one entails. My mother and her family have always been the driving forces behind my research into Lumbee and American Indian history. My father, a reluctant physician, passed down his fondness for history and dream of writing it. In the many difficult moments over the past eight years, my parents steadied me with long hugs or reassuringly familiar, South Carolina-accented voices on the phone. Their unconditional love and tireless support saw me through periods of emotional turmoil, financial instability, intellectual frustration, and physical exhaustion. This project is woefully inadequate as repayment for their countless sacrifices. I can only hope to make them proud and show them how much I love them too.

I could have never finished this project without my partner, Jasmine Zweifler. Over the past year and a half, she's guided me through the final, most desolate leg of this journey. Our bond has been strong from the beginning, but I've been amazed at her warmth and understanding in the many moments I've been distracted from giving our partnership the attention it deserves.

Although warmth and understanding would have more than sufficed, she's given so much more than that. She's convinced me to eat and drink when otherwise I wouldn't have. She's patted my head and told me everything would be okay when I was scared and couldn't sleep. She's tolerated the cocoon of coffee cups, notebooks, archival copies, and other assorted filth that envelops my workspace, despite her understandable distress at such an eyesore amid her carefully selected living room décor. Most of all, she's believed in me at times when I didn't believe in myself. Without her, I couldn't have mustered the strength to complete this process. She's a godsend, and I love her with all my heart.

Andrei Stefanescu was there when I stumbled into this project during my junior (his sophomore) year as an undergraduate at Chapel Hill, and he's left an indelible mark on its intellectual architecture. Andrei is a brilliant biostatistician, mathematician, and epidemiologist who has contributed more to my ideas about evidence and causation than perhaps any other person. As both a researcher and a person, he's committed to and cares deeply about American Indian people, and he's always pushed me to make my work helpful for indigenous communities. After surviving middle school, high school, college, and some graduate school together, Andrei and I have developed a trust that can only come from personally observing all the ugly, embarrassing minutiae of someone else's transition from adolescence to adulthood. No matter how near or far apart we've lived, he's been a steady, constant presence in a world of uncertainty. His daily phone calls have snapped me out of countless depressive funks and self-important existential crises. Our conversations have sometimes been about this project; more frequently, they've provided a much-needed outlet to vent about our careers and personal lives, exchange grim jokes about politics and current events, and shamelessly luxuriate in our shared obsession for Carolina basketball. To call him my best friend would be an affront to the

inexplicable, unbreakable bond we've developed over the past fifteen years. Andrei is my brother.

I also owe a debt of gratitude to Nicole Harvey. For five of the most important years of my life, Nicole and I were partners in every sense of the term. Our relationship is an uncommon one, forged over half a decade of sharing the most minute details of each other's lives and work. As an artist and fellow academic, Nicole helped me come to terms with the so-called creative process. She has critiqued my work more honestly than anyone else yet has managed never to hurt my admittedly delicate feelings, a magic trick I attribute to her disarming Philadelphia bluntness.

Over the course of my academic career, I have worked with some of the most brilliant historians who have ever lived; collectively, they've set such a high bar that even my feeble imitation of their craft looks pretty good.

As an undergraduate at UNC-Chapel Hill, I was blessed to work with Theda Perdue and Malinda Maynor Lowery. Back in 2011, Theda was (and remains) a legendary scholar and founding mother of American Indian history; I was a pimply, ignorant, undergraduate nobody. Simply signing off on my senior honors thesis would have been generous; instead, she enthusiastically line-edited my drafts, oversaw my graduate school applications, and guided me to my first (and still only) academic publication. Just as importantly, she also trained my other mentor at Carolina, Malinda Maynor Lowery. Malinda has been a great friend and priceless resource. I estimate that she taught me about nine-tenths of what I know about Lumbee Indians. She is an intellectual giant and one of Native America's greatest treasures.

When I list the members of my dissertation committee, it's not uncommon for listeners to widen their eyes or slacken their jaws in disbelief. Matt Lassiter's generosity to graduate students

is legendary and borders on superhuman. Matt has built an entire community of scholars at the University of Michigan who wield his ideas with the enthusiasm of religious converts. Once, after I told a Native studies colleague of mine who my advisor was, she smirked and said, “Oh, so you’re one of the Lassiterians!” Despite his unfathomable workload, Matt has always been ready to roll up his sleeves and do the dirtiest work of advising: editing horrible drafts, guiding me through academic bureaucracy, and talking me down from various crises. My co-advisor, Phil Deloria, is probably the most influential indigenous intellectual alive, and I have a hard time thinking of many dead guys who’d beat him either. Tiya Miles is the most gifted storyteller-historian of our generation. She’s a (certified) genius with an intellect that is razor-keen. She’s also the only genius I’ve ever met whose genius isn’t her best quality. That would be her unshakeable moral uprightness, which I’ve seen both in her work and her compassion for me and my fellow graduate students. Barb Meek is a genuine friend and such a great teacher that she even got me to swallow some critical theory. She’s also the funniest member of my committee. Matthew Countryman is a close second, and I’ve benefited tremendously from his insights and frankness.

I firmly believe that there is no better place to be a graduate student than the University of Michigan. The history department staff has done a remarkable job covering up for my absent-mindedness and total inability to understand paperwork. I am also grateful the other graduate students in the department. Most of the actually productive conversations I had in graduate school happened over drinks or while milling about during office hours. Habitual offenders included Nora Krinitsky, Katie Rosenblatt, Courtney Cottrell, Jacques Vest, Adam Johnson, Tatiana Cruz, Andrew Walker, David Spreen, and Antonio Ramirez.

Finally, I would like to thank the Lumbee, Tuscarora, and other indigenous community members who taught me over the course of this project. Virginia and Howard Brooks welcomed me into their home when I showed up as a stranger on their doorstep. I have tried my utmost to honor the stories they gave me by transmitting them faithfully and respectfully. I owe an immense debt to Bruce Jones and Rod Locklear, original directors of the Lumbee Regional Development Association, for the time they took to educate me about their lives and careers. Both are giants in Lumbee history. I also want to thank Christina Theodorou of the American Indian Center at UNC-Chapel Hill, who fleshed out my picture of the great Doctor Fuller Lowry and taught me about the urban Piedmont Lumbee communities. I wish a happy retirement to my friend Danny Bell and want to thank him again for taking me to Lumbee Homecoming. The first time I went, I got sunburned and felt alone; when I went with Danny, I got sunburned and felt like family. Thanks as well to my Cherokee and Keetoowah friends in Oklahoma: Asa Lewis, Corey Still, Travis Wolfe, Eric “Dalala” and Krit Marshall, Kinsey Shade, and the rest of the gang. You guys were the first to showed me just how beautiful Indian Country and the reason I wanted to hang around.

TABLE OF CONTENTS

DEDICATION	ii
ACKNOWLEDGMENTS	iii
LIST OF FIGURES	ix
LIST OF ABBREVIATIONS	x
ABSTRACT	xii
INTRODUCTION	
TRIBAL SOVEREIGNTY AND THE COLORBLIND TURN	1
CHAPTER 1	
TRIBAL STATE, RACIAL STATE: SEGREGATIONIST LIBERALISM AND POLITICAL DEVELOPMENT IN PEMBROKE AND RALEIGH	25
CHAPTER 2	
BACK AND FORTH: MIGRATION, CONSUMER CULTURE, AND THE BEGINNING OF THE END OF JIM CROW RECOGNITION	75
CHAPTER 3	
“THE RATHER FAMOUS LUMBEEES”: CIVIL RIGHTS AND THE (NATIVE) AMERICAN WAY	120
CHAPTER 4	
“WHAT WE NEED IS A ‘RED POWER MOVEMENT’”: LUMBEEES, LABOR, AND MIGRATION IN NORTH CAROLINA’S WAR ON POVERTY	178
CHAPTER 5	
OF LUMBEEES AND TUSCARORAS: SCHOOL DESEGREGATION, THE ADMINISTRATIVE STATE, AND EXCLUSIONARY INCORPORATION	224
CHAPTER 6	
DREAD SOVEREIGNS: TRIBAL AND SETTLER STATE DEVELOPMENT IN THE ERA OF <i>MANCARI</i>	284
EPILOGUE	
THE BIOPOLITICS OF INDIAN COUNTRY	335
BIBLIOGRAPHY	350

LIST OF FIGURES

FIGURE 1.1: MAP OF ROBESON COUNTY, NORTH CAROLINA	31
FIGURE 1.2: INDIAN NORMAL SCHOOL BOARD OF TRUSTEES, 1936	47
FIGURE 2.1: ADOLPH DIAL WITH THE JUNIOR CLASS AT PEMBROKE STATE COLLEGE, 1942	94
FIGURE 3.1: CHARLIE WARRIAX AND SIMEON OXENDINE POSE WITH A CAPTURED KU KLUX KLAN BANNER, 1958	122
FIGURE 3.2: “THE VANISHING AMERICANS,” 1958	123
FIGURE 3.3: PRINTED PAMPHLET OF LACY MAYNOR’S SPEECH TO THE 1958 NCAI CONVENTION... 145	145
FIGURE 3.4: HELEN SCHEIRBECK (NÉE MAYNOR), CIRCA 1962	149
FIGURE 3.5: BENNY LOCKLEAR, 1977	151
FIGURE 4.1: MOBILITY PROJECT PROMOTIONAL BOOKLET, CIRCA 1965	192
FIGURE 4.2: CAROL ELK, A RELOCATED AMERICAN INDIAN TEXTILE MILL WORKER, 1966.....	198
FIGURE 4.3: FOLD-OUT BROCHURE FOR MITCE’S RURAL NEWCOMER PROGRAM, CIRCA 1968.....	207
FIGURE 5.1: HOWARD BROOKS AND ANGELA DAVIS AT A MEETING OF THE NORTH CAROLINA ALLIANCE AGAINST RACIST AND POLITICAL REPRESSION, 1974.....	228
FIGURE 5.2: HOWARD BROOKS AND BILL SARGENT IN LUMBERTON, 1973.....	262
FIGURE 5.3: GOLDEN ASRO FRINKS, 1973.....	264
FIGURE 5.4: INTERRACIAL SPEAKERS AT A TUSCARORA COUNCIL DEMONSTRATION IN RALEIGH, 1973	271
FIGURE 6.1: MEL TONASKET SPEAKS AT THE NCAI CONVENTION IN SAN DIEGO, 1974.....	302

LIST OF ABBREVIATIONS

- AAIA** | Association on American Indian Affairs
- AIPRC** | American Indian Policy Review Commission
- ANA** | Administration for Native Americans
- BIA** | Bureau of Indian Affairs
- CDIB** | Certificate of Degree of Indian Blood
- CETA** | Comprehensive Employment Training Act
- DOL** | Department of Labor
- ECIC** | East Carolina Indian Community (also known as ECIO)
- ECIO** | East Carolina Indian Organization (also known as ECIC)
- EEOA** | Equal Employment Opportunities Act
- FSA** | Farm Security Administration
- GAO** | General Accounting Office
- HEW** | Department of Health, Education, and Welfare
- HHS** | Department of Health and Human Services
- HUD** | Department of Housing and Urban Development
- ICRA** | Indian Civil Rights Act
- IHA** | Indian housing authority
- LRDA** | Lumbee Regional Development Association
- MCIA** | Michigan Commission on Indian Affairs

MDTA | Manpower Development and Training Act

MITCE | Manpower Improvement Through Community Effort

NAARPR | National Alliance Against Racist and Political Repression

NAPA | Native American Programs Act

NCAI | National Congress of American Indians

NCCIA | North Carolina Commission of Indian Affairs

NCIO | National Council for Indian Opportunity

NCSIHA | North Carolina State Indian Housing Authority

NTCA | National Tribal Chairmen’s Association

OCR | Office for Civil Rights (a subdivision of OE)

OE | US Office of Education (a subdivision of HEW)

OEO | Office of Economic Opportunity

OIA | Office of Indian Affairs (former designation of the BIA)

ONAP | Office of Native American Programs

SACS | Southern Association of Colleges and Schools

USET | United Southeastern Tribes

ABSTRACT

In the years after World War II, the United States federal government haltingly eliminated race-conscious law, a defining feature of the American tradition of government since the republic's founding that seemed suddenly incongruous with the nation's emerging role as a global advocate for ethnoreligious tolerance, free-market capitalism, and liberal universalism. Although the gradual dismantlement of Jim Crow segregation and the passage of civil rights legislation designed to remedy African American disfranchisement dominate the historical memory of the era, the colorblind turn also revolutionized the government's relationship with American Indians. Although the Constitution, judicial precedent, and treaty law defined that relationship as one between unequal sovereigns, postwar federal legislators, jurists, and bureaucrats grappled with the persistent historical conflation of nationhood with race and struggled to separate a purely political definition of Indian status from this color-conscious taint that threatened to undermine the entire legal edifice.

The Lumbee Indians of North Carolina sat at the confluence of these contested categories of race and indigeneity. After decades of relative isolation in their impassably swampy homelands, Lumbees entered a marriage of convenience with North Carolina's Jim Crow regime in the late nineteenth century. Lacking a reservation, treaties, and most other historical artifacts of the federal relationship, the Indian group came up empty in their repeated efforts to secure federal assistance but nevertheless built an unconventional tribal government centered on their

state-authorized, segregated, all-Indian public schools and college. Amid the colorblind turn, federal authorities deemed these tribal institutions illegally discriminatory and slowly desegregated them. Reeling Lumbee political leaders again sought federal recognition of their tribal status but ran headlong into the first federal efforts to square US obligations to indigenous peoples with nascent race-neutral ideology, namely by severing or “terminating” its relationships with tribes altogether. A unique byproduct of this so-called termination era, the 1956 Lumbee Act simultaneously acknowledged the group’s Indian identity and forbade receipt of federal services based on that status. Atop this legal and institutional wreckage, a small, mobile, educated cadre of Lumbee activists and bureaucrats painstakingly wrung support from an Indian affairs apparatus rejuvenated after the repudiation of termination and enlarged by continued, fitful attempts to redefine the federal relationship. Although tribal recognition continued to elude them, Lumbees assembled a convincing approximation of the type of constitutional, administrative tribal government emerging across Indian Country. As Lumbees interfaced with the colorblind Indian affairs regime, their marginal and unique status illuminated the growing autonomy of the federal administrative state, the changing balance of power within US federalism, and increasing importance of tribal sovereignty as a counterweight to civil rights law.

**INTRODUCTION:
TRIBAL SOVEREIGNTY AND THE COLORBLIND TURN**

On July 5, 1979, Assistant General Counsel Kathleen Sauerbrunn racked her brain as she composed an opinion on an unfamiliar subject: the eligibility of federally non-recognized North Carolina tribes for federal Indian housing funds. An attorney for the Department of Housing and Urban Development (HUD), Sauerbrunn spent most of her mental energy on environmental impact statements, eminent domain disputes, and loans to local housing authorities; she was out of her element in American Indian law. Despite her relative inexperience, she diligently researched the relevant precedents and statutes to answer a query from the local counsel at HUD's field office in Greensboro, North Carolina, who was concerned that the newly organized North Carolina State Indian Housing Authority's (NCSIHA) exclusive selection of Native American tenants violated the nondiscrimination and fair housing provisions of the 1964 and 1968 Civil Rights Acts.¹

The North Carolina General Assembly had approved the creation of NCSIHA as part of a 1977 update to the state's public housing regulations. Lawmakers drafted the Indian housing bill in coordination with the North Carolina Commission of Indian Affairs, a state agency that

¹ K.H. Sauerbrunn to Max G. Redding, "North Carolina State Indian Housing Authority," 5 June 1979, folder 22, box 293, Records of the National Congress of American Indians, National Museum of the American Indian Archive Center, Smithsonian Institution [hereinafter NCAI Records]; K.H. Sauerbrunn to Max G. Redding, "North Carolina State Indian Housing Authority," 15 October 1979, folder 22, box 293, NCAI Records; *Flint Ridge Dev. Co. v. Scenic Rivers Assn.*, 426 U.S. 776 (1976); Ronald A. Johnson, "The Interstate Land Sales Full Disclosure Act: An Analysis of Administrative Policies Implemented in the Years 1968-1975," *Catholic University Law Review* 26, no. 2 (Winter 1977), 348-363.

represented the interests of state-recognized Indian peoples. Lumbees, with a population of roughly forty thousand concentrated around Robeson County, represented the largest and most influential these groups. The commission oversaw the new housing authority on an interim basis and was empowered to select a board of directors to represent North Carolina's seven state-recognized tribes and urban intertribal associations. In early 1979, state Commissioner of Indian Affairs Bruce Jones, a Lumbee and veteran administrator, appointed a board and contacted the HUD field office in Greensboro to inquire about NCSIHA's eligibility for federal Indian housing set-asides. However, the stipulation in the 1977 authorizing legislation that "tenants in [NCSIHA-managed] projects shall be Indians" concerned the local counsel, who contacted Sauerbrunn at the national HUD office for clarification on whether this mandate complied with federal fair housing and antidiscrimination laws.²

Drawing on the 1974 US Supreme Court decision in *Morton v. Mancari* and the newly standardized Bureau of Indian Affairs (BIA) federal acknowledgment criteria, Sauerbrunn determined that the exclusive selection of Native American tenants would indeed violate federal law. Because the Indians that NCSIHA represented were not members of "quasi-sovereign," federally recognized tribes, she reasoned, their Indian status constituted a racial designation. Sauerbrunn explained that the housing authority's eligibility for Indian-specific funding "turn[ed] upon the status of the North Carolina Indians" served by NCSIHA. Notably, that group excluded the state's sole federally acknowledged tribe, the Eastern Band of Cherokee Indians, which already administered a tribally constituted Indian housing authority. Sauerbrunn argued

² An Act to Establish the North Carolina State Indian Housing Authority, House Bill 1237, Chapter 1112, Session of 1977 (North Carolina 1977); J.P. Bullard, Jr. to Robin Shield, 27 December, 1979, folder 22, box 293, NCAI records.

that in recent decisions “the Supreme Court has emphasized the significance of Federal recognition and quasi-sovereign tribal authority” to justify special provisions for Indian tribes. In *Morton v. Mancari*, in which white BIA employees alleged that the bureau’s preferential hiring and promotion of Indian employees constituted illegal racial discrimination, a unanimous court found that the preference was permissible because it was not racial, but rather a *political* distinction defined by tribal citizenship. “Since the North Carolina Indians are not federally recognized and do not possess powers of self-government,” she concluded, the NCSIHA “would be subject to the prohibitions against racial discrimination” under federal law. Only the United States could certify an indigenous people’s sovereignty; North Carolina’s recognition of “Indian tribe[s] is a racial classification,” not a protected political status.³

Likely anticipating legal and political fallout from this adverse opinion, the local HUD counsel replied to ask Sauerbrunn to consider whether the 1968 Indian Civil Rights Act (ICRA) exempted Lumbees and other state-recognized tribes from federal fair housing laws. Perhaps leery of nullifying state law by administrative fiat or reluctant to deny minority tenants access to badly needed housing, Sauerbrunn concocted a novel interpretation of ICRA, a rider to the general 1968 Civil Rights Act primarily intended to compel tribal governments to extend basic civil liberties to members. Although NCSIHA seemingly failed to meet ICRA’s definition of a tribe as “any group of Indians...recognized as possess[ing] powers of self-government...executive, legislative, and judicial,” she speculated that under a more liberal reading, the authority needed only “those powers of self-government necessary to accomplish the

³ K.H. Sauerbrunn to Max G. Redding, “North Carolina State Indian Housing Authority,” 5 June 1979, folder 22, box 293, NCAI Records; K.H. Sauerbrunn to Max G. Redding, “North Carolina State Indian Housing Authority,” 15 October 1979, folder 22, box 293, NCAI Records; *Morton v. Mancari*, 417 U.S. 535 (1974); 25 U.S. Code § 1301.

purposes for which the group of Indians was formed.” In other words, NCSIHA wielded *just enough* sovereignty to constitute a tribe for the narrow purpose of “provid[ing] safe and sanitary dwelling accommodations for Indians of low income.” Sauerbrunn interpreted ICRA to mean that tribes (or, in this instance, tribe-adjacent entities) were obligated only to provide equal protections to tribal members under tribal law, which exempted them from federal fair housing regulations as nonracial, “quasi-sovereign” entities under *Mancari*. I prefer to think that Sauerbrunn helped herself to a stiff drink and a midday nap after this disorienting game of juridical Twister, although it is far likelier that she simply exhaled and continued about her day under the fluorescent lights of the HUD headquarters in Washington.⁴

As Sauerbrunn’s headache-inducing legal encounter with Lumbee Indians demonstrated, the postwar advent of “colorblind” legal doctrine and rights-based political culture had profound, complicating consequences for the governance of indigenous peoples—nettlesome subjects that defied comfortable incorporation into the American liberal tradition. Motivated by anxieties about ethnoreligious heterogeneity at home and the fight against racist fascism abroad, American political leaders and administrators embarked on an ambitious, if halting, transition from race-conscious to race-neutral governance in the years after World War II, a process that found its most dramatic expression in the dismantlement of Jim Crow segregation and African American disfranchisement in the South. Federally non-recognized and deeply enmeshed in the segregation infrastructure of their home state of North Carolina, Lumbee Indians were uniquely exposed to the indirect consequences of the colorblind turn for Indian Country. In the three generations after the American Civil War, Lumbees painstakingly redirected the raw materials of segregation to

⁴ Ibid.

assemble makeshift tribal institutions centered on separate Indian public schools. No longer able to distinguish Indian schools from their segregated white counterparts, federal authorities slowly disbanded this centerpiece of Lumbee political life as part of the broader campaign against Jim Crow. Although administrators tolerated exclusive tribal institutions elsewhere in Indian Country, Lumbees fell outside the aegis of federal acknowledgment, or the formal recognition of a tribe's legal standing and legitimate existence that increasingly came to justify legislation and programs directed toward Indian people.⁵

The US Supreme Court finalized the colorblind reformulation of legal Indian status in the 1974 *Mancari* opinion, which cleaved Indian identity into its racial and political components in order to preserve congressional authority to single out Indians in ways that would constitute illegal discrimination in other contexts. In embracing tribal sovereignty to define legal Indianness, the courts and administrative state scrubbed away decades of federal Indian law and jurisprudence conflating race with nationhood, stoked a strident and exclusionary vision of tribal sovereignty, and facilitated the rise of bureaucratic Indian governments among tribes with federal recognition, as well as those aspiring to it. As the United States government struggled to square the particularism of Indian policy with the ascendant universalism of civil rights liberalism, its fitful thrashing added new layers of precedent, legislation, doctrine, and bureaucratic regulation to the already expansive and contradiction-riddled corpus of Indian law. For Lumbee Indians and their institutions, the new Indian affairs regime presented both dangers and opportunities. As Lumbees learned to manipulate the growing federal administrative state,

⁵ Wendy Wall, *Inventing the "American Way": The Politics of Consensus from the New Deal to the Civil Rights Movement* (New York: Oxford University Press, 2007), 15-63; Risa Goluboff, *The Lost Promise of Civil Rights* (Cambridge: Harvard University Press, 2007), 1-15.

their marginal and exceptional status threatened, strengthened, and illuminated the inner workings of the settler state's regulatory authority over indigenous peoplehood.⁶

Lumbee efforts to grapple with the colorblind postwar political order help to unravel the fundamental question of why the United States—as a military and economic superpower newly positioned as the foremost global advocate for liberal republican government—maintained and indeed expanded a profoundly particularistic legal and administrative regime to govern indigenous peoples representing less than one percent of its total population. The present-day Indian affairs regime comprises a Gordian knot of treaties, statutes, judicial precedents, and executive policies so labyrinthine, voluminous, and diverse as to make even US Supreme Court justices throw up their hands in frustration. A Native law student reported in 2016 that the late Justice Antonin Scalia, recalling a 1997 case involving her father, intimated that “when it comes to Indian law, most of the time we’re just making it up.” One complicating factor is the sheer number of indigenous peoples, each with a unique legal framework for its federal relationship. The United States is party to 374 binding Indian treaties and dozens of unratified agreements; maintains relationships with 344 federally recognized Indian tribes and 229 Alaska Native entities; holds fifty-six million acres of land in trust; and has enacted Indian affairs legislation comprising an entire title of its statutory code.⁷

Beyond the chaotic medley of treaties and statutes at the federal level, a still murkier legal universe governs Lumbee Indians and other federally non-recognized indigenous peoples.

⁶ *Morton v. Mancari*, 417 U.S. 535 (1974).

⁷ April Youpee-Roll, “Just Making It Up: On Justice Scalia, Indian Law and the Supreme Court’s Failure,” *The Missoula News*, 18 February 2016; General Services Administration, “Ratified Indian Treaties: 1722-1869,” (Washington, DC: National Archives Microfilm Publications, 1973); National Congress of American Indians, “Tribal Nations & the United States: An Introduction,” no date, <www.ncai.org/tribalnations>; Title 25, US Code.

More than fifty American Indian groups maintain relationships with individual states but lack full federal acknowledgment. For some groups, state recognition has served as a waystation to federal acknowledgment. For over three centuries, the Pamunkey Tribe occupied a reservation under the terms of a seventeenth-century treaty, which the Commonwealth of Virginia recognized but the United States did not. Although the tribe applied to the newly created BIA Office of Federal Acknowledgment in the 1980s, the BIA approved the Pamunkey petition only in 2015 after the Interior Department reversed its legal position. Dozens of other tribes, such as North Carolina's Waccamaw-Siouan and Coharie Indians, have been indefinitely consigned to the purgatory of state recognition despite ample documentation of their claims. Non-Indian aboriginal groups like Native Hawaiians and the Chamorro struggle under creaky administrative relics peculiar to the eras of their subjugation. Despite widespread international recognition of the Kingdom of Hawaii prior to US annexation, Native Hawaiians lack the legally enshrined sovereignty of Indian tribes, which has exposed their institutions and benefits to bad-faith equal protection suits. On the mainland, historical accidents of federal policy have likewise produced unique, ambiguous categories of indigenous peoples. In an ill-fated attempt to extricate the government from its web of obligations, members of Congress attempted curtail or "terminate" federal services to individual tribes in the two decades after World War II. Since the late 1960s, Congress has restored relations with nearly every terminated tribe, but a few remain in limbo. Members of this hard-luck club include the Nisenan, who were barred from retroactively sharing in a 1983 judgment that restored seventeen other terminated California rancherías; the Brothertown Indians, whom the BIA claimed to have forfeited their tribal status after accepting US citizenship in 1839; and arguably the Lumbees, the subjects of a bizarre 1956 federal statute that offered symbolic recognition for their peoplehood but forbade receipt of federal services

“for Indians because of their status as Indians.” Passed at the zenith of termination and the cusp of racial desegregation, the so-called Lumbee Act marked the midway point in the group’s meandering journey from the smothering paternalism of state recognition under Jim Crow to the ambiguous, semi-recognized status that has persisted into the twenty-first century.⁸

Lumbee Indians’ institutional entanglement with segregation exposed the group to the consequences of the colorblind turn. A polyglot mass of peoples displaced by colonial violence and disease, Lumbees’ ancestors likely included the Cheraw and other Siouan-speaking tribes; the Christianized Northern Tuscarora who allied with colonists in the 1711 Tuscarora War; and various Algonquian-speaking coastal peoples who coalesced in the mid- to late eighteenth century around the dense, forbidding swamps near Drowning Creek (also known as the Lumbee or Lumber River). There they adopted a distinctive dialect of English as a lingua franca and assimilated poor whites, free blacks, and Afro-Indians expelled from reservations in Virginia. Ensnared along the disputed and sparsely populated border between North and South Carolina, these proto-Lumbees escaped removal and other excesses of federal Indian policy but were left without treaties, reservations, tribal rolls, and most other hallmarks of the state-to-state, sovereign relationship between tribes and the US government. The community remained relatively insulated from settler authority until the Civil War, when the Confederate States’

⁸ Joe Heim, “A Thanksgiving Ritual: Two Va. Tribes Present Deer to Governor as Tribute,” *The Washington Post*, 25 November 2015; J. Kēhaulani Kauanui, “Sovereignty Struggles and the Legacy of the 50-Percent Rule,” in *Hawaiian Blood: Colonialism and the Politics of Sovereignty and Indigeneity* (Durham: Duke University Press, 2008), 135-161; Avery White and Brooke Schueller, “The California Tribe the Government Tried to Erase in the 60s,” *Vice*, 17 January 2018 <www.vice.com/en_us/article/vbyxnx/the-california-tribe-the-government-tried-to-erase-in-the-60s-456>; Craig Cipolla, *Becoming Brothertown: Native American Ethnogenesis and Endurance in the Modern World*, (Tucson: University of Arizona Press, 2013), 45-6; Kathleen A. Brown-Perez, “A Right Delayed: The Brothertown Indian Nation’s Story of Surviving the Federal Acknowledgment Process” in *Recognition, Sovereignty Struggles, and Indigenous Rights in the United States: A Sourcebook*, ed. by Amy E. Den Ouden and Jean M. O’Brien (Chapel Hill: University of North Carolina Press, 2013), 237-62; An Act Relating to the Lumbee Indians of North Carolina, Public Law 84-570 (1956).

efforts to conscript Indian men for forced labor sparked folk hero Henry Berry Lowry's seven-year guerilla campaign against the Home Guard and postbellum white authorities. After regaining the franchise during Reconstruction, they allied with black voters in staunch support for the Republican Party in the hotly contested electoral contests in their heavily nonwhite home county of Robeson. In 1885, however, State Representative Hamilton McMillan broke this biracial coalition when he convinced his Democratic Colleagues in the General Assembly to extend explicitly racial recognition and segregated Indian schools to the "Croatans," so designated after McMillan's fanciful theory that they descended from survivors of the Lost Colony at Roanoke and friendly coastal tribes. Two years later, the legislature also authorized an Indian "normal" school to train indigenous teachers.⁹

Lumbee tribal government existed long before the segregated public schools, but their founding represented a step toward Lumbee tribal statehood. Both before and after state recognition, Indians governed themselves through ad hoc "Indian Meetings" in their local communities (or "settlements"), which bore an uncanny resemblance to eighteenth-century indigenous village politics, as well as through the hierarchy of their mainly Baptist and Methodist churches, a practice that mirrored the political functions of the church in the African American tradition. However, administering, staffing, and regulating admission to Indian segregated schools created a new layer of governance that cut across divisions of family, denomination and kinship and provided a platform for negotiation with white authorities. Lumbees used this newfound institutional legitimacy to request federal assistance first in 1889

⁹ Malinda Maynor Lowery, *Lumbee Indians in the Jim Crow South: Race, Identity, and the Making of a Nation* (Chapel Hill: University of North Carolina Press, 2010), xi-18, 249-50, 252-60; Adolph L. Dial and David K. Eliades, *The Only Land I Know: A History of the Lumbee Indians* (San Francisco: The Indian Historian Press, 1975).

and again in 1914, but lawmakers and the Office of Indian Affairs calculated that the imposition of “wardship” would inculcate dependency and stifle this relatively “advanced” band of enfranchised citizen-Indian farmers and teachers apparently thriving under Jim Crow. By the time Congress recognized (and terminated) the community in 1956, however, the system of segregation that undergirded their institutions had begun to give way, forcing postwar Lumbee leaders to reconfigure their system of government in response to the rapidly changing legal and political environment.¹⁰

Wendy Wall’s *Inventing the “American Way”* provides insight into the evolution of American liberalism that informed the transition to postwar civil rights and termination policy. According to Wall, policymakers and liberal intellectuals of the 1930s, looking anxiously toward the country’s newly enlarged population of southern and eastern Europeans, fretted that immigrants would follow the example of their Old-World cousins by responding to economic instability with radical right- or left-wing politics. Given the profusion of fascist, national socialist, anarchist, and communist groups during the Great Depression, such fears were not entirely unjustified. In this environment, pluralistic appeals to the idea of the United States as a “nation of nations” headed off totalitarianism by invoking American exceptionalism, affirming a need for “tolerance” under the ideals of liberal democracy, and managing categories of difference through recognition and surveillance. By the postwar years, the imperative to

¹⁰ Ibid.; Karen Blu, *The Lumbee Problem: The Making of an American Indian People* (Lincoln: University of Nebraska Press, 2001), 86; Tyler Boulware, *Deconstructing the Cherokee Nation: Town, Region, and Nation among Eighteenth-Century Cherokees* (Gainesville: University of Florida Press, 2011); Evelyn Brooks Higginbotham, *Righteous Discontent: The Women’s Movement in the Black Baptist Church, 1880-1920* (Cambridge: Harvard University Press, 1994).

celebrate American diversity had become ingrained in the political culture of bipartisan “consensus,” which served as a platform for negotiating a wide variety of political projects.¹¹

No less an expression of colorblind ideology than subsequent civil rights legislation, the termination era of federal Indian policy represented a foundational rupture that cleared away older, racialized definitions of Indian status and conditioned Lumbees’ unique federal acknowledgment status. For roughly twenty years after World War II, Congress embarked on a campaign—always aspirational and piecemeal—to curtail federal assistance, dissolve reservations, and transfer jurisdiction from tribes to state and local authorities, particularly among tribes like the Menominee and Klamath deemed sufficiently “assimilated.” This emphasis on assimilation gestured toward earlier, racialized understandings of Indianness; the attempt to dissolve this definition (along with Indian political communities themselves) presaged later definitions based in tribal citizenship. Articulated *Cherokee Nation* and *Worcester v. Georgia* and affirmed in *Ex parte Crow Dog*, American jurisprudence had long recognized tribes as distinct political communities, but this notion belied the nineteenth- and early twentieth-century conflation of racial identity with sovereignty and nationhood—not only in the context of tribal sovereignty, but also of a US sovereignty rooted in white supremacy. Before World War II, federal jurists and Indian affairs policymakers consistently described the relationship between tribes and the federal government as one of “wardship,” a term that gestured toward presumed racial and political inferiority, and used language indicating the slippage between the categories of “race” and “nation.” In a concurring opinion to the foundational 1831 *Cherokee Nation* decision, Associate Justice William Johnson speculated that British conquest had “blotted [the

¹¹Wendy Wall, *Inventing the “American Way,”* 15-63; Elizabeth A. Povinelli, *Economies of Abandonment: Social Belonging and Endurance in Late Liberalism* (Durham: Duke University Press, 2011), 1-36.

Cherokees] from among the race of sovereigns.” More bluntly, Chief Justice Roger Taney ruled in 1845 that “a white man who at mature age is adopted in an Indian tribe does not become an Indian” for the purposes of criminal prosecution, since a federal statute regulating the boundary between federal and tribal jurisdiction applied not to “members of a tribe, but of the [Indian] race generally.” The text of the 1898 Curtis Act, which divided communal reservation lands into individual allotments in Indian Territory, specified that US criminal jurisdiction applied “without reference to race or citizenship.” In his 1885 opinion in *United States v. Kagama*, Samuel Freeman Miller articulated wardship status in explicitly racial terms to justify Congress’s “plenary” or unbounded power “over those remnants of a race once powerful, now weak.” The emerging science of heredity (alongside its vulgar counterpart, scientific racism) carried the racialized wardship definition of Indian status into the early twentieth century and transformed it from nebulous common sense to objective fact. The 1920 Hawaiian Homes Commission Act, for example, assigned trust based on the fractional amount of “blood of the races inhabiting Hawaiian Islands previous to 1778” in order to “rehabilitate” Native Hawaiians, presumed to be in racial decline. After the end of World War II, however, Congress proposed to “liberate” Indians from reservations and tribal jurisdiction. Although often explained as a Cold War reaction against collectivism, this rationale for termination also represented a rejection of the wardship paradigm, which associated tribal and reservation governments with paternalistic, racist statism.¹²

¹² Hawaiian Homes Commission Act, 1920 § 212 (1920); Kauanui, *Hawaiian Blood*, 136-161; *Ex parte Crow Dog*, 109 U.S. 556 (1883); *Cherokee Nation v. Georgia*, 30 US (5 Pet.) 1 (1831); *Worcester v. Georgia* 31 US (5 Pet.) 515 (1832); Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788-1836* (Cambridge: Harvard University Press, 2010); Michael Witgen, “Prologue: The Long Invisibility of the Native New World,” in *An Infinity of Nations: How the Native New World Shaped Early North America* (Philadelphia: University of Pennsylvania Press, 2013), 1-21.

The spasmodic but endless attempts to “reform” of the federal relationship with Indians reflected the complications of adapting European liberalism to US settler colonialism, which foundered on the twin imperatives of rule of law and equality before the law. In the process of usurping the political independence and territorial integrity of Indian peoples, the US government produced a vast, bewildering body of treaties, agreements, and statutes. However, the contingent and particular nature of these legal artifacts disrupted the uniformity of liberal jurisdiction by granting “special” rights to certain citizens. The state is therefore caught between the imperative to respect living law and the urge to rationalize the disturbing particularism of tribal government. The United States’ repeated attempts to reconcile this contradiction by recourse to its final sovereignty—or “plenary power,” in Indian law parlance—has demonstrated the inherent violence behind liberal rule while sinking the state deeper into the quicksand of legal contradiction. According to Italian political theorist Giorgio Agamben, liberal republics position themselves as rights givers in order to combat their endemic crisis of legitimacy in the absence of an embodied sovereign. During the civil rights era, arguably the peak of federal commitment to the liberal ideal of equality before the law, Indians remained a troublesome loose thread in the fabric of an otherwise triumphant American state.¹³

The Lumbee Indians’ contested and imperfect incorporation into the postwar colorblind Indian affairs regime also complicates celebratory narratives of the pivot to so-called self-determination policy in the late 1960s and reveals the inherent violence of sovereignty, both tribal and national. Both contemporaneously and historiographically, postwar termination policy

¹³ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Palo Alto: Stanford University Press, 1998); Giorgio Agamben, *State of Exception* (Chicago: University of Chicago Press, 2005); David E. Wilkins and Heidi Kiiwetinepinesiik Stark, *American Indian Politics and the American Political System* (Rowman and Littlefield Publishers, 2010).

has been widely and correctly regarded as unjust in principle and disastrous in its practical implications. In response to a slate of congressional legislation aimed at severing relationships with individual tribes, the National Congress of American Indians (NCAI), a representative pan-tribal advocacy organization, organized and publicized an “emergency conference” in 1954. That meeting culminated in the adoption of the Declaration of Indian Rights, which reminded elected settler officials that their forebears had “first dealt with our tribal governments as sovereign equals” and predicted the dire moral and human consequences of termination. As historians like David Beck have demonstrated, the termination of the Menominee, Klamath, and other tribes devastated commonly held economic and natural resources, exacerbated poverty and political divisions in affected communities, and created unforeseen administrative and jurisdictional problems. Understandably, contemporaries and chroniclers alike have celebrated the repudiation of this disastrous policy and the subsequent reaffirmation of the federal relationship under the rubric of self-determination, formally articulated by Lyndon Johnson and largely implemented under his successor, Richard Nixon. Historians of postwar politics and social movements have sometimes narrated the Indian advocacy that prompted this shift within the context of rights-based activism in the US or global post-colonialism. Native studies specialists have often subtly compared this adoption of self-determination to the policy achievements of the “classical” civil rights movement, even as they have carefully distinguished the fundamentally separatist aims of indigenous politics from the universalist and civic integrationist bent of mainstream black activism. Recent scholarship on the civil rights movement, however, has uncovered the social and institutional costs and missed opportunities of articulating black political goals in terms of colorblind rights claims. Lumbee marginalization during the resurgence of tribal sovereignty in the colorblind era prompts a similar critical reappraisal of triumphal narratives on the resurgence

of Indian self-government, as well as a closer inspection of the relationship to the civil rights movement. Crafted with African-American subjects in mind, postwar civil rights law and policy represented the single most important manifestation of the colorblind turn, which leveled Lumbee institutions and elevated federal acknowledgment of tribal sovereignty as the dominant, race-neutral legal rationale for distinctive Indian political existence. This federal-tribal relationship encouraged the growth and bureaucratization of tribal governments, whose officials jealously guarded their newfound, limited claims to sovereignty, often at Lumbees' expense. At the 1974 and 1975 NCAI conventions, delegates overwhelmingly approved resolutions calling for enforcement of the Lumbee Act's termination clause and curtailment of the group's access to Indian-specific funding. Seeming departures from the 1954 Declaration of Indian Rights, these anti-Lumbee measures merely logically extended that document's position on sovereignty, which by definition entails enforcement of the boundaries of legitimate political belonging.¹⁴

Alongside the federal policy promoting nonracial Indianness, postwar population mobility and the rapid urbanization of the American Indian population contributed to the rise of exclusionary, bureaucratic tribal regimes of care across Indian Country. In 1950, some ninety percent of American Indians in the United States lived in rural areas; by the 1980 federal census,

¹⁴ Joseph R. Garry to the President of the United States, 10 March 1954, box 257, folder "General Correspondence circa 1954," NCAI Records; Dan Cobb, *Native Activism in Cold War America: The Struggle for Sovereignty* (Lawrence: University of Kansas Press, 2008); Lyndon B. Johnson, "President Johnson's Indian Message to Congress: The Forgotten Americans," 6 March 1968, in *Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1968-69*, vol. 1, 336-37; Richard M. Nixon, "President Nixon, Special Message on Indian Affairs," 8 July 1970, *Public Papers of the Presidents of the United States: Richard Nixon, 1970*, 564-567; Vine Deloria, Jr., "The Red and the Black" in *Custer Died for Your Sins: An Indian Manifesto* (New York: Macmillan Publishing Company, 1969), 168-19; Risa Goluboff, *The Lost Promise of Civil Rights*; Leslie Brown, *Upbuilding Black Durham: Gender, Class, and Black Community Development in the Jim Crow South* (Chapel Hill: University of North Carolina Press, 2008); no title, coded "Lumbee-11," *American Indian Press Association News*, no date, circa 1974, box 42, folder 343, Helen Maynor Scheirbeck Papers, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill [hereinafter Scheirbeck Papers]; Resolution No. NCAI 75-54, box 396, folder 1, NCAI Records; Resolution No. NCAI 75-46, box 396, folder 1, NCAI Records.

the population had become majority-urban and -suburban. Despite intense scholarly focus on the federal government's termination-era Indian relocation program, unassisted migration accounted for the vast majority of this demographic revolution and stemmed from more prosaic conditions, such as economic stagnation in rural and reservation communities, the relative affluence of postwar metropolitan areas, and the increasing availability of affordable transportation. These trends fueled a national surge in mobility that touched nearly all segments of the American population and wrought dramatic social and political changes. In *The Warmth of Other Suns*, Isabel Wilkerson stirringly narrativizes the demographic and cultural implications of African-American participation in this mobility revolution, known as the Second Great Migration; James Gregory provides an empirical, quantitative analysis in *The Southern Diaspora* that reveals the widespread, if differently configured, migration of white Southerners; and Darren Dochuk has compellingly argued that these white Southern migrants catalyzed important national political movements, including as the rise of the Christian right and strains of modern conservatism. Unlike other racial and ethnic affiliations, American Indian identity is subject to mediation from tribal as well as national government, and the population's rapid urban migrations altered the structures of both. At once Southern, indigenous, and rural, Lumbees vigorously participated in this mobility boom and illustrate the unity of postwar demographic shifts otherwise studied in isolation. Lumbees established several highly transient urban communities, including settlements of over three thousand in metropolitan Detroit, Baltimore, Charlotte, and Greensboro. As streams of mainly young, mainly unskilled Indians rotated between (and among) these urban hubs and

Robeson County, their transience and anonymity created the need for a portable form of indigeneity, which stimulated the growth of the community's makeshift tribal administration.¹⁵

Broadly similar demographic patterns across Native America revitalized tribal governments, reorganized their institutions and outlooks, and generated intertribal conflict around sovereignty. As Indian people left rural and reservation communities in droves, the relative importance of land politics waned as tribes adapted to project power over more elusive, geographically diffuse populations. By the 1970s, representatives of reservation-based tribes, such as the National Tribal Chairmen's Association (NTCA), grew resistant to sharing federal resources with the urban and non-recognized Indian organizations that threatened to dilute their authority and influence. Lumbees, with their large and visible urban exclaves, became the favored shorthand for anxieties about both. Gradually, the focus of tribal and intertribal politics shifted away from land management toward service delivery and the certification of belonging. This transition closely fitted Agamben and theoretical forebear Michel Foucault's model of "biopolitics." To project power onto mobile populations, biopolitical regimes deemphasize territorial and punitive forms of governance and instead focus their sovereignty on facilitating the well-being of their citizenry, creating what Miriam Ticktin has labeled "regimes of care." Because sovereignty is violent and resources are scarce, however, biopolitics tends toward a fixation on the boundaries among subjects to be cared for, marginalized, and excluded. Lumbees bore the brunt of the increasingly assertive, exclusionary exercise of tribal sovereignty in the

¹⁵ Isabel Wilkerson, *The Warmth of Other Suns: The Epic Story of America's Great Migration* (New York: Vintage Books, 2011); James Gregory, *The Southern Diaspora: How the Migrations of White and Black Southerners Transformed America* (Chapel Hill, University of North Carolina Press, 2005); Darren Dochuk, *From Bible Belt to Sunbelt: Plain-Folk Religion, Grassroots Politics, and the Rise of Evangelical Conservatism* (New York: W.W. Norton & Company, 2012).

early to mid-1970s. Subject to the same legal and demographic forces, however, Lumbee institutions and governing ideologies began to converge with those of their federally recognized peers. As the Indian population completed its urban transformation in the 1980s, Lumbees and recognized tribes alike articulated tribal sovereignty as virtually coextensive with “the basic right of American Indian tribes in determining who its members are.”¹⁶

By the 1970s, as the expanding and increasingly autonomous federal bureaucracy assumed responsibility for implementing colorblind policy in Indian Country and elsewhere, Lumbees joined the ranks of federal administrators and helped direct the process to their community’s benefit, a development lends nuance to scholarly models of community development. The role of the state in managing identity categories and the communities they define is a central, pressing question in the twentieth-century history of the United States. In his influential 1995 study of the Los Angeles Chicano community, historian George Sánchez emphasizes the agency of his subjects, as well as their class and cultural environs, in tracing the trajectory of their development as a distinct ethnoracial subpopulation with which courts, executive agencies, and other state institutions had to contend. “It is clear that the power of governmental bodies to encourage or dictate particular forms of cultural adaptation was minimal,” Sánchez bluntly declares in articulating his bottom-up methodology. Thomas Sugrue, on the other hand, attributes far greater causal power to state actions. In his history of the racial fragmentation of postwar Detroit, Sugrue emphasizes federal housing and economic policies that

¹⁶ Miriam I. Ticktin, *Casualties of Care: Immigration and the Politics of Humanitarianism in France* (Berkeley: University of California Press, 2011); Giorgio Agamben, *Homo Sacer*; Douglas K. Miller “Willing Workers: Urban Relocation and American Indian Initiative, 1940s-1960s,” *Ethnohistory* 60 no. 1 (January 2013), 51-76; Harold Deese to the Indian Rights Association, 17 August 1987, box 369, folder 123, Indian Rights Association Records, Pennsylvania Historical Society, Philadelphia, PA [hereinafter IRA Records].

underwrote suburbanization and cleaved the metropolitan landscape into starkly unequal, racially polarized, and politically opposed halves. Since the advent of ethnohistory in the late 1970s and the gradual development of a “new Indian history” in subsequent decades, American Indian specialists have largely eschewed Sugrue’s top-down approach for methodologies more akin to Sánchez’s. The Lumbee odyssey with the colorblind postwar administrative state illuminates the false choice between cultural and political, or bottom-up and top-down, models of community formation, as well as the promise of a return to state-centered methodologies in the study of American Indians, arguably the most governed segment of the US population. Between 1968 and 1988, for example, Lumbee Regional Development Association (LRDA), gradually evolved from a colorblind antipoverty organization into a full-fledged tribal government, in large part due to the complex exchanges and interactions between its staff and the federal bureaucracy. Co-founded by three former War on Poverty administrators, LRDA was modeled on federal and state antipoverty agencies. Over the course of its largely unplanned transition to tribal authority, the association’s officials partnered with on a small but influential group of Lumbee bureaucrats serving with executive agencies in Washington, including HEW, the Indian Claims Commission (ICC), the BIA, and the Department of Agriculture. Arguably the most influential was Helen Maynor Scheirbeck, who served as an Indian affairs specialist with the HEW’s Office of Education (OE) during the critical period from 1968 to 1973, which saw HEW-mandated desegregation of Robeson County’s Indian schools and the implementation of legislation funding special Indian education programs. Persuasive and energetic, Scheirbeck carved out a long and influential career in and around the federal government, serving as an NCAI intern in the late 1950s, an employee of the Senate Subcommittee on Constitutional Rights, and an administrator affiliated with the Office of Economic Opportunity and OE before transitioning to academia and

private consulting in the mid-1970s. Much of the legislation and administrative policy that structured LRDA's tenuous relationship with the federal government bore Scheirbeck's imprint, a testament to the growing role of the bureaucrats as policymakers and members of a *de facto* "fourth branch" of government.¹⁷

Despite the importance of Scheirbeck and Washington's other Lumbee administrators, maintenance of the growing Indian affairs infrastructure also depended on non-Native careerists, such as HUD's Kathleen Sauerbrunn, particularly as Congress dispersed responsibility for Indian programs to agencies outside the BIA. Unlike scholars of eighteenth- and nineteenth-century borderlands, historians of twentieth-century Native America do not have the option to write about politically, demographically, or militarily dominant indigenous peoples. Despite their small share of the US population, however, American Indian activists, bureaucrats, and tribal officials shaped the development of the postwar American empire. Much like the Comanches of the "Spanish" borderlands, however, their influence has been largely shielded from historical view, most apparent when their gravity distorts the expected trajectory of known objects. Working alternately as grit or lubricant in the wheels of postwar colorblind liberalism, Lumbee Indians and the rest of Native America acted as both authors and subjects in the construction of a vast, multifaceted legal and administrative apparatus that served as both a microcosm and laboratory for American political development.¹⁸

*
**

¹⁷ George J. Sánchez, *Becoming Mexican American: Ethnicity, Culture, and Identity in Chicano Los Angeles, 1900-1945* (New York: Oxford University Press, 1995), 273; Thomas Sugrue, *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit* (Princeton, NJ: Princeton University Press, 1996); Daniel Carpenter, *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862-1928* (Princeton, NJ: Princeton University Press, 2001); William Novak, "The Administrative State in America." in *The Administrative State*, ed. Armin von Bogdandy et al. (New York: Oxford University Press, 2017), 98-124.

¹⁸ Michael Witgen, *An Infinity of Nations*, 1-21; Pekka Hämäläinen, "Introduction: Reversed Colonialism," in *Comanche Empire* (Yale University Press, 2009), 1-18.

“The Colorblind Turn in Indian Country: Lumbee Indians, Civil Rights, and Tribal State Formation” comprises six chapters. The first chapter, “Tribal State, Racial State,” traces the development of the Indian school system as the *de facto* tribal government in Robeson County and explores the limitations of this race-based form of state recognition. It demonstrates that Indians were central, rather than peripheral, to North Carolina’s segregation regime, as state officials touted the Indian schools as evidence of minority acquiescence to “separate but equal.” The Indian schools, however, proved to be anything but equal, and the chronic underfunding of the Indian Normal School (known today as UNC-Pembroke) led some affluent Indians to illegally attend white public colleges and universities through backdoor channels. As African Americans leaders and legal advocates assaulted Jim Crow in the 1930s-40s, this rationale hardened into wholesale discrimination against Lumbees as anxious state officials push them out of white higher education.

In Chapter Two, “Back and Forth,” Lumbees’ postwar migrations to urban landscapes threatened the security of their Indian status and stressed their intensely local structures of government, setting the stage for the emergence of an administrative tribal government. A rising generation of veterans and labor migrants became dissatisfied with the provincialism of North Carolina’s Jim Crow recognition in a postwar political economy defined by the expanding roles of the federal government and academic credentials, particularly after the state’s segregation statutes threatened to devalue Pembroke State degrees and close off avenues for graduate education. The eventual desegregation of Pembroke State College for Indians removed the stigma of *de jure* segregation but dissolved an important institution of tribal governance, leading Indians to renew their push for federal acknowledgment just as Congress and the BIA were seeking to divest from their responsibilities to indigenous peoples.

Chapter Three, “‘The Rather Famous Lumbees’,” posits the intellectual affinities among civil rights ideology, consensus politics, and termination policy, all of which came into vogue in the decade after World War II and aimed to foster formally equal citizenship. With their drive for federal recognition reaching its zenith at exactly the wrong time, Lumbees provide the clearest illustration of this argument. In 1956, Congress both recognized and terminated them with the passage of the Lumbee Act; less than two years later, the national media transformed them into civil rights heroes after their bloodless but humiliating defeat of the Ku Klux Klan in 1958. This chapter explores the consequences for Indians in the termination-cum-civil-rights era by demonstrating how national interest groups pressured Indians in southeastern North Carolina to label themselves Lumbees and adopt integrationist postures in their fight for equal education, despite their desire for segregated but truly equal education.

Chapter Four, “‘What We Need is a ‘Red Power Movement,’” examines the role of the War on Poverty in cultivating a generation of Lumbee administrators who forged the group’s tribal government and semi-recognized relationship with the federal government. Unlike most federally recognized Indian groups, Lumbees had no preexisting tribal government structure and were therefore unable to receive direct funding as a Community Action Agency. Nevertheless, several college-educated Lumbee administrators infiltrated a suite of so-called manpower programs under the oversight of the North Carolina Fund and used them disproportionately to benefit Indians in both Robeson County and the industrializing Piedmont. However, Lumbee clients proved notoriously frustrating, as their slippery mobility thwarted efforts to settle them and inculcate proper labor discipline. In and of itself, manpower policy failed to have any substantial impact on Lumbee poverty but did create a cadre of Indian bureaucrats who

ultimately founded, the Lumbee Regional Development Association, which they explicitly modeled after the North Carolina Fund.

The fifth chapter, “The Federal Administrative State and Exclusionary Incorporation in Robeson County, North Carolina, 1968-1974,” argues that the desegregation of the segregated Indian schools dramatically increased the federal presence in Robeson County and completed the community’s political reorientation toward Washington. The final federal push to eliminate *de jure* racial distinctions brought the full implications of civil rights reform home to Robeson County when the Department of Health, Education, and Welfare (HEW) finally mandated the desegregation of the Indian schools, which had served as Lumbees’ most important civic institution since the late nineteenth century. As Helen Scheirbeck and other Indian liberals worked fruitlessly within the system to save the schools, Howard Brooks and his band of self-identified Tuscaroras joined with the American Indian Movement, rogue SCLC agitator Golden Frinks, and other assorted radicals to demand full federal recognition and protest the busing of Indian children through mass demonstrations, civil disobedience, and targeted violence. Taking a greater role in Robeson Indian politics than ever before, an alphabet soup of federal agencies systematically undermined Tuscarora groups through both neglect and subterfuge, while nurturing the LRDA with federal grant money and logistical support. The collective efforts of the FBI, HEW, BIA, OEO, the Department of Labor, the National Council on American Indian Opportunity (NCIO), and other federal agencies—sometimes working in concert, but just as often at cross-purposes—helped quash the Tuscarora challenge to the legitimacy of settler sovereignty and inculcate tacit acceptance of the Lumbee Act’s restrictions by giving moderate Lumbee bureaucrats a stake in their emerging tribe’s second-class federal recognition.

The sixth chapter, “Dread Sovereigns: Tribal and Settler State Development in the Era of *Mancari*” examines the final unloosing of colorblind doctrine from the judicial branch, which spurred the growth of a strident and exclusionary vision of tribal sovereignty, of which Lumbees became both targets and practitioners. With the fate of the Indian schools sealed, LRDA cleverly capitalized on the growing list of federal resources for urban/state-recognized tribes to transform itself into a bureaucratic tribal government, and by the late 1970s was holding elections, compiling a tribal roll, and at one point even issuing substitute CDIBs (certificates of degree of Indian blood). This strategy drew protest from federally recognized groups, who pointed to the Lumbee Act to argue that Lumbees were ineligible for any federal Indian funding. These adversaries eventually pressured the NCAI (foremost pan-tribal advocacy group) to expel Lumbees from membership. Meanwhile, the fallout from the US Supreme Court decision *Morton v. Mancari* decision, which held that Congress could “discriminate” in favor of federally recognized Indians because their status was political and nonracial, and the formalization of federal recognition criteria in 1978 threatened the LRDA’s backchannel funding streams.

CHAPTER 1
TRIBAL STATE, RACIAL STATE: SEGREGATIONIST LIBERALISM AND POLITICAL
DEVELOPMENT IN PEMBROKE AND RALEIGH

Shortly before two o'clock on November 26, 1934, Dennis Brummitt waited in his Raleigh office for a guest to arrive. Brummitt, the attorney general of North Carolina, had written the president of a nearby public college for white students about a matter of segregation law "of such importance that... a personal interview should be had, or rather a conference about the matter." As he prepared to welcome President Leon Meadows of East Carolina Teachers College (ECTC), perhaps Brummitt fidgeted in his seat, shuffled the papers on his desk, or reviewed the finer points of segregation law with his assistant, Aaron Seawell, a future North Carolina Supreme Court justice and the keener legal mind of the pair. At some point that afternoon, the square-jawed, Ivy-educated Meadows strode into the office, and the trio of powerful white men sat down to decide the fate of a nineteen-year-old "Croatan Indian girl," Ouida Lowry.¹

Light-skinned and armed with a transcript from another all-white state college, Ouida Lowry enrolled at ECTC for fall classes and at first blended into its small student body. The daughter of Methodist minister and tribal leader Doctor Fuller Lowry, she hailed from the most affluent and politically engaged segment of Robeson County's Indian population, in which

¹ Anna Bailey, "How Scuffletown became Indian Country: Political Change and Transformations in Indian Identity in Robeson County, North Carolina, 1865-1956," PhD diss., (University of Washington, 2008), 1-6; Leon Meadows to Dennis Brummitt, 15 November 1934, box 89, folder "M 1934," North Carolina Attorney General and Department of Justice Record Group, State Archives of North Carolina, Raleigh, NC [hereinafter NC DOJ]; Aaron Seawell to Leon Meadows, 17 November, 1934, box 89, folder "M 1934," NC DOJ; Leon Meadows to Dennis Brummitt, 19 November 1934, box 89, folder "M 1934," NC DOJ.

education was a valuable but scarce commodity. The state maintained a segregated teachers college, the Indian Normal School, in the town of Pembroke, and Ouida Lowry's father sat on its board of trustees. Although the Normal School was a cornerstone of Indian autonomy and political organization, the community's leaders fretted that its limited course offerings and segregated status limited graduates' career prospects, and wealthier Indians often sent their children to white colleges with track records of admitting such students. This network of "safe" schools included both out-of-state and private North Carolina institutions, such as Duke University in Durham. To attend one of the state's white public colleges, however, was illegal and risky. After two uneventful months at ECTC, Ouida Lowry set off a racial tripwire that sounded an alarm at the highest levels of state government. A white student from Robeson County recognized her typically Indian surname and mentioned it to her mother, who fired an angry missive to President Meadows, who in turn relayed the case to Brummitt and Seawell.²

In their conference with ECTC's President Meadows, North Carolina's top attorneys rendered a decisive judgment against the young Indian interloper. Although some ambiguity existed as to whether the state statute on school segregation extended to public colleges, Brummitt and Seawell informed the president that the law implied a general "policy of racial separation in the higher institutions of learning – white, Croatans of Robeson, Cherokee and colored; that... this policy justified him in telling the girl she could not remain in the college, and that we thought we could sustain this action in the courts." In a dim flicker of decency, President Meadows voiced his hope that Lowry might finish the term and receive course credit, "but raised the question as to how this would affect the case, should it be brought." Brummitt was icily firm:

² Ibid.

“I told him I thought it probably better to have her go home at Thanksgiving and not come back.”³

Ouida Lowry’s indirect encounter with North Carolina’s attorney general was one in a series of interconnected disputes between the state and Lumbee Indians that tightened their interdependent relationship based in segregation law. Resulting from the complications of governing a legally recognized race of fewer than thirty thousand individuals, these moments of generative conflict fueled a mutual, if asymmetrical, process of state formation for both the Jim Crow regime in Raleigh and the tiny, makeshift statelet that served as the Lumbee tribal government. These state-tribal tensions formed part of North Carolina’s long, messy, and ultimately incomplete transition from the personal, patronage-based, and often violent politics of the previous century to the more anonymous, systematic mode that characterized mid-twentieth-century governance. An artifact of nineteenth-century racial patronage, North Carolina’s recognition of the “Croatan” Indians entangled the state in unforeseen legal snarls that men like Brummitt and Seawell dutifully tried to unknot in service to both the political imperative to preserve segregation of African Americans and a genuine liberal faith in the rule of law.

Like most legal minds in the prewar United States, Brummitt and Seawell saw no contradiction between racial segregation and constitutional liberalism. Because the logic of *Brown v. Board of Education* that “separate is inherently unequal” has become so hegemonic and the inequities of segregation so apparent, historians sometimes have reflexively interpreted legal defenses of segregation as cynical and illiberal, but such anachronistic readings misrepresent the complex legal infrastructure of Jim Crow and sanitize the intellectual history of American

³ Ibid.

liberalism. In the intellectual and political world that Brummitt and Seawell inhabited, North Carolina's mandate for separate white, black, and Indian educational facilities was entirely compatible with the Equal Protection Clause of the Fourteenth Amendment, a position amply supported by federal and state case law. Indeed, mere months before President Meadows's visit, Brummitt and Seawell had deployed exactly that legal argument in the 1933 NAACP test case *Hocutt v. Wilson*, an experience that weighed heavily on their minds as they determined Ouida Lowry's fate. Her unlawful attendance at ECTC concerned them precisely because they took equal protection and the rule of law as seriously as their postwar successors.⁴

As an anomalous and vexing fly in the juridical ointment, the Indians Robeson County demanded the attentions of "progressive" administrators like Brummitt and Seawell, whose ilk crusaded against the nineteenth-century patterns of governance that had produced the community's racialized state recognition. The disfranchisement of black voters in 1900 nurtured a new generation of Democratic politicians and administrators who came to power in the 1920s and brought the Progressive Era fervor for "good government" to North Carolina in the form of new state highways, increased support for public education, and more efficient "scientific" approaches to race relations. This trend toward standardization and centralization threatened the interests of the emerging Indian leadership class, which relied on patronage relationships with powerful white "friends" to offset their people's small population and geographic concentration. Gregory Downs offers a framework for understanding late nineteenth- and early twentieth-century political development and state formation in *Declarations of Dependence*, a sprawling

⁴ John Thomas Kneebone, *Southern Liberal Journalists and the Issue of Race, 1920-1944* (Chapel Hill: University of North Carolina Press, 2018); William A. Link, *The Paradox of Southern Progressivism, 1880-1930* (Chapel Hill: University of North Carolina Press, 2018); Morton Sosna, *In Search of the Silent South: Southern Liberals and the Race Issue* (New York: Columbia University Press, 1978).

study of North Carolina political culture from the Civil War to the Progressive Era. Downs examines countless letters from North Carolinians who attempted to forge metaphorical relationships with distant “friend[s] unseen” in political office to request assistance from and make sense of an increasingly abstracted, bureaucratic government. Roundly dismissing the political mythology of American rugged individualism, Downs reveals a political culture steeped in patronage and figurative social proximity to distant officials, to which he applies the label “patronalism.” He distinguishes patronal politics from the later, competing ethos of progressivism, whose adherents decried excesses of patronage as “corruption” to be eradicated and supplanted with rational, efficient, bureaucratized government. The friction between the patronal and progressive modes of politics fueled the rise of North Carolina’s Jim Crow administrative state in the first three decades of the twentieth century.⁵

The dialectic between patronalism and progressivism extended to the state’s interactions with Indian subjects, and the resulting clashes contributed to the development of both North Carolina’s administrative racial state and semi-autonomous tribal institutions in Robeson County. In the first half of the twentieth century, the state-supported Indian Normal School was the only secular institution that transcended the boundaries of the largely independent local settlements. The Normal School’s trustees grew accustomed to autonomy over administration and hiring, and they used their powers to distribute patronage to both Indians and white faculty members, which strengthened their control over the fledgling college and enhanced their

⁵ James L. Leloudis, “Apostles of the New South,” in *Schooling the New South: Pedagogy, Self, and Society in North Carolina, 1880-1920* (Chapel Hill: University of North Carolina Press, 1996), 37-72; Gregory Downs, *Declarations of Dependence: The Long Reconstruction of Popular Politics in the South, 1861-1908* (Chapel Hill: University of North Carolina Press: 2014), 1-15; Jessica Cattelino, *High Stakes: Florida Seminole Gaming and Sovereignty* (Durham: Duke University Press, 2008), xvi-xliii.

leadership credentials in the community. When the General Assembly placed the Indian Normal under the Division of Negro Education as part of a bureaucratic rationalization of nonwhite public colleges, Doctor Fuller Lowry rallied his fellow trustees against curtailment of the board's authority. After a protracted power struggle with the state's arch-progressive director of Negro education over faculty hiring and instructional priorities, Lowry's faction leveraged political connections in the legislature to remove the Normal School from the agency. This maneuver established the board of trustees as a center of tribal governance, but it also affirmed the state's sovereign power to regulate race and indigeneity. Raleigh further refined the legal and administrative infrastructure of Jim Crow by restricting illicit Indian access to white public colleges, a development that ironically ensnared Lowry's own daughter. After an early NAACP suit threatened the stability of segregation in higher education, the state tightened enforcement at white schools and attempted to corral Indian students at their designated college in Pembroke, which offered an even narrower range of courses than segregated black institutions and increasingly marked graduates as nonwhite. Indians proved to be slippery subjects, however, and created serious administrative and legal complications with their phenotypic ambiguity, increasing mobility, and small population relative to the state's two other official racial categories. State recognition of eastern North Carolina's Indian population originated in nineteenth-century patronalism but nevertheless entailed legal and financial obligations that the progressive guardians of segregationist liberalism took seriously. Until the eve of *Brown*, North Carolina's infrastructure for Indian education, far from withering away, continued to expand.

*
**

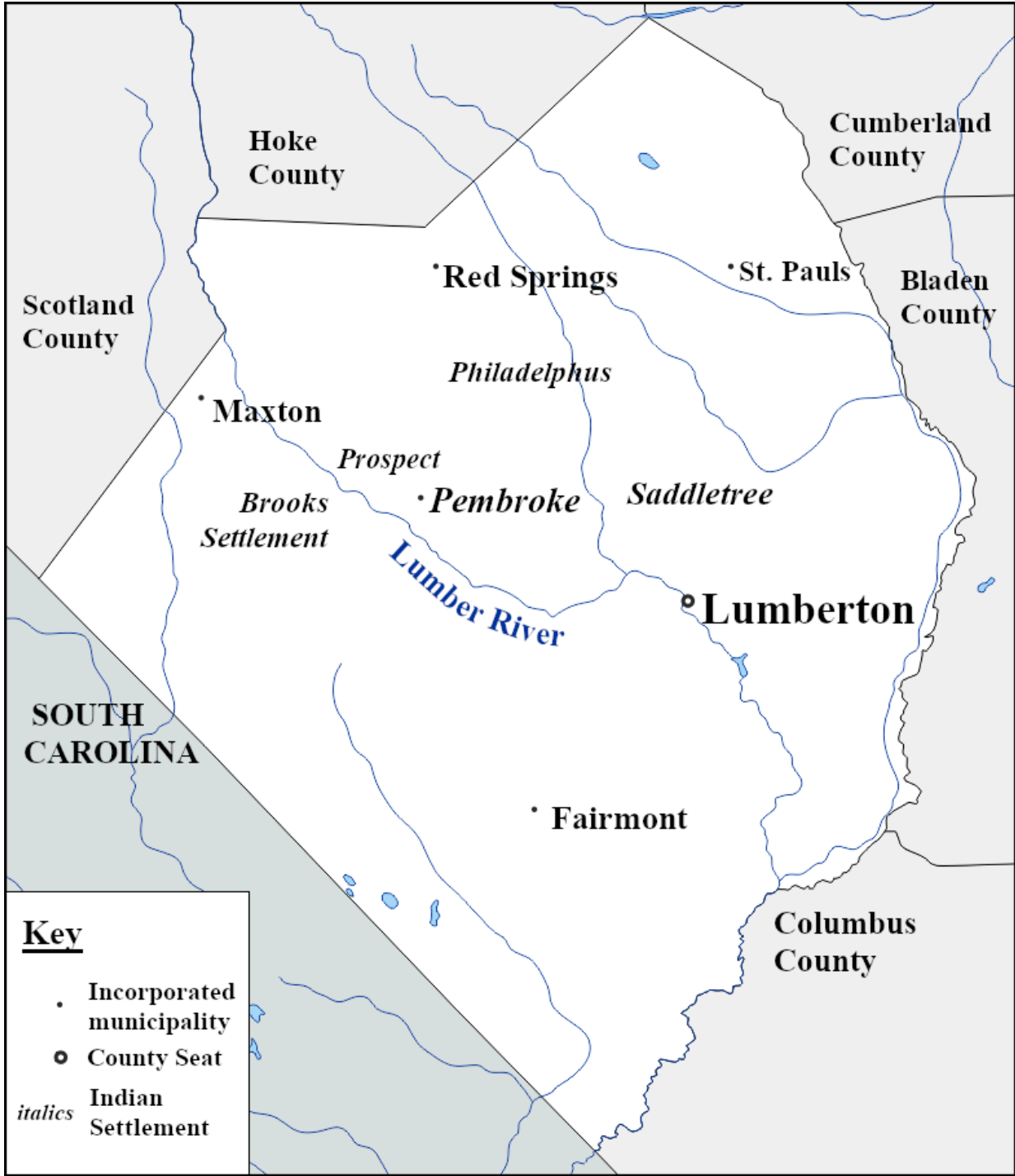


FIGURE 1.1: MAP OF ROBESON COUNTY, NORTH CAROLINA⁶

⁶ Modified from: d-maps.com, “Robeson County (North Carolina).”
https://d-maps.com/carte.php?num_car=82838&lang=en

The tumultuous politics of postbellum North Carolina forged the system of segregated public education that structured the state's relationship with the Indians of Robeson County. After coalescing in the swamps along the Lumber River, the community had only intermittent contact with the state government until the Civil War, which dramatically expanded the power that Raleigh projected over the population. Starved for manpower, Confederate state officials conscripted free people of color, including Lumbee ancestors, to labor on Fort Fisher, a malarial deathtrap near the port of Wilmington. To resist these incursions and avenge slain kinsmen, Henry Berry Lowry organized a tri-racial guerilla force, known as the Lowry gang, that killed and terrorized white Robesonians well into Reconstruction. After Lowry's mysterious disappearance, Indians turned their attention to the ballot box, where they forged a political alliance with black voters under the banner of the state's robust Republican Party. Because blacks and Indians comprised nearly half of the county's voting population, this biracial coalition threatened the dominance of white supremacist Democrats, particularly after Populist defections threatened their party's monopoly on white electoral support.⁷

To entice Indians away from this tenuous biracial alliance, Democratic state representative Hamilton McMillan proposed to enshrine the community's Indian identity in legislation on public school segregation. The 1868 North Carolina constitution, ratified as part of the state's reentry to the Union, specified only biracial educational segregation. According to local lore of dubious provenance, outraged Indian parents kept their children home rather than

⁷ Karen Blu, *The Lumbee Problem*, 86; Lowery, *Lumbee Indians in the Jim Crow South*, 22-23, 35; Paul D. Escott, *Many Excellent People: Power and Privilege in North Carolina, 1850-1900* (Chapel Hill: University of North Carolina Press, 1985), 171; Dial and Eliades, *The Only Land I Know*, 182-184; Anna Bailey, "How Scuffletown became Indian Country," 115.

send them to black schools. In reality, the labor demands of cash crop agriculture ensured sparse school attendance among all races in Robeson County well into the latter half of the twentieth century. In all likelihood, Indian leaders simply recognized the advantages of both Indian control over education and social distance from African Americans. After consulting with representatives from the community, McMillan introduced a bill in 1885 that provided recognition and segregated schools for the so-called Croatan Indians of Robeson County, a name derived from McMillan's fanciful and racially freighted personal theory of descent from survivors of the Lost Colony at Roanoke and the friendly Indians on Croatoan, or Hatteras, Island. As was fashionable among white Americans in the late nineteenth century, McMillan subscribed to the notion that Anglo-Saxon biology and cultural heritage transmitted a unique genius for self-government and desire for freedom; black people, by contrast, were too servile for liberal subjectivity or political authority, as demonstrated by their supposed acquiescence to slavery. As the patron of the newly defined Croatans, he shared the former with his Indian beneficiaries and repudiated any hint of the latter. Two years after the enactment of his initial bill, McMillan provided more tangible patronage in the form of legislation that chartered and appropriated a small sum for an Indian teacher training, or normal, school.⁸

The white Democratic regime and the newly designated Croatans quickly entangled their fundamental sovereign power to determine belonging, which both wielded to exclude and marginalize black people. An 1890 North Carolina Supreme Court ruling on the newly minted Indian schools, *McMillan v. School Committee*, became the bedrock of segregation law in the state. The dispute began in 1888, when an Indian school committee in Robeson County expelled

⁸ Ibid.

the children of an African-American man and a Croatan woman. The students' father, Nathan McMillan, filed suit, and the case eventually reached the state's highest court. Pending the state Supreme Court hearing, the General Assembly passed a law that barred children of African ancestry "to the fourth generation" from Indian schools to preempt McMillan's argument that his children were Indian by virtue of their mother's lineage. The courts upheld the constitutionality of the new statute and refused to grant relief, a result that affirmed the sovereignty of both state and tribe to police racial boundaries. In Robeson County, the decision buoyed the political institutions that governed admission to segregated facilities, including "blood committees" at local graded schools and the board of trustees for the Indian Normal. Increasingly, these institutions assumed informal powers only loosely related to education, such as adjudicating intracommunity disputes and negotiating with state and county authorities. Within the white government, the state's attorneys routinely cited *McMillan* as the foundational precedent for black-white segregation in state-level jurisprudence. Because the case involved segregated Indian schools, the *McMillan* ruling displaced white responsibility for segregation and offered a veneer of nonwhite consent.⁹

In the 1900 referendum for a proposed disfranchisement amendment to the state constitution, the Croatans abandoned their erstwhile black allies and threw their electoral heft behind the fateful measure—a display of Democratic Party loyalty that indigenous leaders cited for decades to wring concessions from white allies. In statewide politics shortly after

⁹ "Memorandum of Authorities for Defendants in *Hocutt v. Wilson*," 27 March 1933, box 13, folder "Negroes: Admissions: 1933-1936," Records of the Office of the President of UNC (System), University Archives, Wilson Library, University of North Carolina at Chapel Hill [hereinafter UNC System President Records]; Ariela Gross, "'Of Portuguese Origin': Litigating Identity and Citizenship among the 'Little Races' in Nineteenth-Century America," *Law and History Review* 25, no. 3, (Fall 2007): 467-512; Anna Bailey, "How Scuffletown Became Indian Country," 93; *McMillan v. School Committee*, Supreme Court of North Carolina, 8 December 1890, in *The Southeastern Reporter*, vol. 12 (St. Paul: West Publishing Co, 1891): 330-332.

Reconstruction, white supporters of the insurgent Populist Party joined black Republicans to vote for bipartisan “fusion” tickets, a strategy that won majorities in the General Assembly in 1894 and the governorship in 1898. Using the Raleigh *News & Observer* and regional partisan newspapers to spread their message, Democrats struck back during the 1898 election cycle with a race-baiting campaign that contrasted Anglo-Saxon “good government” with alleged Fusionist “corruption,” which mainly comprised the appointment of black officeholders to patronage positions. After an election characterized by violence and voter intimidation, Democrats regained the governorship and their legislative majority. In 1900, white supremacist Democrats held a referendum on a constitutional amendment that instituted literacy tests and other barriers in an effort to end competitive elections, and the small cohort of literate, relatively prosperous Indian farmers who served as the community’s diplomats and political organizers marshaled their voters to back it. As Normal School trustee Anderson N. Locklear hinted in a guest editorial for the local newspaper, Indian support for the amendment was a calculated attempt to curry favor with the emerging single-party regime. Ostensibly, Locklear’s column addressed “Croatan Indian fellow citizens” but served primarily to document Croatan loyalty for white allies. Instead, he addressed his fellow Indian elites in cryptic, coded language. Locklear’s praise for the measure consisted mainly of vague generalities about its potential to “secure to the greatest number the greatest good” and serve as “a stake of strength to our county and State governments.” However, his more specific statements centered on the political stakes of visibly siding with white Democrats. In a clear reference to Fusionism, Locklear argued that the referendum would “be a death blow to the hot contests that have faced the good citizens of North Carolina for the past four years.” He chided fellow Indians “not [to] be so curious about this amendment matter.” Instead, “[o]nly be certain that you are on the safe side” as the Democratic party rolled to

“certain victory.” Locklear understood that the amendment offered no material benefit and substantial strategic risk for Indian voters; however, he suggested that support was necessary in light of state lawmakers’ leverage over the Indian schools. Although the amendment included no education provisions, Locklear obliquely predicted that “[i]t will undoubtedly be a greater incentive to the cause of education than anything that was ever submitted to the citizens of North Carolina.” Having publicly declared allegiance to the Democratic Party, Indian leaders could point to support for the referendum as evidence of their loyalty whenever Raleigh reneged on its reciprocal obligations.¹⁰

After ratification of the disfranchisement amendment, however, A.N. Locklear’s hopes for educational largesse quickly dissipated: with Indian electoral leverage all but neutralized, unaccountable lawmakers largely ignored their schools and fledgling teachers college. With minimal support, the Indian Normal School struggled simply to remain solvent for the first two decades of its existence. State appropriations lagged well behind even public teachers colleges for African Americans. For the 1915 academic year, the state appropriated only \$2,750 for the school’s maintenance, less than half the allocation for the flagship black normal school in Winston-Salem. Lacking the resources to recruit professors or build the requisite facilities, the Normal School proved unable to implement its teacher training mission. Instead, administrators and faculty focused on providing badly needed adult literacy classes and high school coursework. In a special 1921 report, the state’s General Education Board bluntly characterized the “so-called normal school” at Pembroke as “a failure” in its role as a teachers college and

¹⁰ James Leloudis, *Schooling the New South*, 37-72; A.N. Locklear, “Another Croatan for the Amendment,” *The Robesonian*, 27 July 1900, 2.

blamed insufficient state support for the desperate shortage of Indian teachers in the county's segregated graded schools.¹¹

Although inadequate state appropriations hobbled the Indian Normal School's teacher training mission in its first four decades, Raleigh's neglect also cemented community ownership and control over the institution. Indian people donated land, labor, and building materials to construct the physical plant and held fundraisers to pay for faculty salaries and operating costs. In tacit acknowledgment of these private contributions, the state government exercised minimal bureaucratic oversight and left most administrative decisions to the exclusively Indian board of trustees, whom the governor appointed from the community's small cohort of educated, middle-class leaders. In 1911, the General Assembly explicitly granted the Indian trustees authority to "employ and discharge teachers, to prevent Negroes from attending [the] school, and to exercise the usual functions of control and management of said school." Although the state Board of Education technically retained the right to approve the local decisions, officials in Raleigh had neither the resources nor the inclination to micromanage Indian educational affairs.¹²

The Indian board of trustees wielded control over faculty hiring to establish a patronal relationship with white faculty members that ensured their accountability to indigenous interests and prerogatives. Embedded in the local community and serving at the pleasure of the Indian board, many faculty members came to identify with the trustees and other members of

¹¹ General Education Board, *Public Education in North Carolina: A Report to the Public School Commission in North Carolina* (New York: General Education Board, 1921), 125.

¹² "The Cherokee Indian Normal School belongs to North Carolina," no date, box 5, Special Subject File, Records of the North Carolina Department of Public Instruction: Division of Negro Education, State Archives of North Carolina, Raleigh [hereinafter cited as DPI: DNE]. All documents in this file have no author, probably from 1929, and appear to be reports, typewritten notes, or internal memoranda. All of the documents in this file lack titles. In order to distinguish them from one another, I have titled them by their opening sentence.

Pembroke's middle-class. Hired almost exclusively from areas beyond Robeson County and often the state, most white professors and administrators were either ignorant of or indifferent to the local Jim Crow customs governing white-Indian social interactions. To the horror of white Robesonians, some ate dinner in Indian homes, attended Indian churches, and in a few instances even took Indian spouses. Due to the inclusion of Indians under North Carolina's anti-miscegenation statute, white teachers needed to cross the state line into South Carolina to transform their wedding vows into a proper contract. A sociologist who conducted fieldwork in Robeson County in the late 1930s reported that white Robeson society treated white members of such interracial unions as pariahs and ritually stripped them of the social signifiers of whiteness by refusing to address them by their titles or acknowledge their married names. Despite a general taboo against racial exogamy, Indians proved generally willing to assimilate white spouses, particularly those with college degrees or other assets that benefited the community. The board's patronal relationship with white faculty created overlapping lines of loyalty, obligation, and even kinship among Indian and white people, a dynamic that distorted the normal functioning of Jim Crow and enabled trustees to regulate the conduct of non-Indian outsiders.¹³

Within the Indian community, the trustees' authority to parcel out patronage positions elevated the Normal School as the community's most important secular tribal institution. Unlike intensely local churches, graded school committees, and rural settlements, the Normal School served the entire Indian population, at least in principle. Because few Indians initially held the credentials to serve in faculty positions, the trustees reserved virtually all staff and support jobs

¹³ Field notes, "Mr. & Mrs.," no date, 1937, folder 1223, Guy Benton Johnson Papers, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill [hereinafter GBJ Papers]; field notes, "Illicit Sex Relations: Indian-White," 7 July 1937, folder 1223, GBJ Papers; field notes, "Intermarriage: Indian-White," no date, July 1937, folder 1224, GBJ Papers.

for community members. In Robeson County's rural economy, non-agricultural waged employment was exceedingly scarce, and members of the board wielded access to desirable staff positions for political purposes, such as rewarding supporters, repaying obligations, and leveraging votes. By the late 1920s, small cadre of Indians had earned graduate degrees and begun to occupy faculty and administrative roles. In one instance, D.F. Lowry's opponents took issue with the temporary appointment of Lowry's son to the science faculty, complaining that the arrangement represented "[p]ersonal gain for his immediate family" and alleging that the son "goes bird hunting without leave of absence." The younger Lowry was in fact a well-qualified college graduate on his way to medical school, and the rumors probably represented malicious gossip; however, the emotional intensity of the allegations indicated the high stakes of faculty hiring.¹⁴

In the early 1920s, however, progressive state politicians curtailed both the chronic underfunding and benign neglect of the Indian Normal School in the name of administrative rationalization and harmonious race relations. As historian James Leloudis has argued, the generation that entered state politics between the turn of the twentieth century and the Great Depression drew on common formative experiences to construct a shared political vision. Too young to have fought for the Confederacy, political figures spanning from Charles Brantley Aycock to Angus McLean grew up immersed in the ossifying mythology of the Lost Cause and felt a keen sense of their historical lateness. To forge a political legacy separate from that of their fathers' generation, they embraced a racially inflected form of progressivism that led them toward relatively authoritarian solutions to North Carolina's myriad problems in public health,

¹⁴ *Cherokee Indian Normal School Bulletin and Outlined Course of Study* (Raleigh: Presses of Edward and Broughton Company, 1928); "A.N. Locklear 20 years service," no date, box 5, Special Subject File, DPI: DNE.

infrastructure, education, and race relations. Unfettered by black electoral resistance after 1900, the permanent Democratic majority adopted an ever-more smugly sincere paternalism as they enacted their vision of incremental improvement.¹⁵

As part of Governor Cameron Morrison's progressive campaign to improve public education, the General Assembly increased appropriations for the Indian Normal School, which enabled the long-delayed implementation of a postsecondary teacher training curriculum but also threatened the autonomy of the Indian board of trustees. The 1921 legislation set aside \$75,000 for upgrades to school facilities, which must have come as a Whereas the Department of Public Instruction had held only the power to review the actions of the board of trustees, this new legislation granted it the authority to "make all needful rules and regulations concerning the expenditure of funds, the selection of principals, teachers, and employees, and concerning the selection of members of the board of trustees." Although control over board of trustees membership was later transferred to the governor, the 1921 bill represented a major shift in the relationship between the Department of Public Instruction and the Indian Normal School and were nearly identical to the ones the state imposed on black institutions of higher education. Another provision of the 1921 education reform package struck a more ominous chord for the Indian trustees: housing the Indian Normal School within the newly created Division of Negro Education. Like fellow progressives across the nation, North Carolina's lawmakers equated administrative centralization with government efficiency, an ethos they applied equally to educational policy and race relations.¹⁶

¹⁵ Leloudis, "Apostles of the New South," in *Schooling the New South*, 37-72.

¹⁶ North Carolina Historical Commission, *North Carolina Manual*, A.R. Newsome, ed. (Raleigh: 1929), 246-256.

State lawmakers created the Division of Negro Education at the urging of—and as a virtual fiefdom for—Nathan Carter Newbold, who had overseen African American education in North Carolina since 1913. A quintessential Southern liberal, Newbold brought a hardened set of priorities, attitudes, and expectations to his expanded role. In both private and public writings, he characterized overt displays of racial animus, such as lynching and racial epithets, as social ills that proper education could help to eradicate. Within the limitations of the political and racial environment, he attempted to maximize the quality of segregated “Negro” facilities and worked diligently to persuade obdurate politicians, administrators, and philanthropists that funding for nonwhite education served the public interest. But Newbold also believed that his office, race, and relative magnanimity entitled him to obsequious displays of subordination by black and Indian school officials, and he stood ready to crush dissent beneath the weight of his legal, financial, and racial powers. The purpose of segregated education was not to advance black or Indian interests *per se*, but to ensure harmonious race relations, prepare nonwhite people for a racially stratified labor market, and produce facilities of sufficient quality to avoid legal scrutiny. In service to the latter goal, Newbold embarked on an ambitious plan to bring the state’s nonwhite normal schools up to standard. Many of the state’s black teachers colleges lacked the resources to offer postsecondary coursework and functioned as *de facto* high schools, as did the Indian Normal School. Inadequate state support for standard normal programs at black colleges created a statewide shortage of certified African American teachers; in Robeson County, however, the total absence of state-supported, postsecondary educational training for Indians constituted a crisis of legitimacy for segregation. From his earliest experiences as an administrator in majority-black northeastern North Carolina, Newbold envisaged a progressive future for nonwhite education devoid of one-room schoolhouses and uncertified teachers—a

daunting project in the Indian schools, where such conditions were nearly ubiquitous. Shortly after assuming oversight of the Indian Normal School in 1921, the director embarked on an aggressive plan to implement a standard normal curriculum at the Indian Normal School; however, his obstinacy and anxious fixation on appearances eventually sparked conflict with the board of trustees.¹⁷

Despite near-total ignorance about Indian people at the start of his tenure with the Normal School, Newbold eventually discerned, however dimly, that their unique racial-political status and educational needs distinguished them from African Americans. At first, the director committed several dangerous blunders of racial etiquette, including signing Indian-related correspondence as the “Director of Negro Education” and describing the community as “a mixed people with Indian, White, Negro and possibly Portuguese blood” in correspondence with outsiders. Newbold’s perspective began to change, however, after he requested funding for Indian schools from the Rosenwald Fund, a charitable foundation renowned for constructing schoolhouses for black students in the rural South. Well acquainted with the charitable organization from his work with African Americans, the director was shocked when the Fund’s trustees informed him that “Mr. Rosenwald felt that... somebody else ought to be responsible for such services to Indians.” Under Jim Crow, association with black people certainly threatened Indians’ racial status, but the worst-case outcome was not assimilation into blackness, but a kind of racial statelessness. In a subsequent letter, Newbold argued that “the United States Government ought to be responsible for the maintenance of all necessary educational projects of the Indians of our country” and grumbled about federal neglect of the Indians in Robeson

¹⁷Ibid.; James Leloudis, *Schooling the New South*, 209; “The Cherokee Indian Normal School belongs to North Carolina,” no date, box 5, Special Subject Files, DPI: DNE.

County. The director even asked an acquaintance in Washington to contact the secretary of the Interior and commissioner of Indian affairs, but to no avail.¹⁸

To facilitate the implementation of a postsecondary teacher-training curriculum, Director Newbold installed a new superintendent in 1926 to combat what he believed was incompetent leadership at the Indian Normal School. The board of trustees reluctantly demoted A.B. Riley, who was well-liked in Indian social circles, to make way for the director's handpicked replacement, Sherman Smithey. A recent graduate of the University of North Carolina, the well-credentialed but inexperienced young superintendent shared Newbold's faith in progressive education and centralized administration. Over the subsequent three years, Smithey oversaw improvements to the library and other facilities, the long-awaited implementation of a state-accredited normal curriculum, and the conferral of the school's first postsecondary degrees. The Indian trustees initially cooperated with the new administration, but some gradually began to resent the haughty authoritarianism of the Normal School's new white bosses and plotted to restore local control.¹⁹

Just as Director Newbold began to consolidate his administrative grasp on the Indian Normal School, the death of longtime chairman Oscar Sampson destabilized the balance of power on the Indian board of trustees and opened the door to a new generation of Indian leadership less wedded to the Democratic Party establishment. Sampson, who headed the board of trustees for three decades, commanded immense respect from both whites and Indians as a peacekeeper and cultural intermediary. Along with fellow longtime trustee, A.N. Locklear,

¹⁸ N.C. Newbold to Julia A. Thorne, 22 November 1929, box 34, folder 271, Scheirbeck Papers.

¹⁹ James Leloudis, *Schooling the New South*, 191.; Malinda Maynor Lowery, *Lumbee Indians in the Jim Crow South*, 31-35; "The Cherokee Indian Normal School belongs to North Carolina," no date, box 5, Special Subject Files, DPI: DNE.

Sampson helped lead the defection from the Republican Party and corralled Indian votes for the 1900 disfranchisement amendment. Sampson's sudden death in 1928 created space for younger members of the board to gather influence. The dominant figure to emerge from this power vacuum was Doctor Fuller Lowry, a charismatic, well-educated minister, farmer, and rural mail carrier. Unlike Sampson and Locklear, both Baptists, Lowry was a devout Methodist, a denomination that drew more from the relatively affluent ranks of town Indians and emphasized Indian identity in its social gospel. Slightly too young to vote in the pivotal 1900 referendum, Lowry also lacked the personal investment in white supremacist posturing of his older colleagues. Having studied at Piedmont College, a white institution in Virginia, and completed additional coursework at Duke, he was among the best-educated Indians of his generation and acutely aware of the chasm between white colleges and the Indian Normal. A staunch booster for the Normal School, the minister initially cheered the institution's advancement and lauded the new superintendent. But after a series of affronts to the Indian trustees' authority, Lowry turned on the new administration in a fierce campaign to wrest control from the director and superintendent.²⁰

Doctor Fuller Lowry spurred the trustees into open rebellion against Superintendent Smithey by alleging financial mismanagement, but the minister's proposed solution pointed to deeper concerns about Indian financial and patronage powers. In 1928, Lowry claimed to have had a chance encounter with local white banker R.H. Livermore, who allegedly called the minister into his office and presented him with documents revealing the Normal School's dire

²⁰ *Cherokee Indian Normal School Bulletin* (1928); Walker Elliott, "'I Told Him I'd Never Been to His Back Door for Nothing': The Lumbee Indian Struggle for Higher Education under Jim Crow," *North Carolina Historical Review* 90, no. 1 (January 2013), 49-87.

financial situation. According to Lowry, the banker was particularly frustrated that the school had failed to pay a debt for dining hall provisions and had implied that Smithey was responsible for broader financial misconduct, either by incompetence or malice. Crucially, Lowry understood the funds in question to have come from tuition and private fundraising, rather than state appropriations, and he angrily presented his discovery at the next trustees' meeting. The minister recommended a vote to transfer control of "all the local moneys not belonging to the State" from Superintendent Smithey to his predecessor and vice president, A.B. Riley, who had deeper roots in Pembroke and warmer social relations with the Indian trustees. A majority of trustees approved of the plan until Lyncurgus Rayner Varser, a former state Supreme Court justice and an influential white "friend" of the community, cautioned them about its legality. Between 1887 and 1921, Indian people kept the Normal School afloat with box suppers, church fundraisers, and in-kind donations, down to the parcel of land the school sat on and the brick and mortar that built it. Given the community's decades-long history of compensating for Raleigh's neglect, the trustees resented the reassertion of state control over an institution they regarded as belonging to Indians. In conceding that the state was entitled to control over its own money, Lowry implied that Indian contributions entitled Indian officials to a parallel authority.²¹

Although the trustees emphasized financial malfeasance and potential corruption when addressing state officials, they also resented the usurpation of their power over curriculum and faculty hiring and the curriculum. D.F. Lowry and his allies objected to the new administration's single-minded focus on the teacher-training curriculum, particularly when it interfered with

²¹ Lowry, *Lumbee Indians in the Jim Crow South*, 76; D.F. Lowry to A.T. Allen, 22 June, 1929, box 11, North Carolina Department of Public Instruction: General Correspondence, State Archives of North Carolina [hereinafter DPI: General].

agricultural and technical education. Apparently, the superintendent also made unilateral decisions about faculty employment, and he severely rankled trustees by dismissing several professors with strong support on the board. In a short dossier of raw intelligence collected from Indian allies, Newbold recorded that D.F. Lowry was “[s]ore because A.F. Corbin and L.E. Logan were not retained on the school faculty” and intended “to get even with the Supt. for putting them off.” Both instructors taught agriculture courses, and Lowry feared that their dismissal represented a policy decision to deemphasize agricultural science. Like most Indians in southeastern North Carolina, Lowry made his living primarily as a farmer, and he took great pride in his occupation. To establish his professional credibility in letters, he sometimes bragged about a prize he had won at a local fair over white farmers with degrees from State College in Raleigh. This boast belied his probable anxiety about whether Indians could continue to compete against farmers of other races without an agricultural and mechanical college like State College or the Negro Agricultural and Technical College in Greensboro. Any relative decline in productivity threatened Indian landownership, on which the community placed tremendous social and cultural value. As career educational administrators and white people, Smithey and Newbold’s were interested in reinforcing weak points in segregation and largely dismissed these concerns about agricultural instruction.²²

The trustees also murmured that Smithey held himself aloof from polite Indian society, which intensified misgivings about the superintendent’s investment in the community. In a letter about the conflict, the white mayor of Pembroke, N. McInnis, reported that the recent “split or break was caused by [the] personal feelings this part of the board had against Mr Smithey

²² “The Cherokee Indian Normal School belongs to North Carolina,” no date, box 5, Special Subject File, DPI: DNE; Blue, *The Lumbee Problem*, 68, 165-7.

because he would or did not visit among them and show a social interest in the better class of them.” Although McInnis characterized this grievance as petty, Smithey’s attitude demonstrated the consequences of their reduced patronal powers. Whereas A.B. Riley and other faculty members owed their loyalties and livelihoods to the Indian trustees, the new superintendent reported to Director Newbold. His allegiance was to segregationists in Raleigh, not middle-class Indian leaders in Pembroke. Given that Smithey was the first new superintendent since the Normal School’s transfer to the Division of Negro Education, his authoritarian decision-making and interpersonal standoffishness seemed to connote a racial demotion.²³



FIGURE 1.2: INDIAN NORMAL SCHOOL BOARD OF TRUSTEES, 1936

Doctor Fuller Lowry is pictured in the front row, seated at far left. Courtesy of the Southern Historical Collection.²⁴

²³ McInnis to A.T. Allen, 15 June, 1929, box 11, DPI: General.

²⁴ Photographic image in Cherokee Indian Normal School Catalog: 1936-7, folder 1207, GBJ Papers.
<<https://dc.lib.unc.edu/utills/ajaxhelper/?CISOROOT=03826&CISOPTR=966&action=2&DMSCALE=41.771094402673&DMWIDTH=2394&DMHEIGHT=3573>>

After months of simmering resentment, the Indian trustees tested the limits of their power and attempted to oust the superintendent in April of 1929. The trustees voted unanimously to remove Smithey and replace him with the more pliant A.B. Riley. After L.R. Varser raised yet more questions about their statutory authority to dismiss the superintendent, the board reconvened and voted to declare the presidency “vacant.” Pointedly bypassing the director of Negro education in the administrative hierarchy, the trustees wrote the state superintendent of public instruction and notified him that they would forward all applications to the State Board of Education and Budget Bureau for approval, as specified by the 1921 educational reforms.²⁵

When news of the trustees’ insurrection reached Raleigh, Director Newbold was indignant at the challenge to his progressive vision for Indian education, good intentions, and racial-cum-legal authority. In an internal memorandum, he characterized A.B. Riley as incompetent and a threat to the school’s teacher training mission. After contrasting inaction under Riley with the accomplishments of Smithey’s administration, he concluded that the recent adoption of a normal curriculum was “proof positive to the right thinking Indian people that the State is trying, in good faith, to build up here a high class educational institution, one that will serve and bless the Indian people for years and years to come.” Deeply offended, Newbold marshaled the full authority of his office to “bless” the rebellious trustees into submission. He swiftly appealed to the State Board of Education, which nullified the vote and reaffirmed state support for Smithey. The director also secured an opinion from the state Department of Justice and, in an unmistakably patronizing gesture, personally read it aloud to the Indian trustees. As if

²⁵ D.F. Lowry to A.T. Allen, 30 April, 1929, box 11, DPI: General; G.G. Locklear and R.H. Lowry to A.T. Allen, May 1, 1929, box 11, DPI: General.

quoting from scripture, Newbold recited the assistant attorney's claim that the educational reform legislation of 1921 had stripped the trustees of their independent hiring authority and that their actions were subject to the veto power of the state board. Even more gratuitously, the director also brought a representative from the Budget Bureau, apparently as an embodied representation of state authority over the Normal School's purse strings. After returning to Raleigh, Newbold requested that the governor replace the trustees he felt were the chief instigators. Although some trustees' terms were not renewed, D.F. Lowry survived the purge, probably thanks to his alliances with powerful white men like L.R. Varser and former Governor Angus McLean. Bitterly disappointed, Newbold wrote that he felt "quite sure that there [will] be no peace and harmony in the board of trustees so long as D.F. Lowry is a member."²⁶

After Newbold's show of force, the trustees split into rival camps, with D.F. Lowry heading the group that favored continued resistance and the wizened A.N. Locklear representing the pro-Raleigh faction. Although Locklear had cast a vote in the unanimous motion to remove Smithey, the director's administrative salvo triggered the instincts he honed during the turn-of-the-century disfranchisement campaign. Alarmed by what he no doubt saw as Lowry's reckless provocations, he assumed a defensive posture to protect his community and its institutions. Perhaps taking Newbold's tantrum as a sign of fragility, Lowry countered by nominating the Normal School's third-ranked administrator, C.E. Snoddy, to succeed Smithey. A pliant and

²⁶ "The Cherokee Indian Normal School belongs to North Carolina," no date, box 5, Special Subject File, DPI: DNE; Minutes of the Board of Trustees of the Cherokee Indian Normal School, 22 May 1929, volume 7, Special Subject File, DPI: DNE; N.C. Newbold to L.R. Varser, 13 June 1929, box 34, folder 271, Scheirbeck Papers.

wholly unqualified empty vessel, Snoddy may as well have been handpicked to enrage Newbold and indeed may have been.²⁷

After weeks of fervent and occasionally underhanded clashes between the Lowry and Locklear-Newbold factions, the rivals showed their cards at the June 12 meeting of the board of trustees. Newbold again personally attended the meeting and dramatically produced a “letter from Raleigh” explicitly denying approval of C.E. Snoddy’s election. Despite this preemptive move, the trustees “debated for several hours” in raucous fashion. When the votes were tallied, Lowry’s coalition, boastfully known as the “Big Five,” carried the day. The next day, Newbold secured statements from the state superintendent and the assistant budget director refusing to approve not only Snoddy, but “any of the local men at Pembroke who have been connected with the division which has arisen.” For Lowry and the victorious Big Five, this outcome was as predictable as it was irrelevant: the vote had been an exercise in political theater, and the trustees girded themselves for a protracted battle.²⁸

Unaccustomed to such strident defiance, an increasingly aggravated Newbold lurched into a sprawling chess match with D.F. Lowry that metastasized into a conflict between North Carolina’s embryonic administrative state and the Lumbee proto-tribe. “I do not think I remember a time when I had a more outraged feeling than during the meeting yesterday,”

²⁷ D.F. Lowry to A.T. Allen, 22 June, 1929, box 11, DPI: General; J.L. Bell to O. Max Gardner, 22 September, 1929, box 11, DPI: General; N. McInnis to A.T. Allen, 15 June, 1929, box 11, DPI: General; D.F. Lowry to O. Max Gardner, 22 June, 1929, box 11, DPI: General; “Trustees of Cherokee Indian Normal School – Pembroke,” no date, box 5, Special Subject File, DPI: DNE; “A.N. Locklear 20 years service,” no date, box 5, DPI: DNE, North Carolina Archives; “The Cherokee Indian Normal School belongs to North Carolina,” no date, box 5, Special Subject File, DPI: DNE.

²⁸ Minutes of the Board of Trustees of the Cherokee Indian Normal School, 12 June 1929, vol. 7, Special Subject File, DPI: DNE; C.E. Snoddy to A.T. Allen, 15 June, 1929, box 11, DPI: General; D.F. Lowry to A.T. Allen, 22 June, 1929, box 11, DPI: General; N.C. Newbold to L.R. Varser, 13 June 1929, box 34, folder 270, Scheirbeck Papers.

Newbold seethed as he plotted his next move. After Big Five thumbed its collective nose at virtually every white administrator even remotely associated with the Indian Normal School—the director of Negro education, the state superintendent, the State Board of Education, the assistant attorney general, and several officials with the Budget Bureau—cracks began to form in the director’s progressive façade. In a rant as insightful as it was offensive, Newbold used the stereotypical “broken” English of Wild-West-show Plains Indians to mock Lowry and his power play:

In all the years I have been connected with [the Indian Normal School] there was no specific or serious trouble or divisions among the members of the board until D.F. Lowry was appointed about two years ago. Since that time there has not been any peace or harmony. In brief, his attitude and philosophy mean only one thing—“Indian going to run Normal School; white man go hang.”

The director’s contempt for Lowry and his agenda was obvious, but the minister could scarcely have scarcely disputed the substance of his accusation.²⁹

In the weeks and months after the June 12 vote, the Big Five and Newbold-Locklear camps waged competing influence campaigns with elected officials using the most powerful rhetorical tools available in late Progressive-Era North Carolina: accusations of corruption, nepotism, and other sins against good government. In letters to the governor and superintendent of public instruction, D.F. Lowry charged that A.N. Locklear and his pro-Raleigh faction had abused their powers of office to win votes. Subtly implying that the Locklear group was acting under Newbold’s orders, Lowry alleged that a member of the party visited Big Five member John Cummings in the dead of night to offer his son a paid position as building manager at the dormitory in exchange for his support. Not to be outdone, Newbold interviewed a half-dozen

²⁹ N.C. Newbold to L.R. Varser, 13 June 1929, box 34, folder 270, Scheirbeck Papers.

Indian “[w]itnesses” from Locklear’s orbit and used their testimony to compile a dossier of petty allegations against Big Five members and sympathizers. One ally owed the school some “\$54 for brick;” another’s sister-in-law had been suspended from campus for unspecified infractions. Newbold and his informants also charged that D.F. Lowry “[g]ossips on [his] mail route in a way that is detrimental to [the] school” and “[i]nstigates and takes part in faculty division and strife.”³⁰

The Smithey controversy also reverberated through older, more local structures of Indian government like the churches. After the board split into pro- and anti-Newbold camps, the fractures conspicuously formed along lines of religious denomination. In his dossier, Newbold insinuated that one member of board, P.M. Locklear, owed his allegiance to Lowry because the elder Methodist “employ[ed] him and [saw] that he has a church to preach to [and] also gives him clothes that the missionaries send to his conference.” He further speculated that two current and former trustees, R.H. Lowry and G.G. Locklear, opposed Smithey because the superintendent had fired a Methodist faculty member. D.F. Lowry also responded to rumors from Newbold’s supporters that the conflict over Smithey was “a church affair & that [he] wanted all teachers to attend [his] church.” In a letter to the state superintendent, he parried the blow and suggested that

...it is not a church project for if it was it would be a Baptist [one because] the four Trustees who are for Smithey are all members of the Baptist church and Prof. and Mrs. Smithey are Baptist and are members of [an auxiliary group] at the Indian Baptist Church, which, of course is all right and satisfactory all around.

³⁰ “The Cherokee Indian Normal School belongs to Indians,” no date, box 5, Special Subject File, DPI: DNE; “Trustees of Cherokee India Normal School – Pembroke,” box 5, Special Subject File, DPI: DNE; “A.N. Locklear 20 years service,” box 5, Special Subject File, DPI: DNE; N. McInnis to A.T. Allen, 15 June, 1929, box 11, DPI: General; D.F. Lowry to O. Max Gardner, 22 June, 1929, box 11, DPI: General; J.L. Bell to O. Max Gardner, 22 September, 1929, box 11, DPI: General; Minutes of the Board of Trustees of the Cherokee Indian Normal School, 25 July, 1929, volume 7, Special Subject File, DPI: DNE.

These exchanges demonstrated the friction between traditional institutions of tribal governance and good-government, progressive political culture.³¹

In a seeming validation of Lowry's criticism Smithey's business acumen, the embattled president resigned in the summer of 1929 due to a crisis in his personal finances. Although doubtless exaggerated, colorful rumors about the fiduciary depths to which the superintendent had sunk circulated among interested parties throughout the county and state. In one letter to a state official, a Southern Baptist "Missionary to the Indians" and husband of a Normal School instructor recounted a story from a "member of the leading mercantile firm" in the area. This contact intimated that the superintendent was so behind on his mortgage payments that the company "drove off his cow and sold her to pay on his debt." Allegedly, Smithey also developed a habit of passing worthless checks, including one "to a widow for only a dollar and a half." Regardless of their factual veracity, these accusations served to undercut Smithey's reputation for efficiency and independence.³²

The conflict between D.F. Lowry's and N.C. Newbold's respective factions continued apace even after Smithey's abrupt departure, an indication that the superintendent had merely been the flashpoint in a more substantive battle that pitted Indian autonomy against centralized control and patronalism against progressivism. To replace his departed protégé, Newbold strong-armed the trustees into installing another handpicked nominee, J.E. Sawyer. With a Chapel Hill pedigree and progressive administrative bent, Sawyer closely resembled his predecessor and likewise aligned himself with the director. In an attempt to convince the new superintendent that

³¹ "A.N. Locklear 20 years service," no date, box 5, Special Subject File, DPI: DNE; D.F. Lowry to A.T. Allen, 22 June, 1929, box 11, DPI: General.

³² J.K. Henderson to A.T. Allen, 29 September 1929, box 5, Special Subject File, DPI: DNE.

he served at the pleasure of the Indian trustees—and not white bureaucrats in Raleigh—D.F. Lowry strode into Sawyer’s office one morning to pressure him about vacant faculty positions. Lowry casually informed the president that the trustees would vote for A.B. Riley to fill one of the vacancies at their next meeting. Taken aback, Sawyer indicated that he had already selected an applicant and promised him the job, and that he furthermore considered Riley unsuitable. He argued that the “[State] Board [of Education] told me to secure an applicant that I could recommend, [and] that that virtually meant that said applicant would be elected.” Chafing at the suggestion that the Indian board of trustees merely rubber-stamped Raleigh’s decisions, Lowry insisted that Sawyer’s was limited to furnishing lists of candidates for the trustees’ consideration. He flatly informed the superintendent that he was welcome to submit his preferred candidate, “but that Mr. Riley would be elected” regardless. To soften the blow, Lowry reassured the president that board members wanted to reinstate Riley simply “to test out [their] contention...that all this trouble has been due to Mr. Smithey [and not] the faculty.” The minister offered a vote of confidence in the new president and predicted “that there will be no disturbance this year under [his] control.” Deflated after this incident, Sawyer wrote Newbold to complain that “[i]t seems that it may be possible for the Board to run the thing just like it wants to.” With mournful resignation, he added that “we will get along some way.”³³

In an attempt to stamp out the smoldering trustees’ rebellion, Director Newbold rallied his local white and Indian allies in a campaign to force D.F. Lowry from the board. Not even on speaking terms with the minister by late 1928, the director called on L.R. Varser to submit a deal to the troublesome trustee. Newbold proposed that if Lowry submitted a letter of resignation to

³³ N.C. Newbold to L.R. Varser, 11 September 1929, box 34, folder 276, Scheirbeck Papers.

the governor, then he would support the appointment of his brother, Edmund Lowry. A strategic departure from his progressive commitment to clean government, the director adopted the plan at the suggestion of his Indian allies on the board. Although state administrators had the authority to overturn any action of the Indian board of trustees, Newbold had learned from “dealing with these Indians... for more than eight years” that the state bureaucracy only reached so far into Indian communities and that he needed to engage Lowry on the plane of tribal politics if he wished to neutralize his insurrection. Anathema to his own tidy administrative sensibilities, the compromise proposal made sense both in local Indian political culture and the patronal backwaters of gubernatorial appointments, both of which Lowry and his allies could manipulate far more deftly than the director.³⁴

DF. Lowry easily slipped his rival’s punches, however, and the two men and their factions fought to an impasse for the remainder of the academic year. Newbold’s army of budgeteers and bureaucrats blocked the appointment of A.B. Riley, but Lowry himself proved too powerful to unseat and continued to skirmish with the director and superintendent. Newbold held a weak hand in his campaign to remove the politically well-connected minister from his position on the board of trustees. Lacking any real leverage, the director tepidly suggested that Lowry resign to “save his own self respect [*sic*] as well as his possible embarrassment as a member of the Trustee Board, and as a sort of leader among the Indian people.” Lowry flatly rejected calls to hand his seat over to his brother, and the Newbold faction’s efforts to persuade the governor to remove him foundered on the minister’s alliances with Angus McLean and other influential Democratic Party elders. Emboldened, Lowry and his allies reasserted their claims to

³⁴ Ibid.

control over faculty hiring at the end of the 1930 spring term. “[Lowry] does not come to me to discuss the faculty for next year at all,” Superintendent J.E. Sawyer complained in a fretful missive to Newbold, “[b]ut he is planning it all out just the same.” By then accustomed to the insurgents’ tactics, Sawyer understood that their efforts were largely symbolic and obstructionist. “He may be assured that he will not be able to place Mr. Riley [and other favored candidates] back on the faculty, but that will not deter him from doing the ousting stunt – just as a matter of evening things up,” the superintendent predicted. Sawyer also recognized the patronal logic behind Lowry’s efforts and the futility of attempts to remove him. “D.F. [h]as been warned that if he will not co-operate... he will be put off the board,” he mused, “[but] [t]hat warning will do no good after he has voted several of our faculty out in order to even things up a bit, and make room for some of his personal friends.” In bitter recognition of this soft power and local influence, the president complained that “D.F. Lowry knows that... he is the master of the works here.”³⁵

After fighting to a standstill in Pembroke, N.C. Newbold and D.F. Lowry’s war of wills spilled into the halls of power in Raleigh. By early 1931, the minister and director had each notched a victory against the other’s respective proxies, Sherman Smithy and A.B. Riley. To break the stalemate, the rivals turned to the state government to adjudicate the dispute. A bureaucrat with little talent for political maneuvering, the director turned over his campaign to remove D.F. Lowry to savvier Indian allies, who were more practiced in the art of flattering and manipulating politicians. In March of 1931, A.N. Locklear and his allies convinced Robeson County’s General Assembly delegation to introduce legislation authorizing the governor to

³⁵ J.E. Sawyer to N.C. Newbold, 19 May 1930, box 34, folder 276, Scheirbeck Papers.

appoint two additional trustees for the Indian Normal School. Convinced that D.F. Lowry represented a threat to segregated Indian institutions (and perhaps annoyed with his incessant shenanigans), Locklear coordinated an influence campaign in support of the board-stacking bill.³⁶

A master of patronalism who had cut his teeth in the violent world of turn-of-the-century North Carolina politics, A.N. Locklear made a strange bedfellow for the progressive Newbold. White supremacy was their common bond, but the two men operated under different intellectual formulations of the concept. The director believed in a rationalist, scientific version of white supremacy and believed that racial hierarchy promoted efficient government and peaceful race relations. For Locklear, white supremacy was less a coherent ideology than a tool or code word to wring concessions from the Democratic regime in Raleigh. In a letter to Governor Oliver Max Gardner, Locklear employed the kind of patronal language that would have likely made Newbold wince. Positioning himself as the legitimate mouthpiece of the county's Indian population, he asserted that "we have worked hard and honest to know the will of the people" and made the tactically hyperbolic claim that "about ninety percent... say please give us the two [additional] members" on the Normal School board of trustees. To establish a figurative connection, he conceded to Gardner that "you don't know me personally [and] neither do I know you" but called on the governor to consult one of the white "friends" of the community to verify the character and Democratic Party credentials of his faction of the board of trustees. "[A]sk if you please, Judge T.L. Johnson, whether or not men such as [allied trustees] M.L. Lowry and L.W. Jacobs stood by your cause & interest in the last contest loyally or not." For Locklear, electoral

³⁶ A.N. Locklear to O. Max Gardner, 17 March 1931, Office of the Governor, Governor's Papers, Oliver Max Gardner, State Archives of North Carolina, Raleigh, NC.

fealty was a personal favor to Governor Gardner that entailed reciprocal obligations. As repayment, he suggested that support for the legislation would be “a favor to our Institution, for harmony and good will.” In case the governor missed the subtext of his argument, the wizened old trustee concluded his letter with the explicit warning that “the *strength* of the *good old party* which I have loyally supported ever since the [1900 election] is threatened” (emphasis original).³⁷

Combined with Newbold’s “tyrannical” micromanagement of faculty hiring and other operations, the placement of the Normal School under the Division of Negro Education seemed to confirm Indians’ worst fears about diminishment of their racial-political status relative to black people. As Locklear and Newbold worked to secure the passage of the board-stacking bill, D.F. Lowry and his allies threw their weight behind a separate proposal to remove the Normal School from the Division of Negro Education, a measure freighted with racial, political, and personal implications. Since the 1921 administrative realignment, Indian and white allies had peppered state officials with complaints that the change was racially unjust, politically disadvantageous, and an affront to Indian self-government. Employing deliberately inflammatory language, the elderly father-in-law of longtime ally A.B. Riley informed the governor that “I think I can satisfy the Democrats of the State that it is a damnable shame to place & keep [the Indians] in the Department of Negro Education & force them to submit to the tyranny of Mr Newbold.” He specifically alleged that “Mr Newbold sometimes sends out letters & circulars ‘Director of Indian Education’, but often it comes ‘Director Negro Education’—I *know* how it humiliates them, for they have told me” (emphasis original). Under white supremacy, such

³⁷ Ibid.

mundane oversights carried outsized symbolic importance. More practically—and of particular concern to Lowry, who held high aspirations for his own children’s education—the reorganization threatened graduates’ access to white universities for postsecondary and continuing education. In response to pressure from Lowry’s camp, the General Assembly introduced a second bill that transferred the Indian Normal School from the Division of Negro Education to the State Board of Education. Both Indians and state officials understood their authority in explicitly racial terms, Lowry’s racialized arguments resonated with white elected leaders.³⁸

Using the logic of white supremacy for their own ends, leaders persuaded state officials to recognize their people as fundamentally different from African Americans and therefore deserving of greater self-government. With its power to encode racial distinctions in state law, the North Carolina government reaffirmed its relationship with the Indians of Robeson County as one between unequal, limited sovereigns. In a compromise, the General Assembly and governor enacted the board-stacking bill in addition to the proposal to transfer oversight of the Indian Normal School from the Division of Negro Education to the State Board of Education. Although the expansion of the Normal School board was aimed at diluting Lowry’s influence, the trustees apparently institutionalized the attempted ouster of superintendents to ensure accountability to Indian interests. In 1942, L.R. Varser informed the governor about the board’s recent efforts to force out Superintendent G.G. Maughon and traced the practice back to the controversy over Sherman Smithey in the late 1920s. “Since that time,” Varser complained, “an effort has been made to remove every Superintendent of this school, in some cases shortly after he goes into

³⁸ J.L. Bell to O. Max Gardner, 22 September 1929, box 11, DPI: General.

office, and others after he has been in office several years, but the effort never ceases.” That such disputes over the leadership of a small, nonwhite teachers’ college routinely demanded the attention of the governor and General Assembly illustrated the extent to which state officials acknowledged Indians’ quasi-autonomous status. In their campaigns against N.C. Newbold and other adversaries, the trustees engaged in what amounted to a state-building process that ensured the independence of the segregated institutions that comprised their loose-knit tribal government. As D.F. Lowry and his fellow middle-class Indians soon discovered, however, theirs was a Faustian bargain in which autonomy and recognition competed with individual opportunity.³⁹

*
**

As the “master of the works” in Pembroke, D.F. Lowry, alongside likeminded Indian allies, used the machinery of segregation to protect their community’s institutions and self-government, but the dance with Jim Crow also helped strengthen the bureaucracy of North Carolina’s burgeoning racial state in ways that foreclosed on opportunities beyond their homeland. As Lowry battled with Newbold over the fate of the Indian Normal School, he attempted to secure higher education for his own children at white colleges. Middle-class Indian leaders valued the Indian Normal School as an implement of indigenous self-government but also recognized its limitations as an educational institution, and many arranged for their own children to be educated outside the county, where their racial ambiguity afforded tenuous access to segregated white colleges and universities. Most attended private or out-of-state institutions beyond the jurisdiction of North Carolina’s tri-racial educational segregation statute, but a tiny

³⁹ L.R. Varser to J. Melville Broughton, 8 January 1942, box 65, folder “Pembroke State College,” Office of the Governor, Governor’s Papers, J. Melville Broughton, State Archives of North Carolina, Raleigh, NC.

handful—including D.F. Lowry’s daughter Ouida—slipped into white, in-state public colleges. At least in part, the trustees’ revolt against the Indian Normal School’s placement under the Division of Negro Education was an effort to protect these backdoor educational pathways, but engagement with the state’s racialized bureaucracy also heightened officials’ awareness of Indian legal status, indirectly strengthened state authority over racial classification, and bolstered the government’s claim that the Indian Normal constituted a sufficiently “equal” facility to deny Indians access to white schools. Unconcerned with the procedural niceties of segregationist liberalism that obsessed his nemesis, D.F. Lowry and other Indians of his social station viewed white supremacy as a tool to maximize their people’s opportunities but struggled to limit the damage that their participation created through “equal” enforcement, precedent, and rule of law.⁴⁰

Beginning with Lumbees’ state recognition in 1885, increased access to education had been among the most important goals of the community’s interactions with settler governments. In 1888, Lumbees embarked on their more-than-century-long battle to obtain federal recognition with a petition seeking educational assistance from Washington, a plea that fell on deaf ears in Congress and at the Office of Indian Affairs (OIA). At the urging of local Democratic politician Angus McLean, Lumbees turned to the federal government again in 1914 with only slightly more favorable results. After congressional hearings and an OIA ethnographer’s report on the community’s tribal origins, federal officials declined to offer direct educational funding for fear of inculcating dependency but suggested that community members attend federal off-reservation boarding schools. In fact, several Robeson County Indians had already attended Carlisle Indian

⁴⁰ Walker Elliott, “‘I Told Him I’d Never Been to His Back Door for Nothing’: The Lumbee Indian Struggle for Higher Education under Jim Crow,” *North Carolina Historical Review* 90, no. 1 (January 2013), 49-87.

Industrial School in Pennsylvania. By the 1910s, Carlisle was in danger of shuttering due to flagging enrollment and routinely accepted students from federally non-recognized indigenous groups, including over twenty Catawbas, at least one Brothertown Indian, and even students from the Philippines and Puerto Rico. Although Carlisle was not a permanent solution to limited Lumbee educational access, the experience exposed the students to intertribal contacts and mainstream federal Indian policy, which they generally found suffocating. Lacy Oxendine, for example, left the school after instructors labeled him insufficiently proficient in English to make himself understood, ironic given that it was his native language.⁴¹

Because state law barred Lumbees from attending segregated white colleges in North Carolina, most Indian students who left Robeson County attended private and out-of-state institutions, many at explicitly segregated white institutions in Jim Crow states. Between 1900 and 1950, at least thirty Indian students—a substantial number given the low population and average educational attainment of their community—attended segregated white colleges and universities. Most attended out-of-state institutions, including Middle Tennessee State Teachers College, the University of Georgia, and Emory University in Atlanta; but a handful chose private institutions in North Carolina, such as Duke and Wake Forest College. Although some students “passed” as white and avoided detection, school administrators were aware of their Indian identities in many instances. Although individual policies differed, school officials and state lawmakers generally designed postsecondary segregation less to create exclusively white spaces than nonblack ones. Segregated schools in the South infrequently but routinely accepted Asian,

⁴¹ Lowery, *Lumbee Indians in the Jim Crow South*, 87-103; Lacy Oxendine Student File, 1 October 1914, Student Records, Carlisle Indian School Digital Resource Center, Archives & Special Collections, Waidner-Spahr Library, Dickinson College, Carlisle, PA <http://carlisleindian.dickinson.edu/student_records>.

Latinx, Native American, and other nonblack minority students as a matter of policy. In the four decades before the *Brown* decision, North Carolina State College alone granted degrees to more than forty Chinese nationals. Most Native American students, especially those from federally recognized groups, fell into the same administrative category as their Asian counterparts. The University of North Carolina accepted a young Chickasaw man from Indian Territory in the early 1880s, and an Eastern Band Cherokee named Henry Owl earned a master's degree in 1929. James Arnold Jacobs, a Lumbee, attended Murray State Teachers College in Kentucky for his undergraduate education before earning a master's degree at Duke. Faculty and administrators were apparently aware of Jacobs's Indian identity. He enjoyed his time at Duke, reportedly because "they... make no difference there." Later an administrator and mathematics instructor at the Indian Normal School, Jacobs encouraged other ambitious students to leave the county to pursue their educations.⁴²

For Lumbees, however, the black-exclusive, rather than white-inclusive, nature of Jim Crow meant that access to higher education depended on asserting a purely Indian identity and deflecting questions about their mixed ancestry. Racially ambiguous and of uncertain tribal origin, Lumbees faced threats from local folk beliefs, racial "common sense," and social scientific research. White Robesonians concluded that Indians possessed African ancestry based on their personal evaluations of physical attributes, such evidence as "kinky" hair and broad noses. Local whites easily distinguished Indians from other groups, however, and discriminated

⁴² Peter Wallenstein, "Higher Education and the Civil Rights Movement: Desegregating the University of North Carolina" in *Warm Ashes: Issues in Southern History at the Dawn of the Twenty-first Century*, ed. Winfred B. Moore, et al. (Columbia: University of South Carolina Press, 2003), 287; Walker Elliott, "I Told Him I'd Never Been to His Back Door for Nothing," 49-87; Records of students admitted, 1876-1890, vol. 11, Records of the Office of the Registrar, University Archives, Wilson Library, University of North Carolina at Chapel Hill; John R. Finger, *Cherokee Americans: The Eastern Band of Cherokees in the Twentieth Century* (Lincoln: University of Nebraska Press, 1993), 49.

among them based on skin color. At Flora MacDonald, a small women's college a few miles from Pembroke, administrators rejected the applications of several Lumbee women, reportedly because they feared that "the college would set a precedent which might later lead to embarrassment due to possible subsequent application of those [Indians] possessing more Negro characteristics." Outside the county, white people generally mistook Indians for white, but the presence of nonwhite Robesonians sometimes posed a threat to such passive passing. At some point before World War I, John Lowry enrolled at the University of Maryland's medical school in Baltimore. The first Lumbee physician, Governor Locklear, had completed his medical training at Baltimore University School of Medicine, and Lowry must have assumed that the city was a safe place to study. In his final year of medical school, however, a chance meeting with a white nurse from Robeson County threatened his status. A social scientific researcher later interviewed the nurse and collected her version of the encounter:

When I started training as a nurse in the hospital of the University of Maryland, the head nurse on my hall asked me where I was from, and, when I said North Carolina, she replied that she had a good friend from North Carolina who was finishing his medical work this year and that she wanted me to meet him. A few hours later, I passed by her desk and saw a tall distinguished-looking foreigner bending over her talking[,] and she beckoned me to come over. "Miss Singleton," she said, "this is Mr. Lowry from North Carolina." I knew at once that he was a Robeson County Indian, but I was determined not to give him away. In my confusion I asked him where he was from. "Pembroke," he said, "and where are you from?" I had to reply, "Red Springs." The [head] nurse felt the tension and said, "Why do you know each other? Do you live near?" "Oh, no," I said. "Very far apart."

The nurse's initial confusion demonstrates that some Indians were sufficiently ambiguous in appearance that even white Robesonians could fail to identify them without proper context. Yet the "tension" she described suggested the danger that white Robesonians posed to Indians at all-white institutions. Had this nurse been any less "determined not to give him away," she could

have raised questions about Lowry's race to school officials, and others in her position were less understanding.⁴³

Although state law barred Lumbees from attending white public colleges, enforcement varied by campus, and some Indians leveraged their racial ambiguity to attend clandestinely. At the University of North Carolina at Chapel Hill, administrators developed an especially stringent policy of Lumbee exclusion during the 1920s and 1930s. In addition to legal constraints, phenotypic criteria apparently played a major role in the formulation of these restrictions. When a UNC sociologist interviewed D.F. Lowry and Joe Brooks in 1937, he recorded that Indians from Robeson County had enrolled at Chapel Hill in the 1920s but left without taking degrees. According to the sociologist's interpretation, the university dismissed the students because some had physical traits that "verged so near to the Negroid that various people began to raise questions... [and] that a sort of gentlemen's agreement was reached whereby the Indians would not come to the University anymore." At least one Normal School graduate, Sallie Johnson, enrolled in UNC's summer school in 1927, but Johnson had a white father, did not carry a stereotypically Indian surname, and was sufficiently light in complexion to pass for white even in Robeson County. A librarian at the Normal School, she enrolled to complete library science coursework unavailable at Pembroke. But when a Robeson County newspaper listed her among students from the county studying at Chapel Hill, a local white attorney and UNC alumnus recognized her name and warned officials that they were violating state segregation law. Normal School Superintendent Sherman Smithey interceded with the school's administrators and

⁴³ Adolph L. Dial and David K. Eliades, *The Only Land I Know*, 140; Clifton Oxendine, interview by Adolph Dial, 30 July, 1969, SPOHP; field notes, "Interview with Mrs. Gusman," no date, 1937, folder 1223, GBJ Papers; field notes, "Incident," no date, 1937, folder 1223, GBJ Papers.

convinced them to allow Johnson to stay until the end of the summer. Shortly thereafter, UNC tightened enforcement of Indian segregation. In 1932, members of the university board of trustees considered a request from the Indian Normal School for assistance in developing its teacher training curriculum but specified that the program's Indian beneficiaries would not receive "credit towards a degree from the University or registration as regular students of the University."⁴⁴

Until the consolidation of the university system in 1933, North Carolina's other white public institutions were administratively autonomous from the Chapel Hill campus and wielded administrative discretion in their approach to Indian students. Although no Lumbee students actually enrolled, one internal review at North Carolina State College determined that "the rules of the College do not prohibit our admitting Croatan Indians." The North Carolina College for Women (NCCW) in Greensboro received at least two applications from Indian students and handled each differently. After her unpleasant experience in Chapel Hill, Sallie Johnson chose to attend the 1928 summer session in Greensboro instead, and she completed the six-week term without apparent incident. But when another Pembroke alumna, Marguerite Jones, applied for regular admission that fall, staff rejected her application. Officials cited the accreditation status of the Indian Normal School, but NCCW had accepted Sallie Johnson's transcript from the same institution only months earlier. After receiving news of the incident, Director of Negro Education N.C. Newbold identified accreditation status as a polite circumlocution for race. "The college,"

⁴⁴ Guy Johnson to Donald B. Gragg, 27 April 1942, folder 1214, GBJ Papers; Interview with Joe Brooks, D.F. Lowry, and anonymous informant, 2 August, 1937, folder 1214, GBJ Papers; Clifton Oxendine, interview by Adolph Dial, 30 July 1969, the Digital Collections of the Samuel Proctor Oral History Program, University of Florida, Gainesville, FL [hereinafter SPOHP]; Minutes of the Board of Trustees, February 3, 1932, vol. 14, reel 4, Records of the Board of Trustees of the University of North Carolina, University Archives, Wilson Library, University of North Carolina at Chapel Hill; Sally Johnson Brooks, interview by Dexter Brooks, July 3, 1973, SPOHP.

he believed, “had declined to accept Miss Marguerite Jones, because she is an Indian, and didn’t know the best way to go about it.” The administration likely viewed Johnson’s application to the summer session as less legally threatening than Jones’ request for regular admission. Johnson’s complexion may have also played a role in the lax enforcement, as it had at UNC. For NC State and NCCW, this discretion came to a halt with their incorporation into the Consolidated University of North Carolina in 1933. Created as an austerity measure amid Depression-era budget shortfalls, the university system reduced redundancy and created a central administration for Chapel Hill, Raleigh, and Greensboro. This system-wide bureaucracy increased state oversight and eliminated backdoor Indian access at the three campuses. System officials encountered their first question about Indian segregation less than a year after university consolidation, when an unidentified Lumbee woman applied for admission at the newly rechristened Woman’s College of the University of North Carolina. Uncertain how to proceed under the new administrative arrangement, the top administrator on campus, Julius Foust, took the issue before the executive committee of the board of trustees for the Consolidated University. After a brief discussion, the committee members indicated that “that the matter was being properly handled by Dr. Foust,” presumably by directing staff to reject her application.⁴⁵

A 1933 challenge to university segregation in the state court system, *Hocutt v. Wilson*, alerted officials to the legal vulnerabilities of the tri-racial system and strengthened their resolve to eliminate them. Thomas Hocutt, a graduate of the North Carolina College for Negroes in

⁴⁵ Ibid.; J.W. Harrelson to Dennis Brummitt, 7 September 1934, box 89, folder “Greater University 1934,” NC DOJ; Leon R. Meadows to Dennis Brummitt, 29 October, 1934, box 89, folder “M 1934,” NC DOJ; Minutes of the Executive Committee, January 30, 1934, vol. 14, reel 4, Records of the Board of Trustees of the University of North Carolina, University Archives . The General Assembly passed legislation creating the Consolidated University in 1931, but that reorganization did not take place until 1933. At the time of the system’s creation, the names “Consolidated University” and “Greater University” both had quasi-official status and were routinely capitalized in official documents.

Durham, filed suit after the UNC School of Pharmacy rejected his application for graduate study. When the case gained publicity, the NAACP sent one of its rising stars, William Hastie, to lead the counsel. Because no equivalent graduate program existed at any black public college in North Carolina, Hocutt alleged that the state had violated his right to equal protection. Hastie and his team also argued that North Carolina's segregation statute covered only graded school education and did not specifically extend racial separation to public universities. Recognizing the seriousness of the challenge, the state brought all its legal firepower to bear. State Attorney General Dennis Brummitt led the team of lawyers, which also included Aaron Seawell and the dean of the UNC School of Law. The state educational segregation regime derived from a single statute, which mandated racially exclusive facilities both for students with "Negro blood in [their] veins, however remote the strain" and those possessing "what is generally known as Croatan Indian blood." In building a case that this legislation implied general separation at all levels of education, Brummitt and his colleagues cited *McMillan v. School Committee*, which affirmed that Indian school committees could exclude black students. Written into the state's most fundamental statute on segregated education, Lumbees became unwilling participants in Dennis Brummitt's battle against desegregation.⁴⁶

To prove that the university had never been legally "authorized to admit to its classes members of the colored or negro race," the defense team cited both constitutional and statutory law. Because the amendment on school segregation predated Lumbee recognition, the state constitution remained a strictly biracial document. The General Assembly subsequently strengthened the restrictions on black students with a 1903 enactment that barred any child with

⁴⁶ Jerry Gershenhorn, "Hocutt v. Wilson and Race Relations in Durham, North Carolina, during the 1930s," *North Carolina Historical Review* 78, no.3 (July 2001), 275-308.

“Negro blood in its veins, however remote the strain” from attending white public schools. But in 1915, the legislature amended the 1903 segregation act to prohibit not only children with African ancestry, but also those possessing “what is generally known as Croatan Indian blood” from enrolling at white institutions. Written into the state’s most fundamental statute on segregated education, Lumbees became unwilling participants in Dennis Brummitt’s battle against desegregation. The attorney general also relied on the 1890 ruling in *McMillan v. School Committee*, which formed the judicial bedrock of separate Indian education. Although the judge declined to issue a court order on technical grounds, he deemed Hocutt’s case “a meritorious one” and made a nonbinding recommendation that he be admitted the next fall. As an ardent Democrat and segregationist, Brummitt found this outcome personally and professionally humiliating. Recognizing that the legal framework for segregated college and graduate education was in danger of collapse, the attorney general became determined to prevent the NAACP from acquiring any additional ammunition.⁴⁷

In September of 1934, a group of Indian Normal School graduates encountered the hardening infrastructure of North Carolina’s racial state. That fall, three unidentified Indian men applied for admission to NC State College, presumably for agricultural training beyond the limited offerings of the Indian Normal School. Their admissions request was unusual enough to reach the desk of the dean, J.W. Harrelson, who wrote the state attorney general for guidance. Harrelson noted that NC State “ha[d] been requested to admit three Indians from Robeson

⁴⁷ Ibid.; *Amendments to Revisal of 1905 Enacted by the General Assembly of North Carolina, 1907-1915*, ed. by W.S. Wilson (Raleigh: NC State Historical Commission, 1915), 77; Art. IX, §2, Const. 1868, Convention 1875 in *States’ Laws on Race and Color: Studies in the Legal History of the South*, ed. by Pauli Murray (Athens: University of Georgia Press, 1997), 329; C.S. 5384 in *States’ Laws on Race and Color: Studies in the Legal History of the South*, ed. by Pauli Murray (Athens: University of Georgia Press, 1997), 330; Dennis G. Brummitt, no title, 26 November 1934, box 89, folder “M 1934,” NC DOJ.

County [otherwise] known as Croatans” but offered few additional details. Initially, Harrelson leaned toward admitting the students because it was his “understanding is that the Indians of Robeson County have all the rights and privileges of white people in this State.” After a review of campus policy found no internal regulations on the subject, the dean requested confirmation that his determination complied with state law. Like all administrators in the UNC system, Harrelson had followed the *Hocutt* case closely and understood the need to exercise caution on racial matters.⁴⁸

Harrelson’s letter sent a jolt of anxiety through Attorney General Dennis Brummitt and his assistant Aaron Seawell, who immediately connected the Indian applicants to *Hocutt*. Thomas Hocutt and the Indian students sought entry to white public institutions only after exhausting the coursework in their chosen fields at the state-supported institutions for their respective races. But unlike Hocutt, who lodged his suit to access a specialized graduate program, the Indian applicants to NC State lacked access to basic undergraduate offerings available to both other races. Under Superintendent J.E. Sawyer, the Indian Normal School began offering two years of college-level coursework outside the education field, but the initial courses were restricted to the liberal arts. At the time of the students’ application to NC State, the Normal School’s agriculture program remained relegated to the high school department.⁴⁹

In response Harrelson’s claim that Lumbees “have all the rights and privileges of white people in this State,” Seawell offered an interpretation of the Fourteenth Amendment that

⁴⁸ J.W. Harrelson to Dennis Brummitt, 7 September, 1934, box 89, folder “Greater University 1934,” NC DOJ.

⁴⁹ *Ibid.*; *Catalogue of Cherokee Indian Normal School: Normal Department, College Department, Department for Deaf, High School*, vol.1, no. 3 (Pembroke, NC: June 1938).

revealed both the underpinnings of segregationist liberalism and the centrality of Indians to separate education in North Carolina.

Referring exclusively to the civil rights and privileges under the 14th Amendment to the Constitution, this position is probably correct, but our [state Supreme] Court in *McMillan v. School Committee*... has not considered that prohibitive as regards segregation of the races in the schools; and in this respect the Croatan Indians of Robeson County stand upon no better footing than any other person regardless of race... I regard th[is] matter as being of extreme importance in its every aspect.

Although Seawell never mentioned the case by name, the assistant attorney general implicitly drew on the US Supreme Court's 1899 decision in *Cumming v. Board of Education of Richmond County*. Turning specifically on segregated education and inequality, *Cumming* was a more direct segregationist antecedent to *Brown* than *Plessy v. Ferguson*, and by 1934 it had passed into the legal common sense. The case originated when a group of black plaintiffs living near Augusta, Georgia sued the county school board and tax assessor over a local school tax. Because Richmond County maintained no high school facilities for black students, they argued that the allocation of tax revenue for a local white high school violated their rights under the Equal Protection Clause. Writing for a unanimous court, Justice John Harlan argued that public education was the province of the state legislatures and courts and therefore not subject to federal review. The *Cumming* precedent explained why Seawell regarded the potential admission of Indian students to a state university "as being of extreme importance in its every aspect." As Seawell explained to Harrelson, the primary state court precedent that established school segregation was *McMillan*, which upheld the exclusion of black students from Indian, not white, schools. This context illuminates Seawell's cryptic statement that "the Croatan...stands upon no better footing than any other person, regardless of race." Segregated education was of a single piece, the attorney general suggested, and its three racial categories stood or fell together like the legs of a stool. Under North Carolina's race-conscious liberalism, Indian segregation was central,

not peripheral, to the legal edifice of Jim Crow, yet its logistical unworkability threatened to expose and undermine the system like a long-neglected, loosened screw. In that sense, the Lumbee schools were analogous to the place of Indian treaties in US liberalism more broadly: foundational, yet destabilizing and anomalous manifestations of particularism.⁵⁰

The *Cumming* precedent also offered Seawell and his fellow segregationists a justification for the blatant inequality at black and Indian institutions. After examining the peculiarities of the school system and reasoning by analogy and common sense from gender segregation, Justice Harlan and the Supreme Court also dismissed the plaintiffs' equal protection claims on the basis that Richmond County's black population was too small to require a high school. Equal protection, the Court implied, did not guarantee literally equal accommodations, so long as some practical justification existed for the disparity. Echoing Harlan, Assistant Attorney General Seawell told the dean that the state had made a good-faith effort "to afford to persons excluded from the white public [colleges and universities] of the State equal educational facilities in other schools provided for them [a]s far as has been possible, and presumably in exact proportion to their needs." Under that logic, the state justified appropriating roughly nine times more for the annual base budgets of white colleges than their black counterparts, and a staggering eighty-seven times more than the lone Indian college. Under *Cumming*, the state could claim that these disparities were warranted by the smaller size of its two legally recognized minority populations, as well as more subjective factors, such as their perceived levels of

⁵⁰ Aaron Seawell to J.W. Harrelson, 8 September 1934, box 89 folder "Greater University 1934," NC DOJ; William Nelson, *The Fourteenth Amendment: Political Principle to Judicial Doctrine* (Cambridge: Harvard University Press, 1998); Michael Klarman, *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality* (New York: Oxford University Press), 45-78; *Cumming v. Richmond County Board of Education*, 175 U.S. 528 (1899).

educational need and economic development. Poor and agrarian with a population of only about thirty thousand, Indians found themselves at an especially stark disadvantage under Aaron Seawell's understanding of what constituted "equal educational facilities... in exact proportion to their [race's] needs." The Indian Normal School received by far the smallest annual appropriation of any state college: for the 1932 to 1933 academic year, it operated on barely two-thirds the appropriation for Elizabeth City State, the next-poorest college in the state and the most marginal of its three black normal schools. The state allocated roughly one percent of its higher education budget to the Indian Normal School, a disproportionately meager sum even in relation to Indians' share of the state's population. In the *Cumming* opinion, Harlan ruled that only the most egregious inequalities violated the Fourteenth Amendment, although he established neither a standard for evaluating such claims nor a federal avenue for litigating them.⁵¹

For Seawell, Indians represented the weakest link in the state's tri-racial segregation scheme and a serious threat to the legal architecture of segregation. Their lone public college was so egregiously inadequate as to undermine even the *Cumming* standard, and their phenotypic ambiguity and geographic obscurity helped them evade enforcement. Even after university administrators eliminated access to the UNC system campuses, several Indian students managed to enroll at the state's white teachers colleges, which remained independent of the Consolidated University. In 1934, the state maintained three such institutions: Western Carolina and Appalachian State in the mountains and East Carolina in Greenville. Isolated and understaffed, these institutions were inconsistent in their application of state segregation law. One beneficiary

⁵¹ Ibid.; North Carolina General Assembly, *Public Laws and Resolutions* (Charlotte: The Observer Printing House, Inc., 1931), 716-8.

of this laxity was Doctor Fuller Lowry's daughter Ouida, who registered for summer classes at Appalachian State Teachers College in 1934. After her discovery at East Carolina Teachers College, however, Seawell sprang into action to cauterize this wound in Jim Crow.⁵²

North Carolina's racialized prewar Indian affairs regime demonstrated that segregation was compatible with liberalism in theory, if not always in practice. The logistical difficulties of operating separate-but-equal Indian institutions resulted in staggering inequality that threatened the nominal fairness of segregation under the law. The efforts of segregationist liberals to comply with contemporary legal standards filled gaps in enforcement and expanded North Carolina's racial state. The legal legitimacy and small influx of cash that state recognition conferred allowed Indian leaders to construct a makeshift tribal government centered around the Indian Normal and segregated graded schools, which they used as a platform to negotiate with Raleigh and guard against threats to their racial status and political autonomy. Segregationist liberalism fueled reciprocal processes of state formation and political development at the state and tribal levels, but the legal and infrastructural architecture that structured this relationship rested on a foundation of color-conscious jurisprudence. After World War II, the rising tide of colorblindness threatened both the state's Jim Crow regime and the Indian institutions that sprang from its logic.

⁵² Ibid.; North Carolina Historical Commission, *North Carolina Manual*, ed. by H.M. London (Raleigh: 1933), 231-240; Anna Bailey, "How Scuffletown became Indian Country," 155.

CHAPTER 2
BACK AND FORTH: MIGRATION, CONSUMER CULTURE, AND THE BEGINNING OF THE END OF
JIM CROW RECOGNITION

In the summer of 1937, Guy Benton Johnson stumbled into an ill-fitting role as an academic expert on the Indians of Robeson County. A student of southern “race relations” and an intellectual grandfather of African American studies, the University of North Carolina sociologist was intrigued by the strange, tripartite variation on Jim Crow in his proverbial backyard. Gangly and pasty-complexioned, Johnson exuded a professorial awkwardness that surely elicited eye-rolling from some informants in Pembroke and Prospect, but Johnson also possessed the kind of well-meaning warmth typical of hapless white people, and Indians mostly obliged when he turned up at their doorsteps and churchyards, notepad in hand. The middle-aged Texan was merely the latest arrival in the seasonal cavalcade of social scientist interlopers of the variety that Vine Deloria, Jr. described in “Anthropologists and Other Friends,” and Lumbees, like their indigenous counterparts across the country, recognized the potential benefits of playing along, or had at least grown accustomed to the prodding. One prankster led Johnson astray with fabricated scraps of an ancient language—a favorite Lumbee joke that the credulous professor dutifully transcribed—but most were welcoming and helpful, and a few members of Pembroke’s Indian upper crust took a liking to their nosy guest from Chapel Hill.¹

¹ “Correspondence: 1934-42,” folder 1214, GBJ Papers; “Field Notes on Indians of Robeson County,” folders 1214 1223-6, 1937, GBJ Papers.

Despite his extensive fieldwork, Johnson produced only a single publication on Lumbees, an ill-advised 1939 article in the *American Sociological Review* that derailed his relationship with the community for nearly a decade. In that piece, “Personality in a White-Indian-Negro Community,” Johnson breezily dismissed his erstwhile hosts as “Indians by courtesy” and postulated that such cultural traits as their strategic use of political violence and insubordination to white authority stemmed from collective racial insecurity—a supposed longing to be white and subconscious fear that they were “really” black. Accustomed to his publications languishing in academic obscurity, Johnson had not counted on Lumbees’ voracious appetite for literature on their own people, and his Indian acquaintances were understandably upset about his condescending tone and potentially damaging racial assertions. Upon his next visit to Pembroke, Johnson recalled that “I had a hard time the next time I was in Robeson County” and feared “for a few minutes I was in danger of physical harm.” He managed to quell the anger with the dubious assertion that the journal had published the article prematurely and without his consent. Although his contacts eventually forgave him, the lingering awkwardness, coupled with wartime fuel rationing and the humdrum distractions of academe, discouraged Johnson from resuming his fieldwork in Robeson County until the late 1940s.²

Shorn of its problematic racial assumptions and social science jargon, however, Johnson’s article contained perceptive insights about one of the brewing issues on the horizon: migration. Although his doubt that “a community like the Croatan community [could survive] indefinitely” proved ill-founded, he grasped other changes in the landscape of Robeson County Indian politics that migration was fomenting:

² Johnson to Wilton Dillon, 7 February 1956, folder 1216, GBJ Papers; Guy B. Johnson, “Personality in a White-Indian-Negro Community,” *American Sociological Review* 4, no. 1 (1939), 516-23.

It seems likely that the Indian will rebel more and more against his caste status. Education, wider travel, and reading, are already beginning to have their effects. The changing situation will produce personalities who no longer see virtue in patience and compromise. The Indians are becoming more group conscious.

Johnson suggested that such changes awaited due to Indian migrants' tendency to return home. The Indians "have a strong sentimental attachment to their native soil," he observed, "and in spite of all their troubles, relatively few of them seek escape through permanent migration." He implied that these well-traveled, well-educated returnees would form a new generation of Indian leaders far less tolerant of the strictures of Jim Crow than their predecessors.³

When Johnson finally returned to Robeson County in 1948, he gazed out on a world remade and noted that some of his predictions had come true. The spry middle-aged leaders he befriended nearly a dozen years prior were now wizened elder statesmen, and a rising generation of military veterans, college graduates, and labor migrants were coalescing into a political force. Many had used their GI Bill benefits to attend Pembroke State College for Indians, which their federally subsidized tuition helped transform from a sleepy teachers' college into a genuine four-year institution and incubator for Indian leadership. Automobiles zipped across the dusty highways, waiting impatiently at railroad stoppings for the ubiquitous trains bound for Baltimore or Florida and zooming past buses plodding to Charlotte, Asheville, and thence to Detroit, with its glistening factories and two-dollar-an-hour wages. All vehicles seemed laden with young Indians hurtling toward some distant (or not-so-distant) metropolis in search of an elusive prosperity. Postwar American modernity, or at least its downhome cousin, had arrived in Robeson County.⁴

³ Ibid.

⁴ "Interviews with Robeson County Indians, 1948-1949," folder 1231, GBJ Papers.

On his second journey, Johnson also reconnected with old acquaintances, most fatefully with Adolph Dial. When Johnson first showed up at his family's farm and interviewed his mother, Dial was a teenager just beginning his high school education. By 1948, he had grown into seasoned adulthood and come to exemplify the new Indian leadership class. Drafted only weeks ahead of his Pembroke State graduation in 1943, Dial received his degree in absentia during basic training and shipped out for a tour of duty in Europe as an artillerist. After exhausting his self-employment benefits under the GI Bill, he headed to Detroit for a brief stint in an automotive plant but found that neither factory work nor city life agreed with him. He had just returned to Robeson County when Johnson offered him temporary work collecting data on Indians' material culture and migration habits. Over the next several months, Dial wandered from farm to farm filling out information cards for a dollar apiece and compiling a richly detailed quantitative snapshot of midcentury Indian migration. Not content simply to work in the trenches of academia, however, the bright and ambitious twenty-something intimated to Johnson that he wished to become a professor himself one day. But with segregation under siege in the federal courts, Dial and Johnson discovered that scaling Jim Crow's ivory tower was more daunting for Lumbees than ever before. As the tide of colorblindness lapped at its margins, the mammoth structure of segregation began the slow descent that would drag down some of the community's most cherished institutions in its wake.⁵

Lumbee migration to urban-industrial hubs began during the interwar years, accelerated during World War II and its aftermath, and profoundly changed how Indians interacted with the Jim Crow regime of their homeland. This chapter examines that surge in Indian mobility and

⁵ Ibid.

places it in conversation with new scholarship on federal Indian relocation and the Second Great Migration. In both instances, historians have complicated older narratives in ways that foreground the agency of migrants. In his 2013 article “Willing Workers,” Douglas Miller argues that the infamous 1956 Indian Relocation Act accounted for only a tiny fraction of the massive wave of migration that saw the national American Indian population transform from over nine-tenths rural in 1950 to majority-urban and -suburban by 1980. The program’s prominent place in the historiography stems from its connection to the much-maligned, yet largely aspirational, postwar federal policy shift toward the termination of federal responsibility for Indian affairs. Those who chose to participate in federal relocation did so not as dupes of a system bent on ethnic cleansing, but as voluntary recipients who took advantage of available resources and often manipulated the system to their own benefit. Likewise, African-American studies scholars have moved beyond simplistic depictions of southern black people fleeing northward to freedom from violent racism and the near-slavery of southern agriculture, as undeniably important as such factors were. As historian Leslie Brown has demonstrated, black people also participated in a lateral Great Migration to southern cities like Atlanta and Durham, where they built parallel, often quite powerful institutions under Jim Crow. Finally, James Gregory’s *The Southern Diaspora* reveals that white southerners also left the region in search of better wages and a higher standard of living but did so across a wider range of destinations and less permanently than southerners of color. These innovative works suggest that Lumbee migration, rather than a racially discrete phenomenon, was part of a general revolution in labor mobility in the postwar

United States, spurred by the rise of the automobile, the prosperity of cities and suburbs relative to stagnant rural economies, and massive increases in federal spending.⁶

If the inter- and postwar migration of Lumbee Indians was not unique, however, it had distinctive consequences for the system of government they had created as one of Jim Crow's most tenuous and exceptional subject communities. Whether spurred by military service, education, or work, this uptick in Indian mobility incubated a new class of civic and intellectual leaders steeped in an emerging postwar political culture defined by popular faith in liberal democratic institutions, the rapidly expanding role of the federal government, and politicized consumption. In *A Consumers' Republic*, Lizabeth Cohen traces how postwar Americans came to conflate their identities as citizens and consumers, a trend that explains the classical civil rights movement's focus on retail spaces like Woolworth alongside public institutions. During their inter- and postwar migration wave, Lumbees became immersed in this cauldron of political and cultural change as much as their white and black counterparts. After earning cash wages and participating in nominally unsegregated marketplaces in northern cities, Indians found the segregation of public places increasingly difficult to abide once they returned to Robeson County. A cadre of well-traveled Indians, often with college degrees from the newly rechristened Pembroke State College for Indians or from schools farther afield, helped to sublimate this simmering dissatisfaction into the new national discourse on democracy, civic engagement, and rights. As they returned from northern factories, offices, and universities, Indians became increasingly intolerant of the theater in Lumberton that seated them in an Indians-only section, of

⁶ Douglas K. Miller "Willing Workers," 51-76 ; Gregory *The Southern Diaspora*; Brown, *Upbuilding Black*; Dochuk, *From Bible Belt to Sunbelt*.

the restaurants in Red Springs that served them through the rear door, and of the university in Chapel Hill that refused to admit them regardless of their qualifications.⁷

By framing their opposition to Jim Crow in terms of equal rights and access to consumer spaces, however, Indians foreclosed on other historical pathways and hastened the erosion of tribal institutions that their parents and grandparents had painstakingly built under segregation. Students and administrators at Pembroke State College for Indians, for example, became frustrated as their degrees increasingly marked them as nonwhite and excluded them from further education at white universities throughout the segregated South. When they prevailed on administrators and elders to address the problem, their appeal set in motion a chain of events that ended first with the college's nominal desegregation and finally with a majority-white student body. Amid these seismic changes in Indian identity and politics, the community's leaders also fretted that the freedoms of urban living lured away their most talented youngsters and threatened the institutions that structured their indigenous peoplehood. The Jim Crow system both restricted their freedoms and undergirded their identity, and as it slowly collapsed, Indians began to think of new ways to articulate and certify the indigeneity of their ever more mobile population.⁸

*
**

Mobility has been a driving force in Lumbee history from the time of their eighteenth-century coalescence. Far from statically inhabiting ancient homelands, the Indian peoples of the seventeenth- and eighteenth-century Southeast traversed vast distances with surprising regularity

⁷ Lizabeth Cohen, *A Consumer's Republic: The Politics of Mass Consumption in Postwar America* (New York: Vintage Books, 2003).

⁸ Risa Goluboff, *The Lost Promise of Civil Rights* (Cambridge: Harvard University Press, 2010).

for reasons both mundane, like crop rotation, and catastrophic, such as warfare, slaving, epidemic disease, and other ill effects of colonialism. In response to settler and indigenous threats, a diverse array of peoples converged to form defensive, sedentary, multiethnic communities. These crucibles eventually produced relatively cohesive ethnic and political groups, such as the Catawba Nation, the Creek Confederacy, and the proto-Lumbee settlements. The Lumbee ancestors most likely included the Cheraw, who fled the nearby Catawba villages during the smallpox epidemics of 1738 and 1759; the highly Christianized Northern Tuscaroras, whose reservation in Bertie County, North Carolina disintegrated amid settler encroachment; Afro-Indian free people of color from Virginia; the remnants of various coastal tribes, like the Hatteras; and perhaps acculturated “settlement Indians” from South Carolina. Like other southeastern Indians, they absorbed white and black outsiders as well.⁹

Large-scale migration for cash wages began at the end of the nineteenth century, when Indian families struck out for the turpentine camps of the Deep South. The Lumbee homelands sat at the northernmost tip of a vast crescent of pine forests that stretched from South Carolina and Georgia down to North Florida before curling northwestward into Alabama. The sap from these scraggly pines could be tapped and boiled into various distillates, such as pitch and turpentine, known as “naval stores” for their traditional use in shipbuilding. Since before the American Revolution, the naval stores industry had been an important component of the southeastern economy, and many proto-Lumbees had prior experience with small-scale production as a supplement to subsistence and cash-crop agriculture. After the Civil War, however, New South capitalists seized on the region’s freshly enlarged pool of cheap labor to

⁹ Lowery, “Coming Together,” in *Lumbee Indians in the Jim Crow South*, 1-18.

recruit an army of mostly black and Indian migrants to tap pine trees on an industrial scale. Dirty, back-breaking, and poorly paid, this work consisted of “boxing,” or cutting reservoirs into live pine trees, and “dipping” out the collected sap with a spade. Workers typically lived in tent villages and moved seasonally up and down the crescent of pines. These turpentiners came primarily from the lowest rung of the southern agricultural economy, the landless day laborers who neither owned land nor farmed others’ as sharecroppers or tenants. My great-great grandmother, Lessie Sweatt—an Indian from Marlboro County, South Carolina—circulated among turpentine camps from North Carolina to north Florida alongside her father and siblings, and she recalled “dipping turpentine” as an important but deeply unpleasant component of the eclectic mix of unskilled labor her family used to eke out a bare living.¹⁰

In a pattern that recurred with later twentieth-century Indian migrations, some proto-Lumbee turpentiners clustered in semi-permanent colonies before eventually returning home, while others took advantage of their racial ambiguity to melt into the general population. Some of these temporary settlements comprised multiple family groupings and were close approximations of the communities Indians had departed in North Carolina. For example, one settlement in Bulloch County, Georgia thrived for decades and even developed segregated barbershops and other Indian businesses before its inhabitants returned home, possibly due to a surge in racial violence. My own family and many others followed a different trajectory as they transitioned away from naval stores and into the textile mills sprouting up in the Carolina Piedmont. The ease with which Indians could transition to the relative privilege of working-class

¹⁰ Malinda Maynor, “Finding Wisdom in Places: Lumbee Family History,” in *Indigenous Diasporas and Dislocations*, ed. by Graham Harvey and Charles D. Thompson, Jr. (Burlington, VT: Ashgate, 2005), 156-67; Malinda Maynor, “People and Place: Croatan Indians in Jim Crow Georgia, 1890-1920,” *American Indian Culture and Research Journal* 29, no. 1 (2005), 37-63.

white southern society fueled simmering concerns about ethnic dissolution. "They say when our people get away from here, other people don't show no difference," one middle-aged woman intimated to Guy Benton Johnson. "If [Indians] were to get away from this section, nobody would ever think they was anything but white."¹¹

Around the time of World War I, the stream of Indian migration diverted from the turpentine camps of Georgia and Florida to northern factories, particularly the labor-hungry automotive plants of Detroit and southeast Michigan. Drawn to the high wages that accompanied nascent consumer- and war-driven mass production, Lumbees' presence in Metro Detroit was transient throughout the twentieth century. Unlike black migrants to northern cities, Indians rarely settled permanently. The family and community attachments that structured Lumbee ethnic identity exerted such a strong pull on migrants that even second-generation Detroiters usually considered Robeson County home. Most Indian migrants to Detroit were single men or young couples who saw automotive work as a means to gain a financial foothold, but who ultimately intended to resettle in North Carolina once they either had saved enough money or run out of work. Two migrants who settled temporarily in Detroit in the 1920s, Peter Brooks and Carrie Brewington, exemplified this pattern of circular migration. While in Detroit, both maintained close ties with their home communities by making frequent visits to Robeson County and taking in members of their extended family as boarders. When they returned to North Carolina during the Great Depression, they brought cash and cultural experience back with them. In each instance, exposure to Michigan's booming economy and burgeoning consumer culture

¹¹ Ibid; interview with N.H. Dial, 2 August 1937, folder 1223, GBJ Papers.

fostered dissatisfaction with the Jim Crow restrictions that local government and businesses placed on Indians.¹²

For Peter Brooks, Detroit offered an escape from the rural poverty in Robeson County. Most Indian farmers raised tobacco as tenants or sharecroppers and struggled to make ends meet amid structural debt, unstable tobacco prices, marginal soil, and limitations on arable land. Brooks remembered that his father, a renter, “was never able to make enough to survive on the farm” and had to supplement the family income by taking on odd jobs, such as digging ditches, cutting “ton timber” for sawmills on the Lumber River, and tending to “what he called a ‘crop of boxes’” on his landlord’s property. “This was turpentine wood,” Brooks recalled, “and he took care of... about 2500 boxes and right on up as much as 5000.”¹³ After a childhood of working his father’s fields and an adolescence of “plow[ing] for other people by the day for fifty cents a day and my board,” Peter Brooks decided to move to Detroit “because there was nothing... to be made from farming.”¹⁴

Like Robeson County Indians before and after him, Brooks never intended to remain in Detroit, and his migration was initially seasonal. For the first several years, he and his younger brother Johnny worked from springtime to autumn in the automotive factories but returned to North Carolina each winter to continue coursework at the Indian Normal School. In 1923, however, the two brothers chose different paths. Johnny elected to continue his education and embarked on an almost three-decade career as an educator, whereas Peter fell in love with future

¹²Doctor Fuller Lowry and Peter Brooks, interview by Brenda Brooks, 27 March, 1973, SPOHP; Peter Brooks, interview by Dexter Brooks, 10 July, 1973, SPOHP; “Arsenal of Democracy” in Thomas Sugrue, *The Origins of the Urban Crisis*, 153-67.

¹³ Doctor Fuller Lowry and Peter Brooks, interview by Brenda Brooks, 27 March, 1973, SPOHP; Peter Brooks, interview by Dexter Brooks, 10 July 1973, SPOHP.

¹⁴ Ibid.

wife Attie Mae Cummings, quit school, and moved back to Detroit to start a family and work fulltime for Chrysler. Years later, he remembered how he arrived at his decision:

Whenever I came back that third year and started school, I was making between thirty-five and forty dollars a week. I came back and everybody was bent over his books and beat his brains out. I asked somebody how much the schoolteacher was making then and they were making forty-five dollars a month. I quit just as fast as I could and took my girl and went back to Detroit.

For Brooks and his bride-to-be, work in the automotive industry afforded an access to cash wages and consumer goods that outweighed the prestige and respectability that education conferred in the Indian community. Indeed, when Johnny graduated with a degree in education, Peter celebrated the occasion by “b[uying] him an outfit. I bought him shoes, hat, a suit, underwear, and socks, and tie, and everything... and sent it to him.”¹⁵

Peter and Attie Mae Brooks raised their family in Detroit for the better part of eight years, but they always viewed the Motor City instrumentally and eyed a return home. After briefly drifting from job to job, Peter Brooks ultimately settled into a steady position as a trimmer at Chrysler, where he made enough money to purchase a home in a white, middle-class neighborhood. To maintain kin and community ties in Robeson County, they made frequent visits home and occasionally took in relatives as boarders. Attie Mae Brooks also traveled home near the end of most of her pregnancies, both for the help of female relatives and to ensure that her children were born in her homeland.¹⁶

By 1931, the Great Depression had struck southeastern Michigan, and the drought in automotive work pushed the Brooks family and most other interwar Indian migrants homeward. Underemployed with a growing family to support, Peter Brooks packed up his 1928 Model T

¹⁵ Ibid.

¹⁶ Ibid.; US Census, 1930, Detroit, Wayne, Michigan, Roll: 1066, 29B, Enumeration District 827.

truck and drove back to Robeson County to fall back on family and tobacco farming. Using five hundred dollars he had saved, he purchased his own farm, an act with great economic and cultural significance in the hostile world of 1930s Robeson County agriculture. Brooks used the resources he had accumulated during his migration in other ways as well. When Robeson County's all-white school board refused to purchase a bus for Indian children, he volunteered to transport students to school in the bed of his Ford pickup. In addition to strengthening Indian institutions, Peter Brooks also helped bring southeastern Michigan into the Lumbee spatial orbit and establish a migration circuit that continued into the next generation. When his son Martin Luther Brooks applied to medical school, he chose to attend the University of Michigan.¹⁷

Circular migration also changed the ways that Lumbees understood and interacted with outside racial systems. The first Lumbee migrants to Detroit encountered a metropolitan area solidifying along white and black racial lines. Along with most other industrial zones in the Midwest and Northeast, Detroit attracted a steady stream of southern African American migrants during and immediately after World War I. Initially lured by defense jobs and the promise of more equitable race relations, black migrants competed for work and other resources with native-born, immigrant, and ethnic whites. The city's boosters and industrialists had long pointed to institutions like the Ford English School to promote Detroit as a melting pot for foreign-born ethnic whites, but the influx of southern blacks accelerated the solidification of biracial housing and occupational segregation. Lumbee migrants confounded this emerging racial binary. Outside North Carolina, Lumbees' obscurity and phenotypic ambiguity allowed them to blend in with their surroundings. Lacking the legally-defined racial categories of North Carolina, non-Indian

¹⁷ Ibid.

Michiganders determined Lumbee racial identity by locating them in the racialized physical and social space of the metropolis.¹⁸

In a 1973 interview in Pembroke, return migrant Carrie Brewington reflected on her family's uneasy position in the racial hierarchy of prewar Detroit. After their marriage in 1926, Brewington and her husband struck out for the Motor City and settled down in a comfortable apartment in a white neighborhood not far from the riverfront. While John worked as a trimmer in an automotive plant, Carrie stayed home to tend to a growing brood of children and a rotating crop of boarders, usually male Indian relatives and friends from back home. Despite a steady income and the company of "quite a few Indians," the couple returned to North Carolina around 1933, a decision Brewington attributed to their discomfort with urban living and the city's racial climate. She remembered that when her eldest son played with her white neighbors' children, "[t]hey would call him colored and I did not like that." She noted that this epithet bothered her even though "[c]olored people were not discriminated against, like they are now," apparently referencing the racial turmoil of Nixon-era Detroit. Despite scarred-over racial taunts and the fresher television images of anti-busing protests, Brewington saw the absence of whites-only placards as the defining trait of *her* city.¹⁹

Like many of the postwar migrants that followed in her footsteps, Brewington also believed that her time in southeastern Michigan primed her to fight back against Jim Crow in North Carolina. She recalled an incident that occurred while her brother was in the hospital awaiting minor outpatient surgery in Red Springs, a small, predominantly non-Indian town in

¹⁸ Stephen Meyer, "Adapting the Immigrant to the Line: Americanization in the Ford Factory, 1914-21" *Journal of Social History* 14, No. 1 (Autumn, 1980), 14-70; Zaragosa Vargas, *Proletarians of the North* (Berkeley: University of California Press, 1993), 87-8.

¹⁹ Carrie Mabel Johnson [Brewington], interview by Dexter Brooks, 5 July, 1973, SPOHP.

Robeson County. Since they had arrived early in the morning, he suggested that she get breakfast while he waited for the surgeon. She found a café not far from the hospital, but when she ordered, the waitress informed her that they did not serve Indians in the main dining area but would bag her order to pick up at the back door. Brewington bristled at the suggestion. As she later intimated, “I had just returned from Detroit and I said, ‘I have never heard of such a thing. I have been all over the United States and even Canada, and I have never heard of anyone that did not serve Indians.’” The waitress went to the kitchen as if to retrieve her order but never returned. Not finished, Brewington fetched her luckless brother from his hospital bed and took him to the café. When no one came to wait on him either, he “filled his pockets full of Nabs [a regional term for packaged crackers] and chewing gum and cigarettes” and presented them to his sister in lieu of a proper meal. After the relative freedom of Detroit, Brewington chafed at these restrictions on her rights as a consumer.²⁰

Before World War II, migrants like Brooks and Brewington represented a tiny minority in the Robeson Indian community, but local segregation pooled a reservoir of disenchantment that the war released as a flood of migration. As burgeoning cigarette companies in Durham and Winston-Salem increased demand for cured brightleaf, the county seat of Lumberton emerged as an important regional tobacco warehousing center. The seasonal influx of tobacco farmers from all three races occasioned the more thoroughgoing segregation of public spaces, and Lumberton developed a tri-racial variation on the trend toward separate accommodations that accompanied low-grade urbanization in North Carolina and much of the seaboard South over the first half of the twentieth century. As co-signers of white supremacist disfranchisement who had accepted

²⁰ Ibid.

segregation to protect their autonomy, Lumbees chafed under intensifying restrictions in the restaurants, theaters, and other businesses that grew up in support of the tobacco economy in Lumberton and smaller towns across the county. The barrage of low-grade, everyday humiliations and inconveniences that constituted Jim Crow drove a few to dramatic acts of defiance. In midsummer 1937, for example, Guy Benton Johnson watched as police in Red Springs arrested an irate Indian man for refusing to place his order at the back door of a restaurant. More commonly, however, Indians simply avoided hostile environments altogether and refused to patronize segregated businesses. One waitress at the establishment in Red Springs expressed her surprise at the arrest because “[y]ou don’t hardly ever hear one of them asking for anything to eat. They bring something along from home to eat and want to buy a drink here.” A secretary in Lumberton concurred: “I don’t know of any trouble about Indians in the cafes here. They know they are not welcome and they just don’t try to go in.”²¹

Even as increasing demand for tobacco remade the racial and spatial infrastructure of towns in Robeson County, other economic and legal factors consolidated farmland into fewer hands, a trend that displaced small landowners and tenant farmers of all races, but which hit black and Indian farmers in Robeson County especially hard. At the turn of the twentieth century, perhaps as many as half of Indian farmers owned their own land, but a plague of macroeconomic ills eroded this propertied class. Declining cotton prices, the Depression’s economy-wide suppression of demand, and discriminatory federal agricultural policies created a rash of foreclosures that allowed Robeson County’s aggressively expansionist white business establishment to consolidate control of much of the most productive soil. One Indian farmer,

²¹ Field notes, “Eating: Red Springs Café,” 26 July 1937, folder 1224, GBJ papers; field notes, “Eating Places,” July 1937, folder 1224, GBJ papers.

Chesley Locklear, lamented that although “Indians used to own all this land in here[, t]hey're losing it. In ten years, they won't own a bit.” To Locklear, it seemed as if the entire rural economy and political structure of Robeson County were designed to extract land from Indians:

Taxes are not put [down] fairly. Businessmen (white) and lawyers are getting Indians' lands from them. Some merchants ([K.M.] Biggs of Lumberton [being the] worst) [will] get [an] Indian to [open an] account & [the] Indian never gets out. His land is gone before he knows it. Can't trust a lawyer in [the] County. They take cases, prolong them, charge high fees, take liens out on land & then take the land.

Striking an ominous note, he predicted that the current trajectory of land tenure was unsustainable. “I tell you, if something ain't done soon some of our Indians are going to take to killing,” Locklear vented. “They just won't put up with [that] kind of treatment forever.” The exceptionally high birthrate among prewar Robeson County Indians also placed pressure on their land base. Although census figures for Indians in Robeson County are erratic and unreliable, anecdotal evidence and other data both suggest that their numbers were growing at a rapid clip, roughly doubling each decade. Perhaps only two to three thousand strong at the turn of the twentieth century, the population had ballooned to twenty-five or thirty thousand around the end of World War II. The cultural value that Indians placed on their homeland and the prospect of land loss informed decisions about migration and the economic resources it garnered well into the postwar era.²²

The onset of World War II unleashed a torrent of defense spending that reawakened America's industrial capacity and ushered in an era of unprecedented mobility for American citizens. Even before the United States' formal declaration of war on the Axis Powers in 1941, the Roosevelt administration's “cash and carry” and “lend-lease” policies pulled factories and

²² Handwritten notes, interview with Chesley Locklear, 3 August 1937, folder 1224, GBJ Papers.

shipyards in cities like Detroit and Baltimore from the mire of the Great Depression. After Pearl Harbor, northern cities sucked in defense workers—including a steady stream of whites, blacks, and Indians from the rural South—and churned out bombers, tanks, and ships for a global, mechanized war. Laura Brayboy, a Lumbee woman in her early thirties, left her mother's farm outside Pembroke for a factory job in Detroit in 1943. One of the earliest migrants in what became a wave of thousands, Brayboy continued industrial work even after the war ended. Hearing rumors of war work closer to home, a handful of enterprising young Indian men took the train directly north to Baltimore and found jobs in bottling and off-the-books, nonunionized construction. Due in part to this wartime seeding, Baltimore was home to the largest Lumbee settlement outside North Carolina by the early 1970s, when its population peaked at well over three thousand.²³

Dozens of young Indian men volunteered or were drafted for military service, and in many cases, the armed forces gave them their first brush with federal officialdom and the legitimacy it conferred on their indigenous identities. As was the case for other American Indians, Lumbees served alongside white soldiers and sailors in segregated, nonblack units, an experience that gave Indian servicemen a glimpse into a world without Jim Crow theater balconies and water fountains. But whereas urban labor migration offered unsegregated facilities at the price of formal racelessness, the armed forces recognized and scrupulously documented Indian racial status. Many Lumbees held birth certificates and other state-issued documents that identified them as Indians, but federally issued draft cards and discharge records carried greater legitimacy and portability. One Lumbee clerical worker in Philadelphia had trouble convincing

²³ Thomas Sugrue, "Arsenal of Democracy," in *Origins of the Urban Crisis*, 15-88; manuscript data, "Migration Schedules," no date, 1948-9, folder 1236, GBJ Papers.

her officemates that her light-skinned husband was an Indian. “The people in the office where I was working... had real bets taken about whether [he] was an Indian or not,” she explained. To put an end to the speculation, her husband dropped by the office and produced his draft card. The clerical workers stared incredulously but apparently accepted the card as sufficient proof, leading the young man to joke that he “should have made some bets and collected.”²⁴

Service in the armed forces also facilitated voluntary labor migration, as in the case of Adolph Dial, the young GI from Prospect who later became a political leader and professor at Pembroke State. Deployed to the European Theater, Dial earned six battle stars as an antiaircraft gunner. (Many years later, the professor insisted that these decorations exaggerated his combat experience and joked that his students seemed to pity him for the relative bloodlessness of his tour of duty). After his discharge in late 1945, Dial returned to his family’s farm in Prospect. Already a college graduate, he took advantage of the self-employment provisions under the Servicemen’s Readjustment Act, or GI Bill. After exhausting these benefits, he left in the fall of 1947 to join the growing wave of Indians seeking their fortunes in Detroit, which Dial estimated had a community of several hundred Lumbees at the time. The Detroit Lumbee population was distinctive in its fragmentation and high turnover, with many migrants returning after a few months or even weeks. Dial himself contributed to this transience when he left after only five months to take a teaching position back home at an Indian public school. Although Lumbees were ineligible for relocation assistance from the Bureau of Indian Affairs, the newly enlarged reach of the federal government facilitated their postwar migration in subtler, more mundane

²⁴ Field notes, “Conversation by [Bennie Johnson] & [Guion Griffis Johnson] with Miss Mary Sampson and Mrs. Plummer (‘Miss Lucy’) Locklear,” 8 July 1949, folder 1231, GBJ Papers; Thomas Britten, *American Indians in World War I: At Home and at War* (Albuquerque: University of New Mexico Press, 1999), 42-57.

ways. Both the draft and the lure of industrial work plucked young Indians from Robeson County and transported them across the country and world, where they learned, sometimes for the first time, that both racial discrimination and racial recognition weakened the farther they ventured from the county line. Likewise, federal veterans' benefits helped many afford startup costs associated with migration, such as bus tickets and short-term housing, which stimulated and democratized long-distance mobility in comparison to the interwar years.²⁵

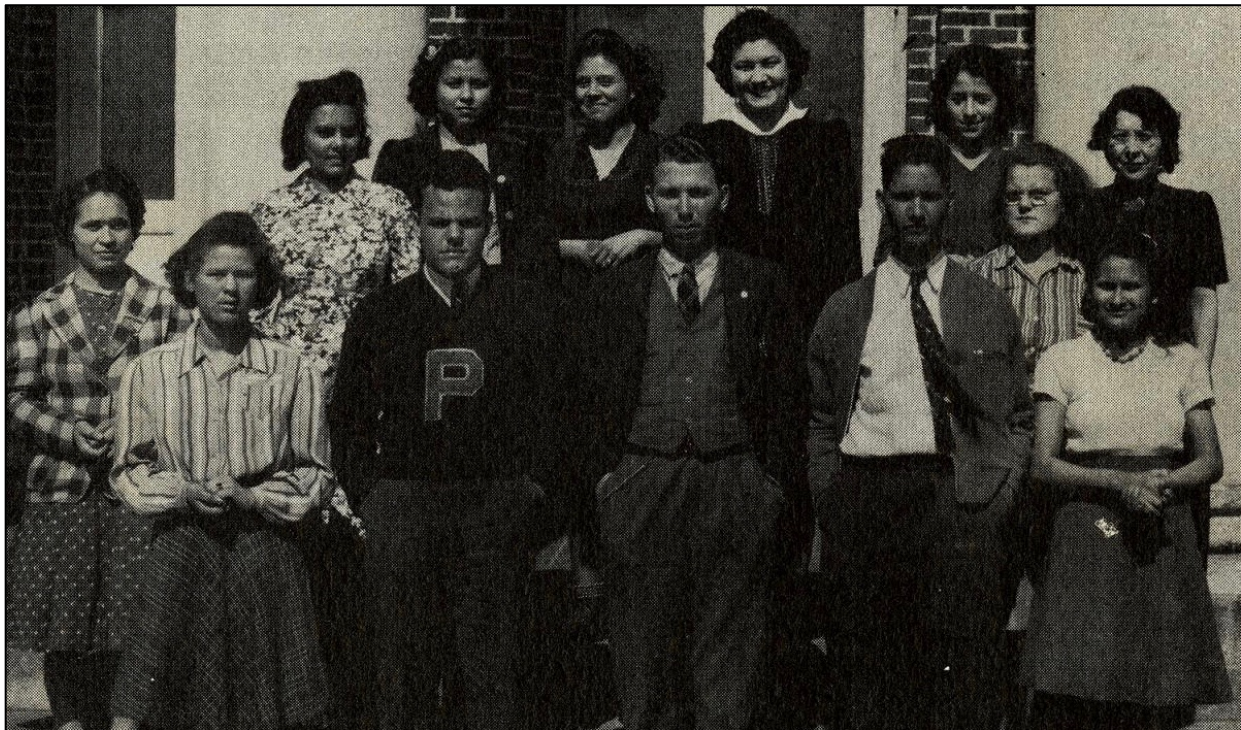


Figure 2.1: ADOLPH DIAL WITH THE JUNIOR CLASS AT PEMBROKE STATE COLLEGE, 1942. Courtesy of Mary Livermore Library, University of North Carolina at Pembroke²⁶

Just months after Adolph Dial returned home, he reconnected with Guy Johnson and helped shine a social scientific light on the process of circular migration that he had just

²⁵ Adolph Dial, interview by Danford Dial, 30 November 1972, SPOHP.

²⁶ "Junior Class," photographic image in *Lumbee Tattler: Pembroke State College* (Pembroke, NC: 1942), 16.

completed. Along with one other Indian research assistant, Dial crisscrossed Robeson County interviewing Indian families, poking around their homes and farms, and filling out two different sets of “schedules,” or questionnaires: one that focused on farm families and the other on migration. The farm family data set had a larger sample size and was more complete. The schedules surveyed 139 heads of household about their number of children; number of children living outside the county; where those migrant children resided; their farms’ ownership status, estimated value, total acreage, and cultivated acreage; and their material possessions, including appliances, vehicles, farm equipment, and utilities. The set included information on roughly nine hundred individuals. The migration schedules reached a more limited segment of the population and were completed more hastily. They included information on only about 250 individuals grouped under thirty-five heads of household, all of whom were over sixty years of age, apparently to target participants in the turpentine migrations. The population surveyed in the migration schedules overlapped slightly with the farm family set but recorded some unique information, including the number of household members who had *ever* lived outside the county, as well as their occupations, marital status, and race of their spouses. Despite the richness of this data, Johnson never published an analysis of them, apparently due to concerns that such a publication could “out” migrants passing for white.²⁷

Given the dramatic changes in social scientific and statistical methodologies since 1948, inferences from the farm family and migration schedules must account for possible biases and ideally should be cross-analyzed with anecdotal evidence. In the 1940s, study design and sample methodology were in their infancy, and Johnson’s randomization methods, if he employed any at

²⁷ Manuscript data, “Farm Family Schedules for Robeson County,” no date, 1948-9, folders 1220-22, GBJ Papers; manuscript data, “Migration Schedules,” no date, 1948-9 folders 1235-36, GBJ Papers.

all, probably deviated substantially from acceptable practices in modern statistics. Although he apparently failed to record or preserve his procedures for selecting households, patterns in the data point evidence at least some degree of participation bias. The limited diversity of geographic markers recorded in the farm family schedules suggest that Dial's own relatively prosperous social network in the areas around Pembroke and Prospect were probably overrepresented. In the migration schedules, Johnson's decision to survey only heads of household over the age of sixty also skewed the average age of informants' children upward and underrepresented the youngest and most mobile cohort of adults. The data collection process was also inconsistent. Unlike Dial's meticulously completed schedules, the questionnaires that the second Indian researcher collected were riddled with blank fields. In their correspondence, Johnson and Dial both expressed concern about the diligence of this assistant. The relatively large sample size helps to mitigate some of the effects of these biases and implementation problems. Given that Lumbees probably numbered under thirty thousand in 1948, the nine hundred individuals surveyed in the farm family schedules represented perhaps as much as three percent of the tribal population.²⁸

Both data sets revealed a population moving at a frenetic pace. Of the 127 households with children in the farm family survey, 23.4% reported that at least one child lived outside Robeson County. This figure almost certainly understated the mobility of young adult Lumbees, perhaps dramatically. Because the farm family schedules covered only children living outside of Robeson County at the time of survey, they failed to capture return migration. The migration schedules did compile information on cumulative migration, and the data from that set suggested

²⁸ Ibid.; Sarah Igo, "Polling the Average Populace," in *The Averaged American: Surveys, Citizens, and the Making of a Mass Public* (Cambridge: Harvard University Press, 2009), 103-49.

that the actual rate was far higher. More than 35% of a total 105 households reported at least one migrant child; excluding childless households, that figure increased to 41%. Due to the age restriction on heads of households in the data set—not to mention the fact the schedules only accounted for cumulative migration up to early 1949—even those astounding figures may inadequately relate the full extent of Indian migration.²⁹

The data on Indian agriculture in the farm family schedules provides insight into demographic and economic “push” factors that fueled the postwar surge in migration. Perhaps the most striking difference between families with migrant children and those without was the rate of landownership. A large plurality of Lumbee farmers surveyed, 48.9%, owned their own land, whereas 43.2% were sharecroppers and the remaining 7.9% included cash tenants, partial owners, and government cooperative farmers. A disproportionate share of migrants—eighty percent—came from landowning families, whose farms were worth slightly (seven percent) more than the Lumbee average. In other words, the typical late-1940s Lumbee migrant came from an owner-operator family and with above-average resources and socioeconomic status. This demographic profile offers one explanation for migrant transience, namely that more affluent Indians generally had stable homesteads to return to during work shortages.³⁰

Johnson’s study also captured evidence on Indian family size that help to map the causes of the postwar exodus. Rather than play the part of the Vanishing American, high Lumbee birthrates led to rapid natural increase over the first half of the twentieth century. In a nonindustrial economy where children were an economic asset, many Indians bragged about the

²⁹ Manuscript data, “Farm Family Schedules for Robeson County,” no date, 1948-9, folders 1220-22, GBJ Papers; manuscript data, “Migration Schedules,” no date, 1948-9 folders 1235-36, GBJ Papers.

³⁰ Ibid.

large size of their families; whites often exaggerated the number of children born to Indian women with a mix of astonishment and racialized, pathologizing disdain. Particularly among the generation of Indians born in the late nineteenth century, some did have unusually large families. Among the older population sampled in the migration schedules, more than a fifth had ten or more children, and one individual reported more than twenty. Although such figures were outside the norm, the average number of children, 5.36, was fairly large by national standards. Families with migrant children were substantially, averaging nearly eight children.³¹

Although cause and effect are difficult to disentangle, migrant families tended to have a higher material standard of living than non-migrant families, and migrants were on the leading edge of changing habits of consumption and activism. Although the farm family data indicated substantial poverty among Robeson County Indians, it was hardly extreme by the standards of rural, nonwhite North Carolina, possibly as the result of sample bias toward middle-class families. Over seventy percent of households had electric lighting, but rates of consumer electronic goods varied substantially. Radio ownership was nearly universal at 92.6%, but Indians tended to do without other electric appliances. Only about 38% owned refrigerators, for example. At just over 57%, automobile ownership was roughly on par with the national average, although the median vehicle was about eight years old. In every category of consumer goods ownership, however, migrant families outpaced non-migrants. Families with at least one migrant child were fifteen percent more likely to own an automobile, thirteen percent more likely to have electric lights, nineteen percent more likely to own a refrigerator, and four percent more likely to have running water. Socioeconomic indicators in the migration schedules roughly confirm the

³¹ Ibid.; field notes, interview with Dr. M.C. Kinlaw, 4 August 1937, folder 1224, GBJ Papers.

trends observed in the farm family set. For example, they record that the average migrant had slightly more than eleven years of formal education, nearly three grade levels above the overall average. Less clear is the extent to which migrant children contributed to affluence or vice versa. Although the landownership data support the latter conclusion, anecdotal evidence suggests that Indians working in Detroit and Baltimore often sent money home to their families. In all likelihood, migration both amplified and resulted from socioeconomic disparities in the Robeson Indian community.³²

Anecdotally, postwar migration changed spending habits among Robeson Indians and advanced the community's integration into the increasingly consumer-driven national economy. Even after the war, many members of the prewar generation held to spending habits that made them "bad" consumers. In a 1948 conversation with Guy Benton Johnson, D.F. Lowry gossiped about several well-to-do older Indians who were more inclined to conspicuous thriftiness than conspicuous consumption. Along his mail route on North Carolina Highway 710, Lowry pointed out one farmer and claimed, undoubtedly with some exaggeration, that he "won't clear less than \$25,000 on tobacco alone" that season but had "only last year put in electricity and bought a refrigerator." In a chatty mood that morning, Lowry also gestured toward another home that belonged to a prosperous Indian employee at Pates Supply, whom he explained "drove all the way out to his Daddy's for dinner" to save on meals and kept "his old Chevrolet until it couldn't be repaired." Local white merchants noticed Indian consumer habits as well and privately complained about their thriftiness. An employee at the local B.C. Moore & Sons department store told Johnson that "the Indians who work hard on their farms and try to save their money—

³² Farm Family Schedules for Robeson County, folders 1220-22, GBJ Papers; Migration Schedules, folders 1235-36, GBJ Papers.

and most of them do—buy the cheapest sort of materials, usually a cheap homespun of a dark, ugly plaid.” Even more out of step with the burgeoning postwar consumer culture, her Indian customers seemed impervious to fashion trends. “They cut a full, loose garment with long sleeves, high neck, and long skirt; the same style year after year,” she noted. “They spend very little for clothes.” Whereas much of the country greeted the end of the Depression and wartime rationing with an outpouring of pent-up consumer spending, many Lumbees, particularly the older and less mobile, remained relatively parsimonious.³³

Lumbee cultural values and the daily realities of segregation both contributed to this increasingly outmoded thriftiness. Whether Baptists, Methodists, or adherents of the growing holiness movement, most Indians at least aspired to attend church regularly and viewed their Christianity as an integral part of their Indian identity. Usually scriptural literalists to a greater or lesser extent, they took biblical injunctions against ostentation and worldliness seriously. As an indigenous and traditionally poor community, Lumbees also had a communal and egalitarian bent that led them to prioritize spending on land purchases and providing for family members over purchasing the latest model Kelvinator or Chevrolet. Even more salient in the minds of most Indian consumers, however, was the association between the marketplace and segregation. As the town of Pembroke grew up around the Normal School, an Indian grocery store and other support businesses likewise sprouted in the overwhelmingly indigenous town, and white business owners generally recognized that treating Indian clients with respect was good for their bottom line. But virtually every adult Indian had experienced some instance of racial humiliation in

³³ Interview with D.F. Lowry, 1948, folder 1223, GBJ Papers; Interview with Miss Clark, no date, 1948, folder 1223, GBJ Papers

Lumberton—often in front of children, spouses, or sweethearts—that encouraged them to keep a tight grip on their wallets.³⁴

Returned migrants often discovered a newfound intolerance for discrimination in private businesses and became increasingly assertive about their rights as consumers. In a conversation with Guy Benton Johnson’s collaborator and (improbably named) wife Guion, Lucy Locklear heaped derision on the white owners and employees of Robeson County’s public establishments and credited her migration to Philadelphia with her enhanced confidence in dealing with them. When she arrived in the City of Brotherly Love, Locklear initially found it difficult to break the habits and etiquette she had learned in Jim Crow North Carolina. “It took me six months... before I finally felt I was free to go anywhere I pleased,” she remembered. After her return, she found that readjusting to local segregation was equally difficult. “Lumberton's terrible,” she complained. “I've gotten so I don't want to go there. The little old store clerks make it a point to be rude and insult you. They're the lowest order of white people.” Encouraged by Guion Johnson’s sympathetic ear, Locklear continued to vent about the psychological toll of Jim Crow consumer restrictions. “You go to Lumberton and you want to eat or have something to drink and you know you can't because you wouldn't be served. It makes you feel awful.” Musing about whether migration caused intolerance of segregation or vice versa, she complained that “you come back to this place and you don't wonder people pack up and leave.” But if her short tour in Philadelphia had thrown the indignities of the segregated marketplace into sharper relief, it also equipped her with a sense of cosmopolitan sophistication that helped inoculate against feelings of inferiority. After her return, Locklear felt imbued with a new sense of herself as “superior to

³⁴ Karen Blu, “Who Do They Say They Are?,” in *The Lumbee Problem*, 134-69.

most of those little clerks in Lumberton,” and, to put a sharper point on it, even “to a good many of the white people in Pembroke.”³⁵

Johnson’s data also suggest that migration increased the likelihood of exogamy, which remained extremely low overall but prompted concerns about community cohesion among some older Indian leaders. Unfortunately, Johnson’s assistants collected data on marital status for only 420 of the 527 adult children surveyed, but within that set, the results were striking. Out-marriage was exceedingly rare overall: 79.4% of those surveyed were married to another Indian, 15.2% were unmarried, and only 5.2% were married to a white person. By contrast, nearly a quarter of migrants had white spouses, which was five times the average rate. Migration not only increased the likelihood of taking a white spouse, it was practically a precondition: of the twenty-two respondents found to have white spouses, 21 had at least some migration experience. Some Indian leaders viewed these demographic shifts as evidence of the threat that migration posed to the indigenous character and political distinctiveness of their community. of ethnic dissolution. One middle-aged Indian preacher from neighboring Sampson County portrayed exogamy as a consequence of loose Northern sexual mores. “Our girls go up to Boston and Baltimore and places like that and they come back [with] their virtue lost and with two and three children,” he complained. Rather than a straightforward morality tale about the corrosive effects of city life on young people’s chastity, his deployment of at-risk virgins also symbolically represented the fragility of Indian peoplehood in the face of increasing exogamy and racial passing. The surf of out-migration particularly eroded the racial and social cohesion at the margins of the Lumbee settlement area. In South Carolina, which lacked the Indian-specific Jim Crow laws of its

³⁵ Field notes, “Conversation by [Bennie Johnson] & [Guion Griffis Johnson] with Miss Mary Sampson and Mrs. Plummer (‘Miss Lucy’) Locklear, 8 July 1949, folder 1231, GBJ Papers.

neighbor to the north, the smaller and more vulnerable Indian settlements were hemorrhaging population. Some moved to Robeson County, but others simply melted away. As a teacher at the private Sardes Indian School near Latta lamented to Guy Johnson, many of her former students had been “merging with whites” and “moving more far and wide.”³⁶

The postwar migrants captured in Johnson and Dial’s snapshot traveled to destinations as near as neighboring Columbus County and as far as California. In total, the sample of Lumbee farm families reported 53 adult children then living outside Robeson County. Eight of that total had moved elsewhere in North Carolina. A few had begun to trickle into the state’s nascent urban centers, such as Winston-Salem, but most were in adjacent, majority-rural counties such as Sampson or Hoke, probably with relatives or spouses in nearby Indian communities. Another eight migrants were serving abroad in the military. More than a fifth of the surveyed families had children in idiosyncratic destinations, including Louisville, Kentucky; Saint Louis, Missouri; and El Paso, Texas. One very large family living on a 17-acre plot reported two children—according to Dial’s scrawled notes—in “S.C. & Unknown.” Interestingly, the Johnson-Dial survey found only two migrants in Baltimore, which eventually grew to become the largest community of Lumbees outside North Carolina.³⁷

By far the most common destination was the Detroit metropolitan area. The surveyed families reported a total of fifteen children—twenty-eight percent of all migrants—who had relocated to the Motor City or its environs. In 1948, the city was at the zenith of its economic and demographic might, hurtling toward its high-water mark of 1.8 million inhabitants in the 1950

³⁶ Manuscript data, “Migration Schedules,” folders 1235-36, GBJ Papers; field notes, “Conversation with (Rev.) Joseph Brewington, 14 June 1949, folder 1231, GBJ Papers; field notes, “Conversation with Mrs. Henry Hayes (aged 61),” 17 August 1949, folder 1231, GBJ Papers.

³⁷ Manuscript data, “Family Schedules for Robeson County,” folders 1220-22, GBJ Papers.

census. Reconversion to civilian production and backlogged consumer demand fueled explosive growth the automotive industry and created a surfeit of well-paid, unionized jobs. The interwar wave of Detroit-bound migrants like Peter Brooks and Carrie Brewington also helped direct the flow, as the older generation offered inspiration, encouragement, and sometimes bus fare to eager young relatives, students, and neighbors. Another reason for this high count may have been the relative tranquility in labor relations between 1946 and 1949, in between the United Auto Workers' (UAW) major 1945 and 1950 strikes. Given the near-total absence of organized labor in the Carolinas, Lumbees were unacquainted with and initially hostile to labor unions, although support for unions generally took root among long-term residents. Lumbees who moved to Detroit usually did so with the intention of making money and returning home; many worked in several-month bursts during slack times in tobacco cultivation or summer breaks from school. They therefore had little stake in long-term benefits like pensions and limited means of support during labor stoppages, so many simply returned home rather than ride out the strikes.³⁸

Danford Dial was among the Indian migrants who felt discouraged by labor organizing in Detroit and its environs. After his discharge from the Army Air Forces in November of 1945, Dial first tried his hand at teaching in Robeson County's segregated Indian schools but found the conditions appalling. "I had to make the fire in the big potbellied stove and I had to dust and sweep the classroom," he later recounted. "A crayon and eraser were my only school supplies... What textbooks I had were scrap and they should not have been in anyone's hands." Frustrated, he quit his teaching job and fell back on skills he had learned in the military. A highly trained aircraft mechanic during the war, Dial easily found a well-paid position with Chrysler, and in

³⁸ Ibid.

1947, he and his wife bought a house in Dearborn, a nearly exclusively white satellite of Detroit. Eventually, however, he grew frustrated with work stoppages and decided to return to school for a master's degree. Although the University of Michigan accepted his application, he received a job offer at a new Indian school in North Carolina and never made it to Ann Arbor.³⁹

Although migrants to Detroit disproportionately came from more affluent, landed, and town-dwelling families, many Indians from poorer and more rural settlements also made the journey and infused their home communities with resources and new ideas. Raised in the Brooks Settlement, one of Robeson's most isolated rural communities, Howard Alexander Brooks spent his childhood and early adolescence struggling to help his family eke out a living in the hardscrabble world of Depression-era Robeson County. Although his family owned land, their farm was small, cash was scarce, and children were expected to stay home from school to help on the farm. "There wasn't no money here to make," Brooks recalled of his childhood home, noting that the only work available to him that paid cash wages was "logging or cutting puff-wood or something like that." Restless in temperament, he told himself that "if I ever find a way out of here, I'm going to stay gone." When Brooks was in his mid-twenties, he formulated an escape plan after speaking with an acquaintance who had just returned from Detroit with stories of the unfathomably high wages in the automotive plants there. Without any savings or contacts in Detroit, Brooks managed to borrow fifty dollars for a bus ticket and struck out for the Motor City in the summer of 1953. After arriving, a recruiter for Chevrolet told him that the company was hiring unskilled workers the next Thursday. In vivid illustration of the hunger for labor in postwar Detroit—particularly at Chevrolet, which had a reputation for hard work conditions—

³⁹ Danford Dial, interview by Dexter Brooks, 1 August, 1972, SPOHP.

the recruiter told Brooks that “if you’ll be here before daylight, you’ll get hired.” Eager to work at anything other than cutting cordwood, the young man from the Brooks Settlement swamps arrived at the Gear and Axle plant before dawn and lined up as “the sixth or seventh man from the door.” Despite possessing neither marketable job skills nor “a lick of education,” Brooks was hired on the spot and spent the next seventeen years with Chevrolet.⁴⁰

After his upbringing in the cash-strapped rural settlements of Robeson County, Brooks marveled at the substantial pay and meritocratic work environment at Chevrolet. Under the aegis of the UAW, Detroit’s automotive plants offered decent wages to even unskilled new members. “First check I drew, it was a hundred and four dollars square,” he recalled. “I thought I was a rich man.” After two years in production, Brooks was selected for training as a die setter, a more skilled trade that involved casting automotive parts and paid \$1.92 per hour. Although he had never “heard of a die or press or machine or nothing,” Brooks remembered that his bosses “had a lot of confidence in me somehow or another.” That confidence proved well-founded. Brooks found the work intellectually stimulating and continued in the occupation for over a decade, first at Chevrolet Gear and Axle and then at the transmission plant on Nine Mile Road in Warren. Unlike Danford Dial, he became a card-carrying member union member and a devoted resident of downtown Detroit. After settling into a house on Brooklyn Street in Corktown, he kept mainly to himself but enjoyed living alongside a diverse cast of “black, white, Indian, [and] Mexican” neighbors. Despite his proximity to the substantial Indian community in the Cass Corridor neighborhood, Brooks rarely interacted with other Native people, a common experience among Indian migrants from Robeson County to Detroit. Although he never considered staying in

⁴⁰ Howard Alexander Brooks and Virginia Hunt Brooks, in unrecorded interview with the author, written notes with verbatim quotations in possession of the author, 5 August 2015.

Detroit permanently, he spent the better part of two decades there and pointedly refused to leave his neighborhood amid growing racial discord in the 1960s. “I’m not that stupid,” he joked derisively when asked whether he had ever pondered relocating to Detroit’s growing ring of suburbs. Yet even long-term migrants who came to prefer city life remained connected to their home communities. Brooks regularly drove home to care for his parents and planned to return after retirement. When I interviewed him in 2015 and asked if he had intended to return to Robeson County, he grinned and pointed downward toward the soil beneath the living room floor of his home near Maxton. “Oh yes, sir,” he replied. “This is home.”⁴¹

Activist, educator, and return migrant Ruth Dial credited her five-year sojourn in Detroit with sparking a career in tribal politics and advocacy. In 1952, she dropped out of Meredith College in Raleigh to be with her first husband, who had just relocated to southeastern Michigan. “[A]ll good Indians from Robeson County during that period of time migrated either to Baltimore or to Detroit,” she later explained to an interviewer. Never having lived outside the South, Dial got her first lesson in Northern-style racial management when she applied for a marriage license. Unversed in Michigan law, she panicked and listed herself as white. “[M]aybe that’s the reason I ended up with a divorce, because I lied on my marriage certificate,” she later joked. “I’m not real proud of having done that, but...those are the kinds of things you do when you don’t know what you’re dealing with.” While adjusting to her new environment, Dial experimented with modes of racial self-presentation. During an interview for a position at Ford, she took a different tack and repeatedly informed her interviewers that she was an Indian. She knew that in North Carolina Lumbees were sometimes fired after their employers discovered

⁴¹ Ibid.; Edmund J. Danziger, Jr., *Survival and Regeneration: Detroit’s American Indian Community* (Detroit: Wayne State University Press, 1991).

their identities, so she wanted to preempt any such conflict. When she received only blank stares, she “got very upset because I didn’t get the kind of reaction from folks that I was supposed to get. You know, it was like ‘So what else is new?’” Although Dial got the job and eventually thrived at Ford, she could not shake a lingering sense of uneasiness at the erasure of her indigeneity in this metropolitan environment. This feeling no doubt intensified when the company shipped her out to a predominantly white suburb, where she received an even more complete immersion in Detroit’s spatialized system of racial management.⁴²

For Dial, Detroit stood for multicultural exchange and formally colorblind opportunities for advancement, so when she returned to North Carolina in 1959, she brought an urgent desire to aid in the dismantlement of Jim Crow and rebuild Lumbee institutions to withstand the new race-neutral order. Reflecting years later on how her migration to and from southeastern Michigan had shaped her, she noted that Detroit had taught her that:

...there is a better life. There is a better way. Yet, [I] would never have been happy to have stayed in Detroit because there was always that thing about going back home to help my people. Going back home to show them the way, you know.

Upon her return to Robeson County, Dial initially stepped into a traditional leadership role as a teacher in the Indian school system but left in 1965 as she became increasingly consumed with activism, from the Durham custodial workers’ strike to the 1969 Indian occupation of Alcatraz.⁴³

Migration contributed to increased postwar political organization in more immediate ways as well, as returned migrants and veterans voiced their rising discontent with Indians’ status and institutions under Jim Crow. As a substantial and growing portion of the Indian

⁴² Ruth Dial Woods, interview by Anne Mitchell Coe and Laura Moore, 12 June, 1992, The Southern Oral History Program Collection, Southern Historical Collection, University of North Carolina.

⁴³ Ibid.; "Lumbees Send a Delegate to Alcatraz," *The Robesonian*, 30 December, 1969.

population experienced unrestricted freedom of movement and consumption abroad, they became more resentful of conditions in Robeson County. A rising generation of Indian leaders also shared in the postwar optimism about democratic institutions and civic engagement, the promise of which seemed within closer reach for nominally enfranchised Indians than for their black neighbors. Perhaps the most egregious barrier to Indian civic engagement was the state law governing the selection of the mayor of Pembroke, unique among the state's incorporated municipalities for its Indian majority. To prevent the otherwise assured election of Indian representatives, state law provided for the gubernatorial appointment, rather than direct election, of the mayor and town council. Traditionally, the governor appointed one prominent Indian to the council, but never as mayor. In 1945, however, a group of Indians veterans successfully petitioned the General Assembly to repeal the statute and allow for democratic mayoral elections. In the first free election in 1947, an "unusually large" contingent of 400 voters overwhelmingly selected an Indian Baptist preacher, Clarence Locklear, as the town's mayor. Emboldened by this victory, an Indian candidate ran for the county school board in the following election cycle but narrowly lost. Such displays of strength rattled white voters, whose continued dominance depended on both black disfranchisement and Indian cooperation. "The younger educated Indians are developing a new type of political leadership," one white mechanic told Guy Johnson in 1948. "The politicians can't go in there and get votes now by passing out little bags of peanuts. These younger Indians are smarter and independent." Noting that segregation of Indians was peculiar to Robeson County, he added that "plenty of the Indians go to Charlotte

and other places—and even no further than Laurinburg—and go right in with the white people.”⁴⁴

Adolph Dial was among this group of Indian veterans and migrants frustrated with continued restrictions on their opportunities under state segregation law. After dutifully collecting data for Guy Benton Johnson, Dial called on the sociology professor to reciprocate and help him advance his own nascent academic career. In April of 1949, he penned a well-considered letter that highlighted his steadfast, competent assistance. By way of contrast, Dial noted that he had recently met with Johnson’s second, less diligent Indian assistant and was “surprised to know that he failed to finish his work.” He remarked that this other aide “doesn’t seem too dependable” and helpfully offered to complete his tardy colleague’s surveys. After outlining his service in Johnson’s study, Dial announced his plan to begin graduate coursework that summer and nonchalantly mentioned that he had “thought about... the University of North Carolina.” Despite his above-average undergraduate grade point average and veteran status, he worried that his degree from Pembroke State presented an obstacle. Transcripts from the small college had long marked graduates as Indians, but UNC and other white institutions had recently begun to cite its accreditation status as a putatively nonracial proxy. No doubt aware of these restrictions, Dial asked Johnson to “help me in case they would fail to accept my credits” but noted that he had also sent inquiries to the universities of South Carolina and Georgia, two out-

⁴⁴ US Congress, Senate, Committee on Indian Affairs, *Lumbee Recognition: To Provide for the Acknowledgment of the Lumbee Tribe of North Carolina*, 108th Cong., 1st sess., 17 September 2003, 84-5; “Locklear Elected Mayor Pembroke [sic],” *The Robesonian*, 23 April 1947, 1; Field Notes, “Interview with Mr. Singleton,” 12 August 1948, folder 1223, GBJ Papers.

of-state public institutions that had admitted Robeson County Indians in the past. Wistfully, Dial added that “[f]or some reason I want a southern school.”⁴⁵

Unfortunately for Dial, the volatile legal and political status of university segregation meant that his request to attend the University of North Carolina—or indeed, virtually any white “southern school”—was all but futile, even with Johnson’s assistance. The professor offered to “talk to the registrar right away and... let you know what the chances are,” but Dial soon discovered that his degree from Pembroke State barred him not only from UNC, but also Georgia and South Carolina. Although he eventually earned a master’s degree in history, he had to travel hundreds of miles north to Boston University to study. By 1949, segregated universities throughout the South were on high alert after a series of legal reversals, and this guardedness contributed to their hostility to Dial’s application. To test the newly remade political climate, the NAACP’s Legal Defense Fund fired a withering fusillade against segregated public universities shortly after the war and had begun to turn the tide by the late 1940s. Anxious, lawyered-up administrators at UNC redoubled efforts to exclude putatively ineligible students, and Lumbees represented a particularly potent threat to that strategy. As in the immediate aftermath of *Hocutt* a decade earlier, officials fretted that the state’s egregiously unequal provisions for Indian higher education represented the most vulnerable point in North Carolina’s segregated university system and that phenotypically ambiguous Indian students complicated enforcement. The legal

⁴⁵ Adolph Dial to Guy Johnson, 3 April 1949, folder 1215, GBJ Papers ; Guy Johnson to Adolph Dial, 6 April 1949, folder 1215, GBJ Papers.

challenges of the late 1940s and early 1950s, however, were far more potent and demanded a more creative response.⁴⁶

Before the final breakthrough of *Brown v. Board*, a series of US Supreme Court decisions on graduate and professional school segregation forced white public universities to admit racial minorities in instances where the state failed to provide substantively equal opportunities for nonwhite students. To justify the glaring inadequacy of segregated facilities, prewar state attorneys general relied on the precedent set in *Cumming v. Richmond County Board of Education*, which excused inequality if it flowed from ostensibly practical considerations, such as the size or education level of a minority community. The court in *Cumming* also cited its limited jurisdiction and generally left such determinations to state and local governments. Throughout the Jim Crow states, lawmakers interpreted *Cumming* as license to ignore the “equal” portion of the “separate but equal” standard in *Plessy*. In North Carolina, the state leaned heavily on *Cumming* to justify the existence of Pembroke State, pointing to Indians’ extremely small population and high rates of illiteracy to condone their manifestly inferior postsecondary accommodations, which lagged well behind even those for African Americans. In 1946, the case of Ada Sipuel roused complacent segregationist attorneys general from this time-worn legal bedding. Sipuel, a black woman, was rejected from the University of Oklahoma’s all-white law school on the basis of race. Because the state of Oklahoma maintained no public law school for black students, she filed a suit claiming that the state had violated her Fourteenth Amendment rights. In 1948, the court agreed and mandated that states either provide facilities for excluded

⁴⁶ Ibid.; Gloria J. Browne-Marshall, *Race, Law, and American Society: 1607 to Present* (NY: Taylor and Francis, 2007), 25-7; Sally F. Paulson, *Desegregation and the Rhetorical Fight for African American Citizenship Rights: The Rhetorical/Legal Dynamics of “With All Deliberate Speed”* (New York: Rowman & Littlefield, 2018), 85-100.

minority populations or admit them to white equivalents. Two years later in the twin cases of *Sweatt v. Painter* and *McLaurin*, the Supreme Court further specified that states were required not only to provide equivalent courses of study for excluded races, but also to ensure that those programs were substantively equal, as determined by both quantitative and qualitative measures. Every segregated, nonwhite public college and university in the United States was vulnerable to scrutiny under *Sipuel*, *Sweatt*, and *McLaurin*; however, Pembroke State was among the most obviously noncompliant in the South. Despite its recent elevation as a four-year liberal arts college, Pembroke struggled under the racist system of regional accreditation and still lacked a comprehensive selection of undergraduate course offerings, let alone graduate and professional education.⁴⁷

Amid the atmosphere of uncertainty and defensiveness about segregation, administrators at the University of North Carolina adopted a hostile stance toward Pembroke State graduates and alerted white peer institutions to their racial status, which threatened time-tested routes for educational migration. In the spring of 1946, two graduating Pembroke State students applied to the master's program at George Peabody College, a private white teachers college in Nashville, Tennessee. The students almost certainly chose Peabody at the suggestion of their dean, Clifton Oxendine, who earned his master's degree from the school in the 1930s. According to Oxendine, "[t]he two men who applied...were veterans" and "[b]oth had served for sometime [*sic*] in the European theater of war." Despite the applicants' honorable discharges and strong academic qualifications, however, George Peabody denied them admission. Given that Peabody had

⁴⁷ Gloria J. Browne-Marshall, *Race, Law, and American Society: 1607 to Present* (NY: Taylor and Francis, 2007), 25-7; *Sipuel v. Board of Regents of University of Oklahoma*, 332 US 631 (1948); *McLaurin v. Oklahoma State Regents*, 339 US 637 (1950); *Sweatt v. Painter* 339 U.S. 629, 70 US 848 (1950).

routinely accepted Pembroke State graduates in the past, this decision left administrators in Pembroke shocked and outraged. Dean Oxendine and President Ralph Wellons, who was white but well-regarded in the Indian community, investigated the sudden change of policy. After contacting both Peabody and UNC, Wellons and Oxendine discovered that admissions staff at Peabody had contacted their counterparts in Chapel Hill for additional information about Pembroke State's accreditation status. Amid the rising tide of standardization and credentialism in the postwar period, the South's regional accrediting body, the Southern Association of Colleges and Schools (SACS), wielded its certification powers as a putatively nonracial tool to reinforce segregation. Although black colleges and universities in the South banded together to form a separate accrediting body, Pembroke State was the only institution of its kind and relied exclusively on the State Board of Education for certification, which other institutions increasingly deemed insufficient for transfer credit and graduate eligibility. In response to the inquiry from Peabody, the dean for admissions at Chapel Hill, Thomas Wilson, alerted his colleagues not only to state law and university policy on Indian segregation, but also to Pembroke State's ambiguous accreditation status. Amid the climate of apprehension at white segregated colleges and universities, Wilson handed his peers at Peabody both racial grounds and a nonracial pretext to exclude Indian students.⁴⁸

After discovering Chapel Hill's interference in educational migration routes, President Wellons and Dean Oxendine reminded state and university officials that their policies forced

⁴⁸ Jimmie Vaden to Thomas Wilson, 29 May 1946; Frank Porter Graham to Clifton Oxendine, 21 August 1946; R.D. Wellons to R.B. House, 19 August 1946; R.B. House to R.D. Wellons, 23 August 1946; Clifton Oxendine to R. Gregg Cherry, 9 September 1946; R. Gregg Cherry to Clifton Oxendine, 16 September 1946; A.K. King to Frank Porter Graham, 12 October 1946; R.D. Wellons, "North Carolina Faces Problem of Providing Graduate Education for Indians," no date, box 33, folder "Pembroke State College for Indians, 1936-1948," in UNC System President Records; Gerald L. Smith, *A Black Educator in the Segregated South: Kentucky's Rufus B. Atwood* (Lexington: University Press of Kentucky, 2015), 50-57, 100-112.

Indians to pursue out-of-state graduate education in the first place. With scarcely concealed anger, Wellons chided UNC Chancellor Robert House for his institution's third-party meddling and usurpation of accrediting authority. In leaving the impression that Pembroke State was unaccredited, Wilson's actions helped foreclose on all Indian opportunities for graduate study, which Wellons argued was not "not the purpose of the Legislative Enactment which bars Indians from attending the University [of North Carolina]." Acidly, Wellons offered his "suggestion... that you kindly instruct your Registrar to reply in the future to such inquiries [by] saying that Pembroke State College is accredited by the State Department of Education which is the accrediting agency for this State." In a letter to the governor, Oxendine stated Pembroke State's position even more directly:

It doesn't seem fair to us at Pembroke for the University of North Carolina to use its prestige in this way... If the University doesn't admit our students and makes such statements to out-of-state institutions and in turn the outside institutions refuse our students... where are our graduates who are interested in graduate study to go? We haven't any graduate school... North Carolina should certainly lend a helping hand to our qualified people in their effort to enter institutions of higher learning same as it helps people of other races.

In an effort to establish that the young veterans were also light-skinned and class-respectable, he added that "[t]hey are nice looking and certainly aren't the kind that would bring embarrassment to any institution by being a member of its student body."⁴⁹

After Wellons and Oxendine's pleas met with inaction, however, Pembroke State and Indian leaders explored legislative remedies, beginning with a cosmetic effort to remove "for Indians" from the official title of the college. President Wellons, D.F. Lowry, and a group of allied trustees determined that the label unnecessarily alerted graduate admissions officials to the

⁴⁹ R.D. Wellons to R.B. House, 19 August 1946; Clifton Oxendine to R. Gregg Cherry, 9 September 9 1946, box 33, UNC System President Records.

school's nonwhite status and jeopardized the backdoor access that Indians had long exploited. and jeopardized the backdoor access that Indians. The student body's substantial population of veterans and returned migrants strongly supported the effort to amend their school's name and acknowledged that the title had become burdensome. In early 1949, Wellons, Lowry, and three other Indian trustees personally traveled to Raleigh and convinced state senator Henry McKinnon to introduce legislation to rechristen the school simply Pembroke State College (PSC). As in most matters pertaining to Indian education, the General Assembly deferred to their colleagues from Robeson, and Governor Kerr Scott signed the bill into law in February of that year. Despite the change, PSC's accreditation status continued to impose racial limits on the opportunities of its students. Wellons aggressively courted SACS, however, and the school received provisional status in 1951. After Pembroke State's accreditation, graduates were free to pursue admission to private and out-of-state graduate and professional programs. Although these changes restored back-channel Indian access to graduate education, they foreshadowed the colorblind de-Indianization at the nation's only state-supported college for Native Americans.⁵⁰

When *McLaurin* and *Sweatt* took effect during the 1951 school year, Indian exclusion at white public campuses collapsed, which dramatically increased Lumbee students' options for study beyond Pembroke States. After Edward Diggs and Floyd McKissick respectively desegregated UNC's medical and law schools in 1951, administrators lost much of their urgency for enforcing Indian segregation. Not only did the medical school admit its first Lumbee student in 1952, the university unexpectedly began accepting Indian undergraduate applications as well. Although UNC began the token admission of black undergraduates only after the 1954 *Brown*

⁵⁰ "Four Robeson Bills Passed," *The Robesonian*, 4 February 1949; "PSC President Attends Annual College Meeting," *The Robesonian*, 9 Dec 1953, 12.

decision, two Indian cousins, Cecil and Genevieve Lowry, transferred from a nearby junior college in 1951 and 1952, respectively. According to Genevieve Lowry, admissions officers at the university accepted their applications with full understanding of their racial status. At a recruitment event at her junior college, Lowry informed the university's dean of admissions, Roy Armstrong, that she intended to transfer but was concerned about the state law and university policies prohibiting Lumbees from enrolling. Armstrong confirmed that the segregation statute was still technically in force for undergraduate admissions, but he encouraged her to apply regardless.⁵¹

As ambitious Lumbee students increasingly left the county for college and graduate study, Pembroke State faced a crisis of relevancy that prompted it to begin admitting white students. After the admission of the first Indian students at formerly white state universities, journalists and state lawmakers began to scrutinize the cost-ineffective and suddenly redundant state college. Suddenly concerned about the inefficiency of administering three separate systems of public higher education amid the first ripples of desegregation, members of the General Assembly singled out Pembroke State, along with the smallest black teachers' colleges such as Elizabeth City State, for their high per-student operating costs. In an interview with *The Robesonian*, state representative John Regan pointed to "extremely low enrollment" and claimed that "the State of North Carolina has appropriated more money on a per capita basis to Pembroke State College than any other State supported educational institution." Regan attributed this apparent burden to the "fact that there was no other State supported institution that the Robeson County Indians could attend," but he argued that the expenditures had become unnecessary.

⁵¹ Otis Lowry, personal letter, November 2009; Otis Lowry, personal letter, August 2010; Waltz Maynor and Genevieve Lowry Cole, interview by the author, digital recording, 15 July 2010.

Despite the fact that the overwhelming majority of Indian college students still attended Pembroke, Regan contended that the UNC system's recent decision to admit a token number of Lumbee students meant that "there no longer remain[ed] any justification for the present appropriation." Raleigh-based journalist Lynn Nisbet published a controversial article that employed dubious arithmetic to calculate the state's annual expenditure on PSC at over nine hundred dollars per student, which he claimed was more than one and a half times as expensive as the flagship university in Chapel Hill. President Wellons took up his pen against Nisbet's fuzzy math and condescending attitude, but the accusation carried enough truth that Wellons failed to quell concerns among Raleigh policymakers. Because PSC served a poor, rural community and drew from a limited pool of students, the college saw little benefit from the postwar influx of federally subsidized tuition and student enrollment that catalyzed growth elsewhere in higher education. In 1953, PSC enrolled fewer than 140 full-time undergraduates and charged among the lowest tuition of any state college.⁵²

With the future of segregation in doubt, Pembroke State's administration and Indian trustees petitioned their delegation in the General Assembly to open the tiny college to white students. Early in 1953, D.F. Lowry and his colleagues on the board of trustees voted unanimously to recommend the introduction of a bill giving them the authority to admit non-Indian students at their discretion. Since 1949, Pembroke State had permitted the enrollment of Indian students from federally recognized tribes and non-Lumbee Indians in eastern North Carolina, provided they met with the approval of the "genealogy committee" that scrutinized

⁵² "Regan Explains Pembroke Bill Intended to Save College," *The Robesonian*, 13 February 1953, 1; Lynn Nisbet, "PSC Costs More Per Capita than University of N.C.," *The Robesonian*, 27 July 1954, 1; "Wellons Charges Inaccuracy in Nisbet Report on P.S.C.," 3 August 1954, *The Robesonian*, 1.

applicants' ancestry. The 1953 bill granted the trustees the power to override the genealogy committee's decisions in the case of well-qualified non-Indian (presumably white) applicants. This discretionary power theoretically allowed Indians to use white students to pad Pembroke State's enrollment numbers but retain control over the rate at which their institution opened to non-Natives. In February, Governor Scott signed the bill into law, and Pembroke admitted its first white students for the following summer session.⁵³

Although the flow of non-Indian students into Pembroke began as a slow trickle, Indians students lost their majority at the formerly segregated college within five years of the decision to admit white students. Even after *Brown* eliminated the remaining formal racial barriers to enrollment, the college initially remained overwhelmingly Indian. White Robesonians proved reluctant to attend an institution so long associated with the county's Indian population, but the dearth of other local options soon drove non-Indian students and Pembroke State into a marriage of convenience. White students proved particularly attracted to Pembroke State's summer course offerings, which provided the foot in the door that led to an explosion of non-Native enrollment. In a remarkable demographic takeover, white students outnumbered Native students nearly two-to-one by 1958. Although the Indian graded schools remained strictly segregated and under Indian control, Pembroke State dissolved as a pillar of Indian identity and self-government with remarkable speed and foreshadowed the fate of other institutions unshielded by either federal acknowledgment or Jim Crow laws.⁵⁴

⁵³ "New Segregation Twist: Bill Introduced to Admit Non-Indians to Pembroke," *The Robesonian*, 27 January 1953, 1; "Pembroke College Bill," *The Robesonian*, 30 January 1953, 4;

⁵⁴ "Facilities Wasted Without Dormitories: Budget Commission Hears PSC Stands at Crossroad," *The Robesonian*, 18 September 1958, 1.

CHAPTER 3

“THE RATHER FAMOUS LUMBEES”: CIVIL RIGHTS AND THE (NATIVE) AMERICAN WAY

Lumbee Indians entered the national civil rights scene with a bang—or more accurately, with the crack of rifle fire and the tinkling of a shattered light bulb falling in shards on James “Catfish” Cole, the Grand Dragon of the Ku Klux Klan in the Carolinas. Under cover of darkness, several hundred armed Indians advanced on the grand dragon’s makeshift stage, aiming their volleys high in hopes of creating more terror than casualties. Several of the badly outnumbered white knights returned fire, but most fled immediately, and the “battle” ended with only a few minor injuries. Cole abandoned the microphone amplifying his hate speech and retreated into the swamp, infamously abandoning his wife and her sacred white womanhood to her captors, who demonstrated their viciousness by extricating her car from the thick Robeson County mud. The victorious Indians ransacked Cole’s abandoned audio equipment and the abandoned Klan paraphernalia until sheriff’s deputies dispersed them from the “private” property on which the rally was held.¹

After the dust settled from the so-called Battle of Hayes Pond, the national press converged on Robeson County to celebrate Lumbees as Indian warriors in the nascent battle against Southern racism. *LIFE* magazine ran a flattering story featuring the indelible photograph of Indian veterans Simeon Oxendine and Charlie Warriax posing beneath a captured Klan

¹ Christopher Arris Oakley, “When Carolina Indians Went on the Warpath: The Media, The Klan, and the Lumbee Indians of North Carolina,” *Southern Cultures* 14.4 (Winter 2008), 55-84; Malinda Maynor Lowery, *Lumbee Indians in the Jim Crow South*, 251-3.

banner. Nationally syndicated columnist Inez Robb vicariously savored the Lumbee victory over the “noxious” robed interlopers and exclaimed that she could not recall “when [she had] read a front-page story that did [her] as much good.” In between repeating time-weathered noble Indian tropes, Robb lavished civil-religious praise on Sim Oxendine for his service as a bomber in the European Theater and likened him to Ira Hayes, the Akimel O’odham Marine photographically immortalized raising the American flag over Iwo Jima. *Denver Post* cartoonist Paul Conrad—a future three-time Pulitzer Prize winner—distilled the national press reaction in a cartoon under the caption “The Vanishing Americans,” which ironically repurposed the common shorthand for settler fantasies of indigenous disappearance to lambast Ku Klux cowardice. In Conrad’s illustration, bow-and-tomahawk-wielding “Lumbee” Indians in Plains headdresses ride their war ponies in hot pursuit of a group of comically terrified Klansmen. One white knight clutches a microphone; another holds a sheaf of papers labeled “Hate and Bigotry.” The deployment of Wild West Indian stereotypes was more than a lazy cultural reflex; rather, the press invoked these powerful images to reward Lumbees by acknowledging their indigeneity as authentic. On the rare occasions when reporters from national publications had written about Robeson County Indians before the Klan rout, most uncritically repeated white Robesonians’ parlor-game theories on the community’s tribal and racial origins, complete with oblique references to possible

African ancestry. After the skirmish near Maxton, however, the media crucible quickly melted down any racial ambiguity and recast Lumbees as patriotic, antiracist, Western-film braves.²



FIGURE 3.1: CHARLIE WARRIAX AND SIMEON OXENDINE POSE WITH A CAPTURED KU KLUX KLAN BANNER, 1958. *LIFE* magazine reprinted this photograph in its widely circulated article on the skirmish near Maxton. Warriax is at left and winking; Oxendine at right in his VFW hat. Courtesy of the *Charlotte Observer*.³

² “Bad Medicine for the Klan: North Carolina Indians Break Up Ku Klux Meeting,” *LIFE*, 27 January 1958, vol. 44, no. 4, 26-8; Timothy Tyson, *Radio Free Dixie: Robert F. Williams and the Roots of Black Power*, (Chapel Hill: University of North Carolina Press, 2009), 138; Inez Robb, “History Backed Those Red Raiders,” *The Detroit Free Press* (Detroit, MI), 28 January 1958; Paul Conrad, “The Vanishing Americans,” editorial cartoon clipping from *The Denver Post*, January 1958, folder 513, box 60, Scheirbeck Papers; James Rainey, “Paul Conrad Dies at 86; Pulitzer Prize-Winning Political Cartoonist Helped Bring *The Times* to National Prominence,” *Los Angeles Times*, 5 September 2010, <<https://www.latimes.com/local/obituaries/la-me-paul-conrad-20100905-story.html>>.

³ “Bad Medicine for the Klan,” *LIFE*, 28.

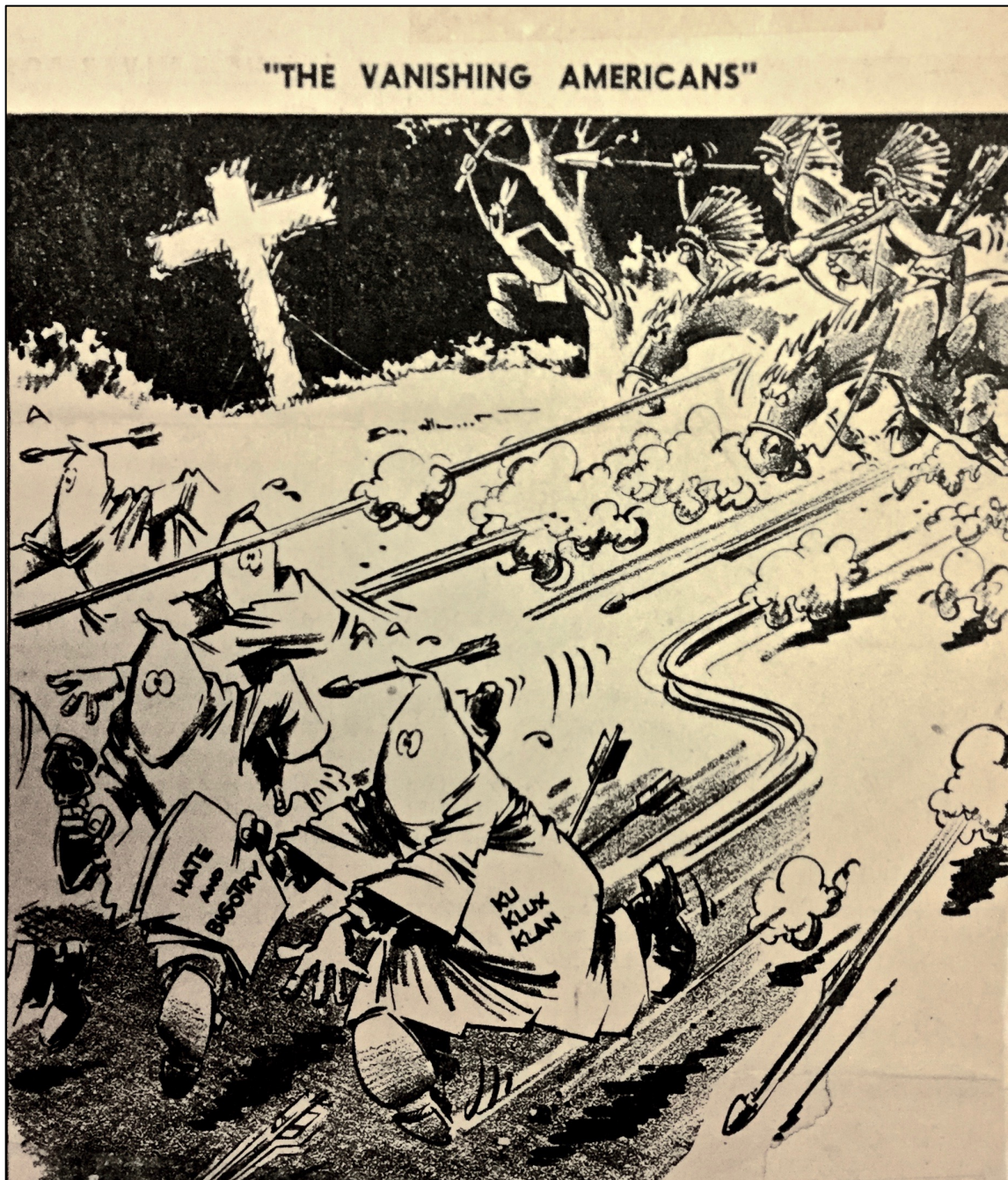


FIGURE 3.2: “THE VANISHING AMERICANS,” 1958. Renowned political cartoonist Paul Conrad produced this succinct depiction of Lumbees’ newfound position in the national imaginary as antiracist warriors for the American Way. Courtesy of *The Denver Post* and the late Paul Conrad⁴

⁴ Paul Conrad, “The Vanishing Americans,” editorial cartoon clipping from *The Denver Post*, January 1958, folder 513, box 60, Scheirbeck Papers

Lumbees, however, fit awkwardly into this unexpected role as civil rights celebrities. The makeshift battalion that defeated the Klan mobilized primarily out of anger at the Klan's weeks-long cross-burning campaign and Cole's inflammatory interviews with local press, in which he described Lumbees as "mongrels" and "half-breeds" whose black ancestry and dabbling in interracial dating threatened the integrity of the white race. Most Lumbees fought to defend their homeland from hostile outsiders and to avenge what they saw as racial defamation, not to advance a liberal universalist vision of a colorblind society. Far from straightforward civil rights champions, Indians in Robeson County disagreed along lines of generation, class, and settlement on which elements of Jim Crow to discard and which to keep, given that their identities and institutions had been entwined for decades with the state's tri-racial segregation regime. Among the Indians of southeastern North Carolina, those discussions revolved around the state-supported Indian schools, which, despite their clear inequality, provided a platform for secular tribal governance, legal recognition of Indians' separate status, and scarce white-collar jobs.⁵

The press's ventriloquized contempt for southern bigotry served more as a civic ablution for white, metropolitan elites than any genuine commentary on Lumbees themselves. Tellingly, much of what delighted journalists was how the Lumbee victory cast the Klan as marginal, inept, and low-class. Inez Robb quipped that "before they picked on the Lumbees," Cole's men "should have read—if any of them are capable of reading—the proud history of this group of Indians." Further left on the political spectrum, folk singer and self-described socialist Malvina Reynolds penned a jocular tune for the occasion:

⁵ Chris Arris Oakley, "When Carolina Indians Went on the Warpath," 55-84; Malinda Maynor Lowery, *Lumbee Indians in the Jim Crow South*, 251-3.

The Lumbee Indians whooped and howled/ In the ancient Lumbee way/ And the Klansmen melted off the ground/ Like snow on a sunny day/... Oh the Klan/It calls on every red blood fighting man/Who is free and white and bigot/Gets his courage from a spigot/And protects his racial purity the very best he can.

Lumbees had provided respectable white America with an occasion to paint Klansmen as drunken, hapless, Southern illiterates. This classist fable helped limit the definition of racism to violent bigotry and quarantined the problem in the poor, exotic, exceptional South. As black radical Robert F. Williams argued in *Negroes with Guns*, the Indian identity of the attackers also comforted white journalists; his own experiment in armed self-defense against North Carolina white supremacists met with condemnation, legal charges, and foreign exile, rather than a press coronation. The specters of Crazy Horse and Geronimo, he suggested, conjured more nostalgia in the white psyche than those of Nat Turner and Toussaint Louverture.⁶

The national reaction to the Battle of Hayes Pond reflected a broader midcentury shift in US political culture toward veneration of American institutions, the conflation of democracy and capitalism, and elite embrace of limited religious and racial tolerance. Although these trends emerged in part from the victory over Nazi Germany and the onset of the Cold War, political historian Wendy Wall has argued that they had a longer trajectory. Eyeing developments in Europe and anxious that unassimilated immigrants were drifting toward the far right and far left during the Depression, the American business and governing classes began tinkering with new national mythologies scrubbed of the early twentieth-century Anglo-Saxonism and Protestant chauvinism epitomized by the Second Klan's national following. This synthesis, which Wall names "the American Way," posited the United States as a "nation of immigrants," where a

⁶ Inez Robb, "History Backed Those Red Raiders," *The Detroit Free Press*, 28 January 1958, 24; Malvina Reynolds, "The Battle of Maxton Field," *Malvina Reynolds Sings the Truth*, New York: Columbia Records, 1967; Robert F. Williams, *Negroes with Guns* (Detroit: Wayne State University Press, 1962), 3, 21.

diverse tapestry of humanity enjoyed “freedom of choice” ensured by a market economy and the unique genius of the Constitution. The war effort and postwar boom transformed this latent ideology into an orthodoxy, at least in affluent, cosmopolitan corners of white America.⁷

This chapter examines how “American Way” political values percolated through local Indian politics in southeastern North Carolina and created new openings for Indians to interface with white organizations. Like indigenous peoples elsewhere, Indians in Robeson County grasped the importance of citizenship and constitutionalism from their earliest interactions with whites. Indeed, the 1888 Lumbee petition to the federal government requests educational assistance in service to improving Indians’ citizenship. But as white elites redoubled their veneration for the “American form of government” and embraced a new mythology of pluralism as the American Way in the decades after World War II, Indians learned to speak this updated language of power. Indians learned quickly that their subjection to southern segregation and their reputation from the Klan battle intrigued white northerners and gave them a platform to engage them in new ways, although their asymmetrical goals and frequent miscommunications shaped the terms of discourse. Constitutionalism and citizenship provided a new, common language for these misunderstandings and machinations to take place.⁸

Although this evolving rights discourse unlocked new resources and forms of leverage, it also informed congressional efforts to impose a uniform, colorblind standard of national citizenship that threatened the legislative foundations of Lumbee and American Indian political

⁷ Wendy Wall, *Inventing the “American Way,”* 15-63; Gary Gerstle, “Race and the Myth of the Liberal Consensus,” *Journal of American History* (September 1995): 579-86; Thomas Sugrue, “Reassessing the History of Postwar America,” *Prospects* 20 (Fall 1995): 493-509.

⁸ *Ibid.*; Richard White, *The Middle Ground: Indians, Empires and Republics in the Great Lakes Region, 1650-1815* (New York: Cambridge University Press, 2010).

autonomy. The American Way was an inherently assimilative ideology, designed more to defang pluralism than to encourage it, that the federal government wielded to consolidate its centralized authority and iron out juridical wrinkles in the rule of law. As differently as they functioned in practice, Indian nations and the segregated South presented similar obstacles and met with similar policy solutions. By a twist of fate, Lumbees sat between the loose ends of both historical live wires: the slow federal cooptation of the African American civil rights movement and Congress's policy of terminating Indian services and tribal jurisdiction. Passed at the height of the termination era, the 1956 Lumbee Act granted Robeson Indians a form of federal recognition hollowed by a boilerplate termination clause that precluded federal services. Meanwhile, the *Brown* decision threatened the eventual dissolution of hard-won Indian institutions. As these watershed changes in American legal and political culture ricocheted through the late 1950s and early 1960s, Indians grappled with new opportunities and limits in how they dealt with white power brokers.

*
**

Long before the 1956 Lumbee Act, members of the Robeson County Indian community used tribal names to organize strategies for dealings with settler officialdom and display differences in class or settlement. Tribal names functioned more as political parties than literal claims about ethnological origins. In most instances, these designations emanated from settler political institutions or specific white officials, and supporters adopted them to advocate for alignment with those agencies or individuals. The state's original 1885 name for the Robeson County Indian community, "Croatan," came at the suggestion of their Democratic representative and aspiring patron Hamilton McMillan. In support of the new moniker, McMillan concocted a romantic legend of descent from survivors of the Lost Colony at Roanoke and nearby Indians.

This origin story imbued so-called Croatans with a mythological claim to Anglo-Saxon blood, which justified their relative autonomy and continued electoral enfranchisement under white supremacist pseudoscience. Although Indian supporters invoked the name to rally support for the 1900 disfranchisement amendment and other Democratic Party prerogatives, the shortened version—"Cro"—became a colloquial slur that evoked the figure of Jim Crow and connoted black ancestry. Another white patron, local party magnate and future governor Angus McLean, proposed "Cherokee Indians of Robeson County" as a more palatable alternative, and the General Assembly formally adopted the name in a 1913 statute that remained in force until the early 1950s. An enthusiastic amateur ethnologist, McLean supported his claim with dubious research on eighteenth-century Cherokee military maneuvers and grew defensive after federal researchers from the Office of Indian Affairs (OIA) countered his theory with evidence of descent from fragmented, primarily Siouan language-speaking local tribes.⁹

In the mid-1930s, rival camps of Robeson County Indians used the Siouan and Cherokee names to indicate alignment with the federal OIA or the segregationist state government, respectively. After meeting with OIA officials and coming to appreciate their objections to the Cherokee designation, a splinter group organized the General Council of Siouan Indians to agitate for federal acknowledgment and assistance. Cherokee adherents meanwhile fretted that such a rejection of the state designation could alienate powerful white allies. As the two parties coalesced and members engaged in public debate, the labels assumed both political and socioeconomic connotations. Although the Siouan Council leadership included prosperous landowners, it drew the bulk of its membership from the more rural "swamp Indian"

⁹ Lowery, "Adapting to Segregation" and "Taking Sides" in *Lumbee Indians in the Jim Crow South*, 25-49, 81-120.

communities—such as Prospect and the Brooks Settlement—and sought government assistance for poor and landless Indians. In 1936, for example, Siouan leadership helped persuade OIA officials to send an anthropologist to Robeson County to determine whether local Indians qualified for federal benefits under an obscure provision of the Indian Reorganization Act that provided for enrollment of detribalized Indian individuals of at least one-half blood quantum. After reviewing pseudoscientific test results from roughly two hundred volunteers, the OIA determined that twenty-two individuals were eligible for assistance, although administrators never followed through on these claims. The Cherokee party, by contrast, was strongest among middle-class residents of Pembroke, sometimes called “town” or “brick-house Indians,” who strongly supported the community’s segregated institutions and were attuned to the racial dynamics of Jim Crow. Doctor Fuller Lowry, who fought to remove the Normal School from the state Division of Negro Education, was aligned with the Cherokee party and exemplified its political and class leanings. Staunch advocates of economic self-reliance and “progressive” values, they sometimes expressed qualified support for federal recognition but staunchly opposed elements of federal “wardship,” such reservation land. By the 1940s, the prospect of federal acknowledgment dimmed, and the Cherokee-Siouan debates subsided accordingly, but the orientation of Indian politics around tribal names persisted after the war.¹⁰

In the late 1940s, a coalition of mainly rural Indians, many of them former Siouans, adopted the “Lumbee” name to organize opposition to segregation and white supremacy. Of uncertain etymological origin, the term had a long history as a poetic name for the Lumber River, by both whites and Indians. At the suggestion of a friendly social scientist, Ralph Brooks

¹⁰ Lowry, “Confronting the New Deal,” “Pembroke Farms: Gaining Economic Autonomy,” and “Measuring Identity” in Lowry, *Lumbee Indians in the Jim Crow South*, 121-212.

proposed it as a locally rooted, more inclusive alternative to Siouan. Support for the designation spread throughout the Brooks Settlement, where members forged intertribal contacts, participated in powwows and other neo-traditional cultural displays, and built a longhouse for meetings. The original proponents of the Lumbee name framed their movement as a rebellion against Jim Crow and white control, a bold public position that would have been unthinkable before the war. Although erstwhile Siouans had disagreed with the Cherokee faction's strategic embrace of segregation, the threat of reprisal from the state government restricted their options for public protest. Amid the return of Indian veterans and nascent changes in postwar political culture, however, newly rechristened Lumbees denounced white supremacy directly and publicly, rather than through oblique references to federal assistance. One of the movement's leaders, John Oxendine, told a local reporter that he intended "to kill segregation or run the white man out of the county." Oxendine and Brooks both agitated for "recognition" from white people, which they understood to include access to segregated businesses. Indeed, Indians in Robeson County had long employed an idiosyncratic definition of the term "recognition" that referred not only to federal acknowledgment, but also a more general respect for their Indian identity and rights from outsiders. For the Lumbee faction, recognition was incompatible with segregation, a conviction they expressed through the novel use of tribal identification cards. Printed on "a 2 1-2x4 size [card] with space on one side for identification," the obverse featured an official seal and pan-tribal symbols of representing peaceful intentions. The local newspaper reported that "it is claimed that the cards give [members] the privilege to enter any white institution and be

served.” Bolstered by the postwar political environment, Lumbees demanded racial respect and recognition for their freedoms of movement and consumption.¹¹

During the first wave of Lumbee activism emanating from the Brooks Settlement Longhouse, middle-class Indians heaped scorn on self-declared Lumbees and their political agenda, which many saw as a threat to Indians’ segregated institutions and alliances with white politicians. In response to a news story that inaccurately described the Longhouse group as “Pembroke Indians,” Ira Pate Lowry, a longtime music professor at Pembroke State and former Cherokee supporter, issued a statement to the paper distancing town Indians from the movement, which he characterized as “another outcropping of a kind of agitation that has been carried on a[t] different times over a period of years among uneducated Indians [from] some of the rural areas.” Another middle-class Indian, identified only as “an official of the Pembroke Indian high school,” derided Lumbees’ political aims as a step toward wardship that threatened the interests of the more affluent Pembroke community. “The Indians are getting along well now,” he claimed, “and once we are all on a reservation... all our opportunities and privileges will be limited.” In an interview with white anthropologists, two middle-class Indian young women, Mary Sampson and Lucy Locklear, exchanged jokes about the Lumbees. Locklear took particular issue with the group’s clumsy adoption of pan-Indian cultural markers. “They have ribbons tied to their waists and dance around rattling beer cans full of rocks on sticks,” she laughed. She also noted that some of her friends found more mean-spirited ways to express their disdain. “There were some college students from Pembroke who went out to the pow-wow for

¹¹ Ralph Brooks, “Wants Lumbee Indians to Be Recognized,” *The Robesonian*, 28 April 1948, “Pembroke Indians Organize to Obtain ‘Special Rights,’” *The Robesonian*, 22 April 1949; Lowery, “Recognizing the Lumbee” and “Creating a Lumbee and Tuscarora Future” in *Lumbee Indians in the Jim Crow South*, 213-263.

fun and meanness. We saw them jumping around and shouting with their hand over their mouths... They'd spot us and wink at us, but go right on, shaking their beer cans." Sampson, on the other hand, seemed more concerned with Lumbees' political aims. She mocked their apparent belief that an "Indian grant" is up in Washington" and the idea that "[t]hey're going to take the land away from the white people." Sampson reserved her greatest scorn for the council's tribal identification cards, however. "They think if you show the membership card you can go anywhere you please and they'll have to serve you. They think if you present it in Lumberton you'll have to be recognized," she scoffed, likewise deploying a definition of recognition that included social and economic freedoms. Unlike her Lumbee counterparts, she had no faith that tribal identification cards could garner such recognition in the white consumer spaces of Lumberton.¹²

Sensing an opportunity to address mounting concerns about migration and segregation-based state recognition, Doctor Fuller Lowry rallied middle-class support for the Lumbee name and political agenda. No Indian leader had a better vantage point to observe the precariousness of Indian status under Jim Crow. After winning his pitched battle with the state director of Negro education, Lowry retained his position on the board of trustees and guided Pembroke State College through the birth pangs of the colorblind turn. To stave off catastrophe, Lowry supported the removal of "for Indians" from the school's official title and voted to open admission to white students, only to watch as the proportion of Native students rapidly declined. Lowry was also the father of eight college-educated children, nearly all of them with degrees from out-of-state

¹² Field notes, "conversation by [Benton Johnson] & [Guion Griffis Johnson] with Miss Mary Sampson and Mrs. Plummer ('Miss Lucy') Locklear, 8 July 1949, folder 1231, GBJ Papers; "Says Indians in Town of Pembroke and Educated Members of Race Have Not Taken Part in Recent Agitation," *The Robesonian*, 25 April 1949, 1.

institutions, and he worried that segregation was pushing ambitious young Indians out of the county. As a result of their educational migrations, all eight of Lowry's children had left the county by 1948, and all but one lived outside the state. All five of his married children also had taken white spouses. Although Lowry never publicly commented on out-marriage, at least some of his colleagues worried that growing rates of exogamy among migrants threatened to erode community cohesion. Lowry's perspective gave him especially keen insight into the speed at which the contours of Indian identity and political status were changing, as well as the risks of tethering his people's future to the teetering segregation regime. In the federally oriented Lumbee movement, the retired minister saw a change to hedge against the collapse of racialized state recognition, as well as to forge a distinctive and more portable Indian identity for an increasingly mobile population. Alongside Linsey Revels, a former Siouan rival aligned with rural Indians, he became a key leader in the Lumbee Brotherhood, a fraternal organization that cut across divisions of class and settlement to advocate for the new tribal name and, more broadly, for closer ties to the federal government.¹³

In 1951, the Lumbee Brotherhood campaigned to change the community's archaic official designation under state law as the Cherokee Indians of Robeson County. Since its adoption in 1913, the name had been an irritant to the federally recognized Eastern Band of Cherokees, who had powerful supporters in federal and pan-tribal politics. Concocted to flatter the amateurish ethnographic fantasies of a long-dead white supremacist governor, the name represented an avenue of interaction with white authorities that had become legally imperiled and politically disadvantageous. As a former leader of the Cherokee faction, D.F. Lowry had the

¹³ Interview with D.F. Lowry, 1948, folder 1223; Manuscript data, "Migration Schedules," no date, 1948-9 folders 1235, GBJ Papers.

credibility to convince other erstwhile Cherokees that the name had become an embarrassing obstacle. In a published editorial, Lowry argued that “[o]ur Cherokee brothers [in Western North Carolina] have no use for us... for trying to take their name” and that the outdated term fostered rejection and confusion when Indians traveled outside Robeson County. To illustrate the emotional response that the name generated, he offered an apocryphal story about “one of our Indian boys” in the military who faced uncomfortable questions from an officer processing his discharge. According to Lowry,

[O]ne of the officers saw he was an Indian, and asked him at once ‘What tribe do you belong to, Mr. Oxendine?’ Mr. Oxendine... had to say Cherokee. The officer happened to be a Cherokee from Oklahoma; he looked at Mr. Oxendine and replied ‘You are not Cherokee. I’m Cherokee...’

Divorced from the context of Robeson County Indian politics, he contended, the official Cherokee designation created confusion, caused offense, and left migrants without a way to communicate their identities to outsiders. Subtly, Lowry also traded on that contextual meaning to suggest that alliance with segregationist Democrats, long associated with the Cherokee name, seemed antiquated and provincial in the dawning era of mobility, federal supremacy, and intertribal politics.¹⁴

On February 2, 1952, Indians went to the polls to vote in a referendum on the official tribal name, which the Lumbee Brotherhood administered privately after an ironic colorblind challenge from state legal officials. Although the Brotherhood secured initial authorization from the county board of commissioners for a special election, the state attorney general advised against the use of public funds for a racially exclusive election. Although the state routinely

¹⁴ D.F. Lowry, “Why Robeson Indians Want Change in Name,” *The Robesonian*, 3 October 1951, 4; Lowry, *Lumbee Indians in the Jim Crow South*, 182, 266

condoned elections that were functionally whites-only, the objection demonstrated both a petty opposition to funding nonwhite prerogatives and the growing attention to equal protections claims, even amid continued segregation and disfranchisement. Undaunted, the Brotherhood funded a private election held at Indian schools and churches. Despite lingering disapproval in certain segments of Robeson Indian society, the measure carried by an overwhelming majority. In deference to this result, the General Assembly and governor enshrined the Lumbee name in state law in 1953. After clearing this hurdle, the Lowry, Revels, and Lumbee Brotherhood leaders pivoted toward Washington and persuaded their representative in the House, Ertle Carlyle, to introduce a bill modeled on the newly enacted North Carolina statute.¹⁵

Amid the centrifugal forces of termination-era Congress, however, the Lumbee Brotherhood's fragile coalition fractured as town Indian leaders supported symbolic recognition and jettisoned their rural allies' strategically untenable demands for assistance. Representing the Lumbee Brotherhood in a hearing before the House Interior and Insular Affairs Committee, D.F. Lowry quickly recognized legislators' hostility to financial appropriations and jurisdictional authority for Indian tribes, and he crafted his comments accordingly. Setting the tone, Chairman Wayne Aspinall pointedly asked Carlyle "what benefit... [Lumbees] expect to get from" the proposed legislation if not "some recognition later on as members of some authorized tribe, and then [to] come before Congress asking for the benefits that naturally go to recognized tribes." After vigorously denying that his constituents desired federal wardship, the congressman instead painted Lumbees as models of the self-reliant citizenship that proponents of termination hoped to foster elsewhere in Indian Country. "No one has ever mentioned to me... any interest in

¹⁵ "Robeson Indians Will Vote on Name Proposal Feb. 2," *The Robesonian*, 8 Jan 1952, 1; Lowry, *Lumbee Indians in the Jim Crow South*, 237-41.

becoming a part of a reservation or asking the Federal Government for anything,” Carlyle responded. “They are a proud people, and justly so,” he argued, citing their robust civic participation and skill as farmers and business owners. Seemingly unsatisfied, Aspinall further inquired about the number of Robeson County Indians “on the Public Welfare rolls.” Carlyle again emphasized Lumbee independence and estimated that the figure “would not exceed the number, percentagewise, you would find among the Negroes and the white race.” Lowry, a canny and experienced observer of white politicians, echoed and amplified his congressman’s vociferous denial that Indians aspired to federal dependency. When asked whether “any members of your organization would desire to have a reservation,” Lowry responded in the negative and disparagingly added that “[i]f there is, it is a man that has not got any land, and he does not want to work for anything, and he thinks the Government might give him a little.” Pressed further, he intensified his opposition and hyperbolically argued that Indians “would leave the county before we would come under a reservation or anything like wards of the Government.” In a gesture to the near-religious postwar fetishization of civic participation, he added that Lumbees “are citizens and have always been citizens.”¹⁶

Rather than appeal for land or financial appropriations, Lowry emphasized the benefits that congressional certification of the Lumbee tribal name held for educational and labor migrants. After tracing Lumbee origins to “an admixture of seven different tribes... including the Cherokee, Tuscarora, ... and Croatan,” he reworked the apocryphal anecdote from his editorial

¹⁶ US Congress, House of Representatives, Committee on Interior and Insular Affairs, Subcommittee on Indian Affairs, *Relating to the Lumbee Indians of North Carolina*, 84th Congress, 1st sess., 22 July 1955. Lowry presented his testimony to the Subcommittee on Indian Affairs. For the sake of concision and narrative clarity, I have simply used the name of the full committee. Congressman Wayne Aspinall, chair of the full committee, conducted most of the questioning, whereas the subcommittee chair, James Haley, played a limited role.

to include the composite experiences of out-of-state college students. Using an imaginary dialogue between a “Cherokee” student from Robeson County and a school official familiar with the Eastern Band, the former minister suggested that legislative affirmation of a distinctive tribal name would prevent embarrassment and reputational harm for vulnerable young people.

“[W]hen our boys go off to college,” the retired minister began, “[people] would [ask] them... ‘What tribe are you from?’” Lowry then imagined a series of follow-up shibboleths about the Cherokee reservation in western North Carolina that stymied the student and made “that boy or girl... embarrassed.” Broadening his concern to include economic migrants, he added that Lumbees “go off to various states and are embarrassed.” Congressional action, he argued, would remedy these problems:

If we get the name “Lumbee” we can go to any school in the United States and tell them we are Lumbee Indians. We can pick up the Act of the Legislature and pick up the bill and read that the Lumbee Indians are descendants of the seven tribes of Indians that settled on the Lumbee River... Then they would have no trouble telling the people, “We are Lumbee Indians.” They could look us up and find we are in the law... and therefore we are honest in their sight. That is No. 1.

For Lowry, the foremost goal of the bill was to protect the reputations of migrants, students, and other Indian travelers thrown into the discomfiting anonymity of the world beyond southeastern North Carolina. Outside the unique racial context of their homeland, such sojourners were subject to accusations of ethnic fraud and, implicitly, suspicion of black ancestry. Congressional action would certify and legitimate their Indianness, providing a portable indigeneity for a modern, mobile America.¹⁷

As Lowry was gauging the uncharitable mood of federal legislators, his colleague Linsey Revels enlisted a very different deliberative body, the National Congress of American Indians

¹⁷ Ibid.

(NCAI), in his efforts to secure meaningful federal assistance for his rural constituents. Founded in 1944 to represent the collective interests of Indian peoples, the NCAI functioned as both a lobbying group and a pan-tribal assembly, which made it a natural venue for Revels, who hailed from a community with a robust tradition of intertribal solidarity. In early 1955, Revels wrote to urge NCAI leadership to “help us all you can when our Bill goes in congress.” Asserting his authority to speak on behalf of the Lumbee Brotherhood, he noted that he had “been working after this Bill for over six years.” Cryptically, he added that he hoped that congressional action would give Lumbees “our wright as all outhar Indians has (sic).” Although Revels failed to elaborate on the content of these rights in his brief 1955 missive, Revels made clear in subsequent correspondence that his people expected genuine federal recognition, including in-trust reservation land, social services, and tribal jurisdiction. In a series of exchanges in 1957 and 1958, he continued to advocate for “our Rights and Privelages (sic) like all other Indians” and requested that the NCAI’s attorney litigate to force the federal government to honor its obligation to “take care of the Indians” in Robeson County. In Revels’s estimation, those obligations included returning land he believed he believed that federal authorities had unjustly taken from Lumbees. This claim was most likely rooted in a short-lived, Depression-era Farm Security Administration (FSA) resettlement project, Pembroke Farms, that the Siouan Council had supported and which many Lumbee tenants inaccurately believed to have been a reservation. In correspondence with NCAI attorney Thomas Wilkins, Revels requested that Wilkins secure a land base by filing a case with the Indian Claims Commission or “in the Supreme Court.” Although Revels understood and supported the symbolic importance of the Lumbee tribal name,

he intended for the 1956 recognition bill to cover the material obligations he believed Congress owed Lumbees as an indigenous people.¹⁸

Although Congress passed the Lumbee bill in May 1956, a Senate committee inserted a clause into the final version that precluded the receipt of federal services; once signed into law, Public Law 84-570, known as the Lumbee Act, simultaneously recognized and terminated its subjects. The version of the bill approved in the House of Representatives was nearly identical to the 1953 North Carolina statute and reflected an explicitly racialized understanding of the settler-indigenous relationship quickly fading from federal officialdom. One section of the preamble described the group's "admixture of colonial blood with certain coastal tribes;" another faintly alluded to Jim Crow by noting that Lumbees were "desirous of establishing their social status and preserving their racial history." The operative section, on the other hand, employed the emerging vocabulary of civic nationalism to enact a form of recognition devoid of substance, which stipulated that the Indians "be known and designated as Lumbee Indians of North Carolina" but affirmed only their "rights, privileges, and immunities... as citizens... of the United States," rather than as members of a tribe. Despite the hollowness of these provisions, Interior Department officials objected to the House bill as written and recommended an amendment specifically precluding BIA responsibility for the newly christened Lumbees. In response, the Senate Interior and Insular Affairs Committee included language lifted nearly verbatim from contemporaneous termination statutes. With the stroke of a pen (or in this case,

¹⁸ Linzy Revels to Mr. Rainer (sic), 30 January 1955, box 111, folder 5, NCAI Records; Linsey Revels to Ruth M. Bronson, 23 January 1957, box 111, folder 5, NCAI Records; Linsey Revels to Helen L. [Peterson], 11 February 1957, box 111, folder 5, NCAI Records; Linzey Revels to Mrs. Vincent McMullen, 25 September 1957, box 111, folder 5, NCAI Records; Thomas M. Wilkins to Mr. Linsey Revels, 30 July 1957, box 111, folder 5, NCAI Records; Thomas M. Wilkins to Mr. Linzey Revels, 3 April 1958, box 111, folder 5, NCAI Records; Lowery, "Pembroke Farms: Gaining Economic Autonomy" and "Recognizing the Lumbee" in *Lumbee Indians in the Jim Crow South*, 149-180, 226-36.

the clattering of a typewriter), the committee wrought the fateful clause that governed Lumbees' relationship with the federal government for the next six decades:

Nothing in this act shall make such Indians eligible for any services performed by the United States for Indians because of their status as Indians, and none of the statutes of the United States which affect Indians because of their status as Indians shall be applicable to the Lumbee Indians.

Although the Senate committee never consulted D.F. Lowry or other Lumbee Brotherhood witnesses about the amendment, their testimony offered a legitimating veneer of Indian support to this unique terminating acknowledgment. In most general termination statutes, Congress provided for some form of tribal referendum to attend to the legal niceties of consent. Like many other postwar tribal elites, Lowry and his allies acquiesced to secure attainable concessions from the government and because they believed that inaction posed more serious consequences.¹⁹

The Lumbee Act ignited a smoldering feud between town and swamp Indian segments of the Lumbee Brotherhood coalition: although most Indians proudly adopted the new tribal name, many in the poorer settlements grew disenchanted with the Lumbee moniker and supported a series of intermittent protest movements organized around alternative names over the subsequent two decades. After the passage of the 1956 act, Linsey Revels continued to press NCAI representatives to help secure federal benefits under the legislation. In a comment that suggested mounting tensions within the Lumbee Brotherhood leadership, Revels asserted his authority to speak for his people, warning the organization's executive secretary at one point that "if anybody comes to Washington on the Lumbee Business and I am not with them don't take in a think for

¹⁹ An Act Relating to the Lumbee Indians of North Carolina, Public Law 84-570 (1956); Lowery, *Lumbee Indians in the Jim Crow South*, 245-6; US Congress, Joint Hearing, Senate and House of Representatives, Committees on Interior and Insular Affairs, *Termination of Federal Supervision over Certain Tribes*, 83rd Congress, 2nd sess., 1954.

them for I am the man that has Been working on this Bill for seven yrs [*sic*].” Despite legitimate grievances about FSA’s dissolution of Pembroke Farms and BIA intransigence on enrollment under the IRA’s “half-blood” provisions, Revels articulated his claims in unfamiliar terms that led NCAI attorney Thomas Wilkins to dismiss them as fantastical. “I find it most difficult to understand just when and how the lands of these people were taken and by whom,” Wilkins wrote to Revels in 1957. He expressed particular frustration about Revels’s allusion to a lease, almost certainly a reference to the FSA’s Pembroke Farms project, “for this land, the boundaries of which are, at best, most vague, which... was entered into at some vague time in the past, by whom you do not seem to know and with whom you are equally in the dark.” Moreover, Wilkins informed Revels that the Lumbee Act’s termination clause likely eliminated any preexisting claims to federal largesse and that further congressional action would be required to amend the law. Undeterred, Revels proclaimed himself the legitimate leader of the Lumbee movement and attempted to convince his district’s new House representative, Alton Lennon, to remove the termination clause. In a letter he signed as “Cheif (*sic*),” Revels wrote the NCAI director to record that:

I were with you a few weeks ago and were [discussing] the Lumbee Indians Bill about ammending [*sic*] the Bill you told me to get the People to vote on it and all my People is for it I talked with Mr Lennon at his office about it he suggest the same thing I have selected my offices... I would like for you and Mr. Wilkins to see that the Bill goes through we wants ours Rights and Priveligeds (*sic*) and all that belongs to us like all the other tribes of Indians

Despite Revels’s efforts to claim the trappings of officialdom, however, Lennon refused to support the removal of the termination clause from the Lumbee Act, an effort the congressman likely recognized as futile amid the congressional climate. Only months after this failed mission, the 1958 Klan rout generated national publicity for the newly christened Lumbees, and the new tribal name became a badge of civil rights credibility and self-defense from violent white

supremacists. Middle-class Indians embraced this connotation with particular zeal. Given the close intellectual relationship between civil rights and termination, however, Lumbees' articulation of the (Native) American Way posed lurking threats to the community and its institutions.²⁰

*
**

The first major political action since the passage of the Lumbee Act, the Battle of Hayes Pond and the media ballyhoo that ensued marked a changing of the guard from D.F. Lowry's generation of Lumbee leaders. Perhaps no member of the Lumbee leadership class benefited more from the Klan battle than Lacy Maynor, an associate judge of Maxton's Recorder's Court who made a name for himself when one of Catfish Cole's top lieutenants, Klan "Titan" James Garland Martin, landed in his courtroom on public intoxication and concealed weapons charges. The county's only Indian elected official in 1958, the middle-aged Maynor was well-suited personally and intellectually to assume the mantle of moderate Lumbee leadership. A prosperous barber and small landowner before his career in public service, he held values that would not have been out of place among African Americans of the same social station in Durham or Raleigh. Well-studied in the anthropology of white politicians, Maynor knew all the steps to the subtle Jim Crow dance that brought public spending and public jobs, however scarce, to his community. Although he recognized the role of segregated schools in subordinating Indians, he also understood that Jim Crow created a niche for Indian elites to build parallel government and business institutions. As a judge and later as a member of the county board of education, Maynor

²⁰ Linzy [*sic*] Revels to Helen L. Peterson, 20 October 1957, box 111, folder 5, NCAI Records; Thomas M. Wilkins to Linzey [*sic*] Revels, 3 April 1958, box 111, folder 5, NCAI Records.

advocated for self-help and racial uplift among his poorer Native fellows, gradualism in desegregation, and democratic institutions as the ultimate solution to most of his people's problems.²¹

Relishing the symbolic justice and topsy-turvy spectacle of a dark-skinned judge sentencing a white Klansman in a Southern courtroom, the press converged on Maynor's modest chamber in Maxton. The judge delighted the assembled reporters by handing down a lenient 60-day suspended sentence, a \$60 fine, and a stern lecture. In his comments to Martin, Maynor referenced the recent hoopla, which he characterized as an unwanted intrusion into Indian business. "You have helped to bring about nation-wide advertisement to a people who do not want [it]," the judge intoned, "who only want to create a community that would be an asset to our nation." Maynor's grace, mercy, and patriotism made an impression not only on the assembled reporters, but also on their readers, who in short order began bombarding the middle-aged assistant judge with fan mail. Whereas the flag-draped Sim Oxendine and Charlie Warriax provided the most enduring image of Indian militancy, Lacy Maynor found a more durable political niche as the face of sober, responsible Lumbee officialdom.²²

Even more importantly than its effect on white well-wishers, Maynor's role in the Klan rout launched him into the thick of national Indian politics, and he used this platform to advance his distinctively Lumbee brand of liberalism. In September, Maynor accepted an invitation to speak at the fifteenth annual meeting of the National Conference of American Indians (NCAI), the country's oldest and most influential pan-tribal advocacy group. At the gathering in

²¹ Lacy Maynor to Helen L. Peterson, October 28 1958; Peterson to Maynor, 15 November 1958; Maynor to Peterson, 3 December 1958, in box 111, folder 5, NCAI Records; Lowery, *Lumbee Indians in the Jim Crow South*, 240-255.

²² Bloys Britt, "Judge Deplores Klan Entry into Peaceful Indian Land," 22 January 1958, *The Robesonian*, 1.

Missoula, Montana, the Lumbee judge offered a proprietary blend of racial uplift ideology, appeals to intertribal solidarity, and veneration of American democratic institutions in his address, “The Trail of the 20th Century Brave.” Using the Klan battle as his point of entry, Maynor jokingly contrasted the delegates’ regalia to the “strange kind of ceremonial clothing [made of] cold, white sheeting” donned by members of an unnamed “organization” in the Carolinas. Shocking the audience awake, he called on them to join “the fight to terminate,” but not, he clarified, “to terminate what the present administration wants to terminate.” Rather, he hoped to see Indians “terminate the inferiority complexes which have set in among our people” as the result of assimilation policy. But the kernel of his speech laid out his vision for national Indian activism that centered on the franchise and other elements of American democracy. “[T]he political trail is the trail of the 20th Century Red Man,” he argued, “and the ballot box is the 20th century weapon we have.” In some sense, Maynor’s appeal was an exhortation to his fellow Lumbees to awaken themselves to the potential electoral advantage their large population afforded. Although Maynor’s address extrapolated Lumbees’ distinctive demographic heft to the rest of Indian Country, it struck a chord in the political atmosphere of the late 1950s and earned Maynor the esteem of NCAI’s leadership.²³

²³ Lacy Maynor, “The Trail of the 20th Century Brave,” pamphlet with printed speech, September 1958, folder 513, box 60, Scheirbeck papers; Lacy Maynor to Helen L. Peterson, October 28 1958; Peterson to Maynor, 15 November 1958; Maynor to Peterson, 3 December 1958, in box 111, folder 5, NCAI Records.

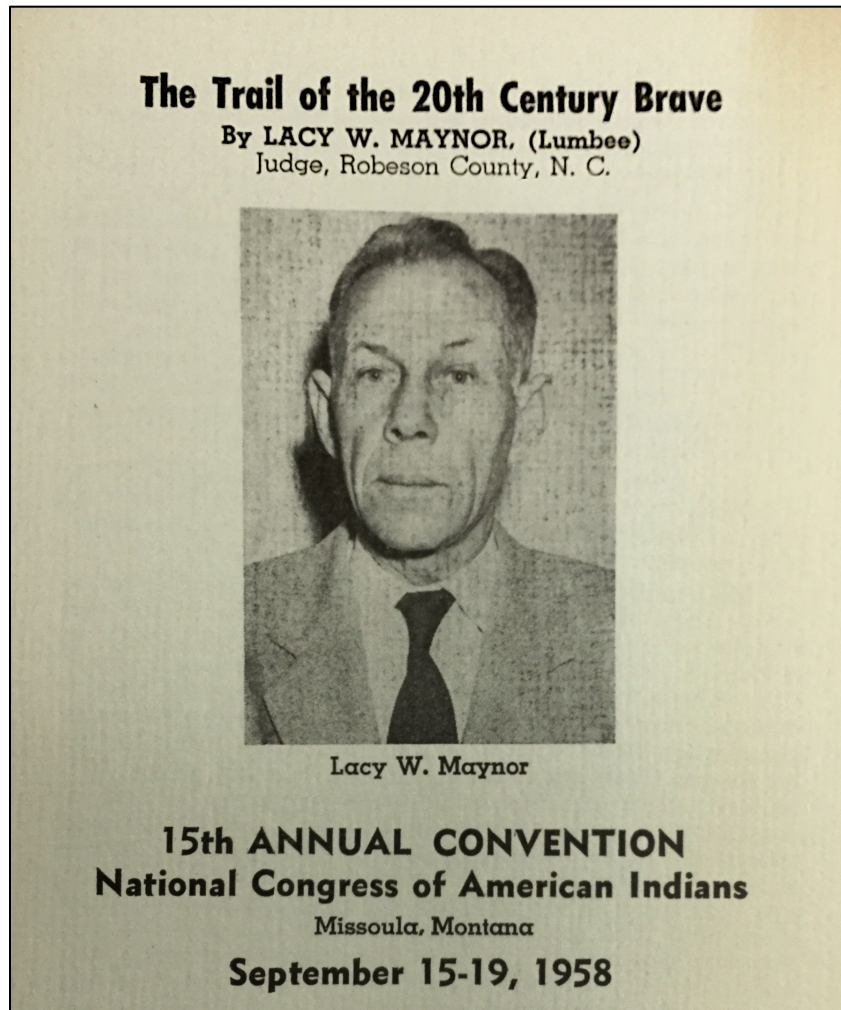


FIGURE 3.3: PRINTED PAMPHLET OF LACY MAYNOR’S SPEECH TO THE 1958 NCAI CONVENTION. Maynor blended pan-tribal imagery with the emerging rhetoric of the American Way.²⁴

NCAI executive director Helen L. Peterson, an Oglala Lakota, had invited Lacy Maynor to Missoula in order to capitalize on the positive national press, but the pair developed a cordial relationship that helped advance the career of the Lumbee judge’s daughter, Helen Maynor, who eventually became one of the best-connected and most influential members of the Lumbee

²⁴ Lacy Maynor, “The Trail of the 20th Century Brave,” pamphlet with printed speech, September 1958, folder 513, box 60, Scheirbeck papers.

political class. Around the time that her father was slated to speak at 1958 annual conference, Peterson hired the twenty-two-year-old graduate student to serve as an NCAI intern. A graduate of Berea College in Kentucky, Maynor had recently enrolled in a master's program in public policy at Columbia, where she studied Arabic and briefly flirted with a career in the foreign service. At the urging of Judge Maynor and his Oglala acquaintance, however, she took the position at NCAI and shifted her focus to indigenous nations.²⁵

Largely educated at white institutions outside Robeson County, Helen Maynor's political and intellectual leanings borrowed equally from her opinionated father and her white, center-left professors and peers. Although she "fe[lt] a genuine loyalty to and obligation toward [her] people," she understood that her upbringing and education were, in her words, "not...entirely typical of most of the Indian students." Her father, like many middle-class Indians, fretted that the segregated schools would dampen his child's prospects for higher education and a possible career. After tutoring Helen for fifth grade, Lacy Maynor sent her to live with an aunt in the Harrisburg-Carlisle area of central Pennsylvania. The contrast between the barren one-room Indian schoolhouse where she began her education and the well-appointed northern high school from which she graduated awakened the young woman to the racial and regional disparities in opportunity. This recognition of her relative privilege made a deep impression on her, and over her long career, she held a special commitment to ensuring Indian access to decent public education.²⁶

²⁵ Helen D. Maynor personnel file, various dates, folder 3, box 67, NCAI Records; Special Issues: Emergency Conference, 1954, folder 3, box 257, NCAI Records.

²⁶ Helen D. Maynor, "The Nature of Barrier to Full Opportunity," no date, circa 1950s, folder 3, box 67, NCAI Records.

By early adulthood, Maynor had come to view *de jure* segregation as both a structural and cultural impediment for Indian people, a conviction that differentiated her from her father and those of his generation. In an essay she wrote as a college senior, Maynor pointed to a sharecropping economy dominated by “a few white families” and racial disparities in school funding as contributing to high Indian drop-out rates, but she reserved her harshest judgment for the legal structure of Jim Crow education. She posited that “[t]hese laws promoted regression in education” by mandating that “Indians [attend] their own schools from grammar school on; as a result no new ideas have penetrated the community.” Steeped in the narratives of pluralism and legal equality to which affluent whites increasingly subscribed after the war, Maynor developed views on segregation and race that more closely resembled those in Earl Warren’s opinion in *Brown* than her Lumbee elders. Segregation, she believed, was pernicious for its cultural and psychological harm, as well as its more obvious material impact.²⁷

Maynor’s brief internship with NCAI exposed her to national Indian issues and subtly complicated her faith in the promise of American citizenship and democratic institutions to advance the interests of racial minorities. In addition to the more humdrum tasks of answering phone calls and updating office calendars, the young intern also attended NCAI meetings with tribal delegations to Washington, carried out a research project with Oklahoma tribes, and visited several reservations. Such experiences broadened her understanding of Indian affairs from her relatively narrow experience in Robeson County. Moreover, Maynor joined an organization just a few years removed from the height of termination, when Congress revoked recognition of the Menominee and Klamath tribal governments, extended state jurisdiction over select parts of

²⁷ Ibid.

Indian country with Public Law 280, and even toyed with the idea of a constitutional amendment to remove mention of Indians from the Commerce Clause. In such instances, US law and citizenship functioned not as beacons of hope, but as bludgeons in extinguishing indigenous jurisdiction.²⁸

After funding for her internship dried up in 1959, Helen Maynor reluctantly parted ways with NCAI, but her friend and former boss Helen Peterson encouraged her to continue thinking about the tension between civil rights and Indian affairs. The senior senator for Maynor's home state, Sam Ervin, chaired the Subcommittee on Constitutional Rights, and with some encouragement from her NCAI colleagues, the young intern applied for an entry-level staff position. Peterson penned her letter of introduction, making sure to notify Ervin's office of her father's status as a minor civil rights celebrity. "You may remember," she boasted, "that Judge Maynor sentenced the Klu [*sic*] Klux Klansman [James Garland Martin]." When Maynor got the position, Peterson rejoiced, noting that this career path would allow her "to straighten out" her "confusion about how and where Indian issues fit—and do not fit—in the commonly-understood civil rights and civil liberties picture," a task of the utmost importance that Peterson believed neither "the outstanding professionals in the...civil liberties field" nor "the Indians themselves" had sufficiently parsed.²⁹

²⁸ Helen D. Maynor personnel file, various dates, folder 3, box 67, NCAI Records; "Special Issues: Emergency Conference, 1954," folder 3, box 257, NCAI Records; US Congress, Joint Hearing, Senate and House of Representatives, Committees on Interior and Insular Affairs, *Termination of Federal Supervision over Certain Tribes*, 83rd Congress, 2nd sess., 1954.

²⁹ Helen Peterson, letter of recommendation, September 1958, folder 3, box 67, NCAI Records.



FIGURE 3.4: HELEN SCHEIRBECK (NÉE MAYNOR), CIRCA 1962. Courtesy of the American Indian Higher Education Consortium.³⁰

Before she could settle into her new apprenticeship under North Carolina’s senior senator, however, Helen Maynor encountered a group of North Carolina Indians with markedly different political views. In February of 1960, Maynor had scarcely stepped foot in the Capitol when NCAI’s Helen Peterson called in a favor and asked the former intern to speak with a disruptive group of Robeson County Indians who had appeared outside her office. Arriving unannounced at NCAI’s headquarters, the delegation introduced themselves as the Siouan

³⁰ Tom Davis, “Devotion to the People: The Legacy of Helen Scheirbeck,” *Tribal College: Journal of American Indian Higher Education* 12, no. 4 (Summer 2001).
<<https://tribalcollegejournal.org/devotion-people-legacy-helen-scheirbeck/>>

Council, an allusion to the prewar council and a probable rebellion against the tribe's post-Lumbee Act name and leadership. Their chief, Benny Locklear, asked to speak with the executive director directly to discuss becoming a full member tribe, an avenue closed even to their Lumbee co-ethnics. "Apparently," wrote an NCAI staffer who recorded the meeting, "the group felt that by changing the tribe's name- say to Sioux- the tribe might be eligible... and that through tribal membership in NCAI they could somehow get recognition with the government." Director Peterson was occupied and unable to meet with her unexpected guests, but she directed them to "Little Helen," as Maynor was affectionately known around the office.³¹

When she arrived at the NCAI office, Maynor sat down with Chief Locklear and his tribal councilmen for several hours to field their questions, correct their misconceptions, and sell them on the merits of American citizenship and intragroup unity. She broke the bad news that NCAI's recently amended constitution precluded unrecognized Indians from membership as tribal entities, but she noted that they could join as dues-paying individual members, the same second-class status to which NCAI relegated Lumbee leaders. To soften this unwelcome news, Maynor suggested to Locklear that local civic engagement, not NCAI tribal membership or federal acknowledgment, was the solution to the endemic poverty and racial discrimination in the rural Indian communities his council represented. Although "the NCAI could help them learn more about general Indian issues," the group offered no panacea and "could not help them with their local problems – until they [were] willing to help themselves." She "urged them to make intelligent use of their right to vote" in order to leverage Indians' sizable population in Robeson

³¹ Notarized record, 8 February 1960, folder 5, box 3, NCAI Records; Lacy Maynor to Helen Peterson, 15 February 1960, folder 5, box 3, NCAI Records; Hilda Cragun to Lacy Maynor, 17 February 1960, folder 5, box 3, NCAI Records.

County. Rather conveniently, given her family's political clout, Maynor also suggested that if Indians could only "start working together and stop the 'in-fighting'[,] many of their problems would solve themselves[,] and they would not need NCAI or any similar kind of national organization." Meantime, she proposed that "each of the groups" vying to represent Robeson's Indian people "elect a kind of leader who could then join NCAI as an individual member."³²



FIGURE 3.5: BENNY LOCKLEAR, 1977. Courtesy of *The Robesonian*.³³

³² Notarized record, 8 February 1960, folder 5, box 3, NCAI Records; Lacy Maynor to Helen Peterson, 15 February 1960, folder 5, box 3, NCAI Records; Hilda Cragun to Lacy Maynor, 17 February 1960, folder 5, box 3, NCAI Records.

³³ "Tuscaroras Urge Local Recognition Filings," *The Robesonian*, 30 September 1977, 1.

Benny Locklear, who had traveled to Washington in the open bed of his brother's pickup in the driving February sleet, probably came away less inspired about the American civic institutions than Maynor had hoped. Unlike Maynor's well-to-do family, the Locklear brothers hailed from the Brooks Settlement, long renowned as a hornet's nest of radical Indian populism. In the 1930s, twenty-two Robeson Indians, most of them from the Brooks Settlement, underwent anthropometric testing and received certification as having "half or more" Indian blood entitling them to individual benefits under the Indian Reorganization Act. Known as the Original 22, this group of Indians and their kin formed the core of Locklear's following. Their support for the revival of the Siouan Council and rejection of the Lumbee name signaled their view of themselves as more authentically Indian and entitled to political power than the "town" or "brick house Indians" in Pembroke.³⁴

*
**

As Helen Maynor settled into life on Capitol Hill and the Locklear brothers retreated to Robeson County to plot their next move, a crisis took shape in a nearby Indian community that gave Maynor a real-world laboratory to experiment with her vision for a Native American Way. Although Lumbees in and around Robeson County comprised most of North Carolina's Indian population, a constellation of smaller, related Indian settlements dotted the southeastern part of the state. Politically distinct from the Lumbee, these communities nevertheless fell under the purview of the Jim Crow statute that required separate-but-equal schools for Indian children, an

³⁴ Hatteras-Tuscarora petition for federal acknowledgment, 1987, folder 10, box 275, Association on American Indian Affairs Records, Seeley G. Mudd Manuscript Library, Princeton University [hereinafter AAIA Records].

unworkable mandate that created some of the poorest educational facilities in the state. In 1960, Indian parents and students from a settlement of a few dozen families in Harnett County, the Maple Grove Indian community, began conducting sit-ins at the white high school in the nearby town of Dunn in an attempt to force the county board of education to add high school coursework to the county's lone Indian schoolhouse. When the parents met with stiff official resistance and a whirlwind of press coverage, they sought legal assistance from Lacy and Helen Maynor. The Maynors in turn requested counsel and financial assistance for the parents from two national, non-Indian organizations, the American Friends Service Committee (AFSC) and the Association on American Indian Affairs (AAIA). Neither organization grasped the importance of segregated schools to the Maple Grove community's self-government, and Helen Maynor, herself unconvinced of merit of segregated institutions, put up only tepid resistance. As the parents lost political control over their own legal battle, what began as an effort to secure more equal segregated schools became a full-scale integration effort.

The Dunn Indian controversy began with an episode of property crime, not uncommon as a political tool among Carolina Indians. In the waning hours of 1959 on New Year's Eve, a bomb detonated outside the home of Joseph Brewington, an Indian teacher and bus driver. Brewington rushed outside to discover that the blast had emanated from his driveway, where he parked the bus he drove some seventy miles each weekday to shuttle the Maple Grove community's high school students to the East Carolina Indian school in neighboring Sampson County. The state had constructed the East Carolina Indian school, known locally by the initialism ECI, shortly after the war in an effort to provide high school coursework to the smaller, sparser Indian settlements outside Robeson. The resultant satellite facility was among the most jerry-built and cost-inefficient artifacts of North Carolina's legal mandate for tri-racial school

segregation. Since at least 1954, parents had pressed for a local high school adjoining the Maple Grove Indian graded school, just outside Harnett's most populous town, Dunn, home to some 7500 residents. The Harnett school board repeatedly declined, citing state laws on minimum attendance figures for new school construction. By the final hours of December 1959, at least two parents, almost certainly Eugene Chance and Enoch Jones, reasoned that if white officials would not listen to their words, the sound of dynamite might bend their ears. At first the gambit seemed to pay off, as the Harnett board renewed the dialogue on building a local Indian high school. By late summer, however, it had become apparent that dialogue was all the board was willing to offer. Eugene Chance, his younger brother James, and several other parents formed the Indian Education Committee to coordinate their efforts to secure equal education for their children. To threaten the board into more decisive action, the committee members requested to transfer their children to the all-white Dunn High School.³⁵

Unlike their counterparts in Virginia, North Carolina's image-conscious ruling class eschewed "massive resistance" and instead charted a course for token desegregation under a pupil assignment scheme. Under the Pearsall Plan, nonwhite students were theoretically eligible to attend white public schools, but in practice, school boards used legalistic obstruction to deny access to all but a hand-selected few. To no one's surprise, the Harnett board rejected the Indian parents' applications, citing errors in the paperwork. On the first day of school, however, the parents dropped off their children at Dunn High School, and the students simply picked a

³⁵ "Dynamiting of School Bus Probed," no source, 1 January 1960, box 329, folder 1, AAIA Records; "State Officials to Keep Hands Off," *Raleigh Times*, 21 September 1960, box 329, folder 1, AAIA Records; "Irony," *Greensboro Record*, 14 September 1960, box 329, folder 1, AAIA Records; "Contempt Counts Dropped-School Plea Considered," news clipping, no date, box 329, folder 1, AAIA Records; "Indians in Court," 2 September 1960, *Dunn Record*, box 329, folder 1, AAIA Records; Harnett Board of Education Proposes School for Indians, 3 September 1960, *Raleigh News and Observer*, box 329, folder 1, AAIA Records.

classroom and sat down. A police officer escorted them off campus, but they returned the next day. To avoid any image of high schoolers in handcuffs, the superintendent ordered teachers to ignore the protestors, who returned each day until a local judge issued a trespassing warrant for one of the Indian parents, James Chance. Drawn to the unusual storyline of Indians using protest techniques popularized by the African-American lunch counter demonstrators in Greensboro, Raleigh's WRAL sent camera crews to cover the sit-ins, which sparked a domino effect of statewide and then national coverage.³⁶

As news of the young Indians protesting southern segregation traveled around the country, it attracted the well-wishes of other tribal leaders from across Indian Country, where the language of the American Way was apparently also in use. Days after the initial sit-ins, the Tulalip Tribes' council passed a unanimous resolution censuring the Harnett County board of education for "discriminating against [Indian students] by reason of their race and color." The Tulalip councilors further argued that "Indians as the first Americans are United States citizens" and "by the Constitution of the United States are entitled to an education." The US Constitution specified no such right, but the Tulalip council's invocation of the document demonstrated the purchase that constitutional appeals held across broad geographic, political, and racial lines in the early 1960s. Closer to home, the case piqued the interest of southern tribal officials who were also grappling with the earliest phases of desegregation. Sometime in mid-November, Mississippi Choctaw chairman Phillip Martin expressed interest in flying to North Carolina "to

³⁶ Ibid.; Robert Korstad and James Leloudis, *To Right These Wrongs: The North Carolina Fund and the Battle to End Poverty* (Chapel Hill: University of North Carolina Press, 2011), 1-11, 34-6.

see how the [Dunn Indian leaders] are handling their problems, and to discuss tribal problems” more generally.³⁷

Whatever admiration the Indian Education Committee parents received from other tribal officials, some established leaders in their own community disapproved of their tactics and the outside scrutiny they had invited. Indian politics in Harnett County closely resembled Robeson’s, but at a tenth of the population scale. The white board of education recognized a three-member Indian school board, which negotiated with the board and made day-to-day decisions about the Maple Grove school. Informally, the board served as the mouthpiece for the entire Maple Grove Indian community across a range of civic issues, with Claude Groves, Sr. serving as the *de facto* chairman or chief. Unlike the younger Chance brothers, who saw the growing importance of educational credentials in the postwar economy, Groves came of age under Jim Crow and was accustomed to the intricate rhythms of squeezing patronage from tight-fisted white men. That process most certainly did not include inviting the press to cover Indians protesting white high schools using methods recycled from the much-despised Greensboro demonstrators. On some level, he probably also recognized the threat that these actions posed not only to his own tenuous authority, but also to the integrity of Maple Grove’s Indian identity and institutions.³⁸

Backed into a corner, the Indian Education Committee resolved to fight the trespassing charges and sought advice from one of the few Indians with inside knowledge of the justice system, Lacy Maynor. Reluctant to involve himself in the controversial case and harboring gradualist sympathies not unlike Claude Groves’s, Maynor referred them to his daughter Helen.

³⁷ Resolution No. 140, Resolution of the Governing Body of the Tulalip Tribes, 6 September 1960, box 329, folder 1, AAIA Records; Laverne Madigan, no date, 329, folder 1, AAIA Records.

³⁸ Bill Bagwell to [Illegible], “Indian School Problem in Dunn, NC,” 9 September 1960, box 329, folder 1, AAIA Records.

Having followed the news coverage, the ever-energetic Helen Maynor was champing at the bit and, once authorized, immediately began working the phones to find an attorney for the Dunn parents.³⁹

In her communications with white outsiders, Helen Maynor articulated the Maple Grove parents' discomfort with an integrationist legal framework, even as she pushed them to accept it. After hearing the particulars of the Dunn case, one white official from the American Friends Service Committee (AFSC) reflexively suggested contacting the NAACP. Characteristically thorough, Maynor had already contacted North Carolina's chapter and secured an offer of support, but the parents had balked. Local Indian leaders, she explained, felt that "their problem is a unique one of the Indians versus the white man" and "not related to the whole matter of integration-desegregation." Indians in Dunn had been pressuring state and local officials to provide a separate and truly equal high school for years; their attempt to open Dunn's white high school was a final act of frustration, not a full-throated endorsement of integration. Maynor seemed conflicted in her feelings on the Dunn group's rejection of NAACP assistance. On the one hand, she took their concerns seriously and contacted numerous non-black organizations on their behalf. On the other, she chided Indian leaders for their reluctance to establish racial solidarity in service to thwarting Jim Crow. "[M]any of the Indians in Dunn," she explained, "have not yet come to a realization that they have a problem which is the same as that of the Negroes." Clearly, Maynor's experience with both the NCAI and the Senate Subcommittee on

³⁹ Bagwell Report, [Illegible], 10 September 1960, box 329, folder 1, AAIA Records.

Constitutional Rights had not yet resolved her intellectual project of reconciling civil rights and tribal rights and may well have deepened her ambivalence.⁴⁰

Leaving no stone unturned, Maynor made at least half a dozen phone calls, but her contacts all pointed to the same attorney, Joe Talley. A former mayor of Fayetteville, Talley had settled into private life as an attorney with his firm Talley, Talley, and Taylor. As the result of his political career, Talley maintained a friendship with Dunn's mayor and was familiar with the local Indian population. His firm also had a reputation for competence and as one of the few white law firms in the state willing to take controversial civil rights cases. When the AFSC asked him to represent the Dunn parents, Talley agreed but cautioned that his fees could run from three to five thousand dollars, a king's ransom in eastern North Carolina's legal market. The Indian parents estimated that they could raise a thousand dollars at most, and the AFSC could not shoulder the remainder, so Maynor and her white allies looked outside the state for financial assistance. Ultimately, they settled on the Association on American Indian Affairs (AAIA), an influential white-led legal advocacy group for Native American causes with offices in Washington, DC and New York.⁴¹

AAIA's legal counsel, Richard "Dick" Schifter, agreed to recommend the case to his superiors but warned that AAIA's support was contingent upon certain political and legal preconditions. Schifter emphasized that the Association could not be seen to condone racial segregation, even if it resulted in gains for Indian institutions. "We can only support a request for full integration," he told Maynor, "not for separate but equal facilities." Almost totally unversed

⁴⁰ Bill Bagwell, American Friends Service Committee Reports, September 9-December 30 1960, box 329, folder 1, AAIA Records.

⁴¹ Ibid.

in the relationships among segregation, self-governance, and identity for eastern Indians, Schifter and AAIA knew only that donors and granting agencies would not tolerate the association's wading into the fever swamps of southern segregation. With AAIA holding the purse strings, the Maple Grove parents lost any hope of a local Indian high school, but they relented out of pragmatic concern for their children's education.⁴²

Daydreaming about litigating the Indian *Brown v. Board*, AAIA President Oliver LaFarge and Executive Director LaVerne Madigan both saw the potential to generate prestige and perhaps bolster fundraising for the Association, provided they exert tight image control. LaFarge mused that such a case could be "highly beneficial to us" if the press continued its frenzied coverage. A year into the case, as the Dunn Indians continued their slog through the federal court system, he made explicit the fact that the benefits he anticipated were at least partly financial. Weighing the costs of continued legal support, LaFarge wondered whether "our taking the lead in a case as appealing as this might not bring in a good deal of money in the long run." Indeed, he grouched that AAIA had lost a recent grant from the Robert Marshall Fund to the NCAI, and LaFarge gleefully hoped that news of the Association's involvement would "make the Marshall Fund trustees look delightfully silly." Perhaps a bit taken aback by LaFarge's directness, Madigan countered that they should view the Dunn case "not necessarily as a fundraiser," but rather as "a proud addition to the Association's record." Whether motivated by money or prestige, the AAIA's top brass saw the potential for mutual benefit, so long as the Indians and their attorneys played by their rules.⁴³

⁴² Richard Schifter to Joseph Tally (sic), 15 September 1960, box 329, folder 1, AAIA Records.

⁴³ LaVerne Madigan to Oliver LaFarge, 30 September 1961, box 329, folder 1, AAIA Records; Oliver LaFarge to Richard Schifter, 25 September 1960, box 329, folder 1, AAIA Records.

Both Madigan and LaFarge agreed, however, that the generic term “Dunn Indians” was insufficiently marketable and pushed the small community to identify as Lumbees in order to capitalize on the lingering notoriety of the Klan rout. Within a generation, most descendants of the Dunn litigants came to call themselves Coharies, but in the early 1960s, like most other indigenous peoples in eastern North Carolina, they identified primarily with their settlement area, Maple Grove, and simply called themselves “Indians” to outsiders. Although the Maple Grove Indians maintained family ties with Lumbee communities in Robeson County, few if any would have called themselves Lumbee, as they were not privy to the prewar political struggles that gave rise to that tribal designation.⁴⁴

Given the Association’s interest in manipulating press coverage, LaFarge and Madigan had little incentive to delve into the subtleties of local Indian settlement affiliations or naming practices. In his response to Schifter, LaFarge complained that the generic moniker “‘Dunn’ Indians... puzzle[d]” him, noting that “[t]his is a tribe I have not heard of before.” He coyly explained that he “only br[ought] this up because it bears on my files,” before admitting that “[a]s a matter of fact, there is another point involved. As you know, a few years ago the Lumbees received extremely favorable national publicity when they routed the Ku Klux Klan.” Since Helen Maynor, a Lumbee, had brought the case to their attention, he wondered whether the Harnett County group could also be so classified, reasoning that the Klan connection would “lead... to a much better public response.” While Madigan “agree[d] with Oliver that the KKK-chasing Lambees [*sic*] have strong appeal,” she remained more circumspect. “I think we should

⁴⁴ Oliver LaFarge to Richard Schifter, 25 September 1960; Madigan to Schifter, 4 October 1960, in box 329, folder 1, AAIA Records; Christopher Arris Oakley, *Keeping the Circle: American Indian Identity in Eastern North Carolina, 1885-2004* (Lincoln: University of Nebraska Press, 2005), 36-7.

help any people who are subjected to discrimination because they are Indians,” she chided gently. “Their tribal membership cannot be the determining factor.” When Schifter looked to Maynor for her blessing on the matter, she gave a noncommittal response. She explained that Indian communities of uncertain tribal origins dotted southeastern North Carolina. She acknowledged the bonds between the Harnett and Robeson groups, noted their cultural similarities, and posited common tribal origins. Ever prepared, she offered to mail a typed report of her historical research on the subject. Schifter apparently took this as permission to proceed with the plan to rechristen the Maple Grove Indians. Its problematic implications aside, this exchange indicated Maynor’s solidifying position as the most influential liaison between North Carolina’s tribal communities and outside organizations. Despite her youth and gender, Maynor’s obvious poise, intellect, and familiarity with white, middle-class culture helped her claim the mantle of leadership. LaFarge was delighted to learn that “the people of Indian descent in Dunn belong to the general Lumbee group and that we can properly refer to them as such.” In a telling turn of phrase, he declared that “there will be a much greater response to... doing something for the rather famous Lumbees than for a group of Indians nobody ever heard of before.” Through this sleight of hand, the parents and children in Dunn transformed from members of a tiny Indian community clamoring for a new segregated high school into Klan-busting Lumbees fighting for integration, equality, and the American Way.⁴⁵

Concerned that kicking one leg out from under tri-racial segregation would cause the entire stool to fall, school officials in Harnett County girded themselves for a vigorous court battle. Although Dunn’s mayor and several other public officials voiced support for the Indians’

⁴⁵ Ibid.

cause, the board understood that North Carolina's end-run around *Brown* was at stake: to admit pupils despite ostensibly defective paperwork would be to invite a wave of black students or black litigation. Ensuring a hardline stance was the school board's attorney Robert Morgan, a state senator and former local campaign manager for I. Beverly Lake, who had just lost that year's gubernatorial primary in the most infamous race-baiting campaign of North Carolina's twentieth-century history. When it became apparent that the Indians would stay the course, Morgan called in Lake himself as backup.⁴⁶

Despite what promised to be a decisive legal showdown, AAIA's publicity efforts suffered a string of setbacks. The Indians' attorneys, Joe Talley and Nelson Taylor, advised against the Association's disclosing its financial support. The open involvement of a "northern" rights advocacy group could inflame racial tensions, they argued, and possibly damage the case. Schifter and LaFarge grumbled bitterly, but they deferred to the expertise of the local attorneys on the assumption they could announce their support later in the process. By the time Talley and Taylor relented, however, the television cameras and reporters had dissipated. A vacancy in the federal district court for eastern North Carolina had created such a backlog that it was forced to suspend all civil cases in order to process criminal cases. Frantic, Schifter tried calling in a favor at the Justice Department, but to no avail. By the time President Kennedy appointed a new federal judge, the school year had ended. Trying to see a bright side amid mounting legal fees

⁴⁶ Schifter to Taylor, 25 October 1961, box 329, folder 1, AAIA Records; "Harnett Board Denies Bias in Indian Cases," *Fayetteville Observer*, 12 December 1961, box 329, folder 1, AAIA Records; "29 Indians Go to US Court," *Fayetteville Observer*, 16 November 1961, box 329, folder 1, AAIA Records; "Federal Court Gets Indians' Lawsuit," *Lillington News*, 14 December 1961.

and dipping public interest, Schifter suggested the parents take the time to correct and resubmit their transfer forms, which he worried might result in a defect.⁴⁷

Sensing an opportunity, the school board pounced on the new transfer forms—which Talley and Taylor had immaculately and very expensively prepared—and admitted all eligible Indian high school students. In one fell swoop, the school board and its attorneys quelled the controversy, at least temporarily. The solution pleased white officials because it avoided a legal precedent undermining the Pearsall Plan, and the parents of the Indian Education Committee secured adequate high school education for their students without giving up their segregated Indian graded school. AAIA declared victory, but given their desire to bankroll a landmark case, their bitterness was tangible.⁴⁸

Once in motion, however, the wheels of the judicial system kept turning, and by the fall of 1962, both the county board's compromise and the Maple Grove Indian School were in jeopardy. When an Indian migrant family, the Maynards, returned to Harnett County from a sojourn in Virginia, they objected to the distance their children had to travel to reach Maple Grove Indian School. Even without additional AAIA funding, Talley and Taylor elected to renew and expand the suit to include the new plaintiffs. By 1963, the Eastern District of North Carolina had a full complement of federal judges, and in December, the newly appointed Judge Warlick handed down a decision in *Chance v. Board of Education of Harnett County*. Opting not to rock the boat, Warlick left the pupil assignment plan in place and ruled that the county board had not considered the applications in good faith. He further ordered that Indian students be

⁴⁷ Ibid..

⁴⁸ Ibid.

assigned to elementary schools on the basis of geography, rather than race, which fatally crippled enrollment at Maple Grove. By 1964, the small graded school had shuttered, and the white school district absorbed its student body. Much as Lake and Morgan had feared, the judgment also forced the county board to consider black transfer applicants in good faith, and token desegregation of African Americans ensued that school year.⁴⁹

In her coordinating role in the Dunn case, Helen Maynor learned a hard lesson about the dangers of applying colorblind civil rights to North Carolina's Indian communities. A decade later, when Maynor was a federal employee with the Department of Health Education and Welfare, she formally protested the 1970 desegregation order for Robeson County schools. To dissolve the Indian school system, she argued, constituted a "discriminatory" attack on Lumbee "identity and heritage" and argued that Indian "institutions, like schools, businesses, and churches, must be permitted the freedom to organize and maintain their identity."⁵⁰

*
**

As Helen Maynor busily managed the AAIA and the Dunn crisis from Washington, the Locklear brothers intermittently appeared in many of the same places to peddle what at times seemed to be, and perhaps to some extent was, an elaborate parody of the Maynors' brand of tribal liberalism. After their disappointing conference with Helen Maynor and the NCAI, an exhausted Benny Locklear turned the reins over to his brother Jack, who embarked on an ambitious campaign to secure whatever outside support and recognition he could garner. Between 1960 and 1962, the energetic Chief Jack Locklear forged a loose coalition of Indians

⁴⁹ *James Avery Chance and wife, Myrtle Chance, et al., Plaintiffs v. The Board of Education of Harnett County et al., Defendants*, 1963 US Distr. Ct., North Carolina, Wilmington Division.

⁵⁰ Karen Blu, *The Lumbee Problem*, 73-6, 139.

dissatisfied with Lumbee leadership and adopted a succession of tribal names, each of which he toured up and down the eastern seaboard. Coincidentally or not, he sought assistance from some of the same organizations that Helen Maynor tapped in the Dunn crisis, including the AAIA, and borrowed from her and her father's vocabulary, frequently invoking the US Constitution and other symbols of the American liberal tradition. Yet while Locklear traveled in the same circles and used the same language as Maynor, he did so not because he subscribed to the same ideology, but because he understood the power vested in those words and institutions.

Sometime in late 1960, Jack Locklear abandoned the "Siouan" designation and sought a new tribal name. Working with his new lieutenant, Henry Brooks, Locklear searched for any name that might dispel the condescension of white "experts" and satisfy their thirst for documentary evidence. In the Robeson County of the early 1960s, however, scholarly materials were in short supply, and Locklear drew from the only authoritative sources on Indian history at his disposal: two grammar school textbooks. One made mention of a group of "barbarous Indians," and the other referenced the Pamunkey people of the seventeenth-century Powhatan Confederacy. Locklear initially chose "Barbarous" as the tribal designation, since the text apparently used that term to refer to all Indians in eastern North Carolina. Rather than appeal to a narrow band of rural Robeson Indians, Locklear envisaged uniting under one banner all the Indians in the eastern half of the state and estimated that "more than 112,000 Indians... are eligible to become members of the Barbarous tribe." Barnstorming around Indian schools in Robeson, Hoke, Bladen, and Columbus counties, he and Brooks attracted a modest but devoted following.⁵¹

⁵¹ Madigan to Schifter, 23 June 1961, box 329, folder 1, AAIA Records; Gerald Sider, *Living Indian Histories: Lumbee and Tuscarora People in North Carolina* (Chapel Hill: University of North Carolina Press, 2003), 112.

To what must have been the horror of Lacy Maynor, Locklear placed an advertisement in the local newspaper, *The Robesonian*, announcing his intention to “organize” his group to attend the American Indian Chicago Conference (AICC). The brainchild of University of Chicago anthropologist Sol Tax, the AICC aimed to draw a diverse cast of indigenous peoples from all regions of the country to formulate an Indian-authored treatise on Indian policy. To that end, Tax encouraged tribal leaders to host regional meetings ahead of the main conference, and he tasked Lacy Maynor with administering the Southeast regional in Pembroke. The regional meeting proved disastrous for Lumbee relations with the other southeastern tribes, perhaps due in part to Locklear’s bombast. Maynor reported to Tax that all had gone according to plan, and the Lumbees, Virginia Pamunkey, and Chickahominies seemed to have shared this sentiment. In a patronizing internal AAIA memorandum, however, Director Madigan cast doubts on all three groups’ Indianness and repeated complaints from Indian delegates of recognized tribes. Apparently, AAIA had expressed to Tax and other organizers their “misgivings... feeling that it was cruel to encourage southern Indians, apart from the ‘pure’ Cherokees and Seminoles and Mississippi Choctaws, to think in terms of help from the Federal government.” They also warned that Indians from recognized southern tribes “would hold themselves aloof from the other groups in their States, and that the western tribes would behave in much the same way if these unfortunate people actually went to Chicago.” The Mississippi Choctaw delegation confided in Madigan that, in their estimation, they “were the only real Indians there.” Behind the polite

eagerness he demonstrated for Tax, Lacy Maynor privately admitted that he considered the meeting a failure.⁵²

By 1961, relations between the Maynor and Locklear parties had grown tense. AAIA's Dick Schifter noted that Locklear had a "negative reaction" whenever he mentioned Judge Maynor. LaVerne Madigan separately recorded that Maynor "spoke patronizingly" about poor and rural Indians in general, presumably including Locklear's group. Frazzled by the unenviable task of curating Lumbees' image for white and Native outsiders, Maynor had obviously become frustrated with Locklear's bombast and factual carelessness. It would not strain credulity to think that Maynor may have found the term "barbarous" at least somewhat descriptive of Locklear's iconoclastic disregard for the prerogatives of the Lumbee leadership class.⁵³

When Jack Locklear and his partner Henry Brooks took to the road to gauge the potential for the "Barbarous" designation outside of Robeson County, the duo encountered a succession of white Indian affairs experts who steered them toward a civil rights agenda and away from federal acknowledgment. The pair's first stop was the Washington, D.C. office of AAIA's general counsel, Dick Schifter. After hearing their plea for legal representation, a clearly impatient Schifter declined their request, "told them with frankness they took like men" that their pursuit of formal recognition was quixotic, and "urged them to put that hope out of their minds." Tellingly, he cautioned them about further research into their tribal origins, as they "might encounter proof of Negro as well as Indian ancestors" and fail to identify a single tribal lineage "because they are probably descended from more than one tribe." As a final splash of cold water, he "tried to

⁵² LaVerne Madigan, "Executive Director's Report: North Carolina Indians," 28 November 1961, Box 276, folder 9, AAIA Records; Sol Tax records, American Indian Chicago Conference, "Southeastern Regional Meeting," Smithsonian Anthropology Archives, Suitland, Maryland.

⁵³ Ibid.

explain to them what ‘barbarous’ meant and urged them to get past the issue of the name to...question[s] of substance.’⁵⁴

From Locklear’s perspective, of course, his group’s tribal name *was* a question of substance, but beyond that issue, he also attempted to convey his understanding of his people’s rightful relationship to the United States government. Schifter was simply unwilling to wade through Locklear’s peculiar Robeson Indian dialect or idiosyncratic views on Indian law. In their interview, the chief and his partner insisted “that their people have a ‘Constitutional right’ to be recognized as Indians.” Although this argument led Schifter to dismiss his guests as “almost illiterate and pitifully confused,” it probably reflected an oral understanding of the Commerce Clause, the bedrock of federal Indian law, or the Fourteenth Amendment’s reference to “Indians not taxed.” Locklear may have been limited in his literacy, but he was not ignorant. An active participant in the pan-tribal, prewar cultural revitalization project of building longhouses in the Brooks Settlement, the chief had made extensive contact with Indians of other tribes, from whom he probably gleaned and synthesized folk interpretations of constitutional and treaty law. Locklear asserted that the burden was on the United States to turn his people—unassimilated Indians with no formal relationship with the federal government—into proper subjects. As heterodox and convenient as this interpretation was, it created an intriguing role reversal in US

⁵⁴ Jack Locklear to LaVerne Madigan, no date, box 276, folder 8, AAIA Records; Report, “North Carolina Indians,” 276, folder 8, AAIA Records.

and Indian relations by elevating Indians as the arbiters of indigeneity and posing recognition as an obligation, not a courtesy.⁵⁵

In identifying “questions of substance” for Locklear and Brooks to prioritize, Schifter viewed the pair through the prism of their southern origins and presumed blackness, and therefore steered them toward “black” legal solutions. After hearing Locklear’s constitutional arguments, he tried to “convince[e] them that they really mean that they want some recognized status as Indians to make it easier for them to work for their Constitutional rights as American citizens.” As an alternative to trying to bend the BIA’s tin ear, Schifter suggested they charter a membership corporation under North Carolina law, “perhaps with a civil rights committee and an ‘economic committee.’” As in the Dunn case, Schifter dismissed out of hand North Carolina Indians’ claims to a unique indigenous status, in part because he was unable to look past their status as racial minorities in the South. Almost automatically, he routed them off the Indian affairs track and attributed their concerns to racial segregation, social discrimination, and economic underdevelopment. Taking stock of Schifter’s reaction, Jack Locklear abandoned the “Barbarous” designation in favor of “Pamunkey,” the name of a former subject tribe of the Powhatan Confederacy and occupants of a state-designated reservation in Virginia. Oral tradition and genealogy research lend some credence to the connection between the Robeson Indians and the eighteenth- and nineteenth-century Pamunkey reservation, but Locklear was less concerned

⁵⁵ LaVerne Madigan, “Executive Director’s Report: North Carolina Indians,” 28 November 1961, Box 276, folder 9, AAIA Records; “North Carolina Indians,” no date, box 276, folder 8, AAIA Records; Jack Locklear to LaVerne Madigan, no date, box 276, folder 8, AAIA Records; Report, “North Carolina Indians,” box 276, folder 8, AAIA Records; Madigan to Schifter, 23 June 1961, box 329, folder 1, AAIA Records; “The Organization of the Pamunkey Indians,” box 276, folder 8, AAIA Records.

with evidentiary standards than with finding the elusive password needed to win over white and Native gatekeepers.⁵⁶

Armed with their new Pamunkey theory, Jack Locklear and Henry Brooks drove to New York to try AAIA Executive Director LaVerne Madigan. Schifter, who apparently had had several additional visits from Locklear and Brooks, directed them to his colleague in New York, perhaps simply to get them out of his hair. After barging in unannounced, as had become their custom, Locklear and Brooks presented their concerns to Madigan. Apparently, the duo inquired about signing a treaty with the United States, which Madigan regretfully informed them was impossible, as “treaties are only made at the conclusion of a war.” The director also batted down their hopes for federal recognition as Pamunkey but echoed Helen Maynor’s faith in civic institutions, reassuring them that Indians possessed “the same Constitutional rights as any other American citizen.” Like Schifter, Madigan also tried to sell the chief and his lieutenant on chartering a membership corporation under North Carolina law.⁵⁷

By their 1961 visit to New York, the Locklear Group had begun to grasp the power of civil rights-inflected language, but they marshaled liberal constitutionalism idiosyncratically to express a general sense of grievance and desire for formal acknowledgment. Despite what must have been his stinging disappointment, Locklear wrote Madigan shortly after his return to North Carolina to thank her for her kindness and summarize his understanding of their meeting. In a phonetically transcribed letter, he noted that his group still “[cited] the history. And the constitution as the supream [*sic*].” In a veiled shot at Schifter, he also took issue with the

⁵⁶“North Carolina Indians,” no date, box 276, folder 8, AAIA Records.

⁵⁷ *Ibid.*

legalism surrounding Indian affairs, writing that “it mattres not what might have been the ideas. and what has been said it is wrong for the indians. in North carolina. To bee squndeared [*sic*] down. or any other indian in Americker or bee denied of their constutition rights.”⁵⁸

Per Madigan and Schifter’s advice, Locklear set out to draft a tribal constitution for his newly christened Organization of Pamunkey Indians, although he apparently never attempted to register his group as a membership corporation. Probably compiled with the help of a legal counsel, much of the draft document copied the US Constitution verbatim. In keeping with their goal of creating an organization for all Indians of eastern North Carolina, Locklear and the other framers simply shifted down one level of federalism to create a legislative body of representatives from different counties. The inaugural Pamunkey legislative council included representatives from Columbus, Hoke, Richmond, and Warren counties, as well as an urban delegate from Greensboro-High Point. Locklear had clearly heeded Madigan, Schifter, and Helen Maynor’s calls for Indian unity but implemented them according to his prerogatives and cohort of allies.⁵⁹

In direct opposition to the exhortations from Madigan and Schifter, Locklear never abandoned federal recognition or genuine self-governance as goals of the new Pamunkey Organization. Although the preamble to the Pamunkey charter declared an aim to protect “against encroachment of [Indians’] Constitution rights,” it clarified that those rights included “the same rights and privileges as are applied to any Indian or Indian tribe or any citizen of the United States or in Alaske [*sic*].” Written in a style more reminiscent of Locklear’s own than the

⁵⁸ Ibid.

⁵⁹ “The Organization of the Pamunkey Indians,” box 276, folder 8, AAIA Records.

cut-and-paste articles, the preamble voiced a clear sense of dual citizenship as both a citizen of the United States and a tribal nation. Moreover, the document stubbornly retained Locklear's original assertion that the US Constitution guaranteed his people the right to recognition.⁶⁰

In its first legislative act, the new Pamunkey Organization articulated a strong claim to indigeneity and rejected the authority of their Lumbee counterparts. Formally addressed to the President and Congress of the United States, the resolution spoke to two distinct audiences. From the federal government, the councilors demanded to be taken seriously as an indigenous government. Beginning with a potshot at European explorers and putative discoverers, the council resolved that "we think the same recognition should be given to the Pamunkey Indian, since he was here even before Columbus, Sir Walter Raleigh, or Captain John Smith." Having argued for an ancient claim to prior existence, Locklear and his council turned their attention to their Lumbee rivals in Pembroke, whom they seemingly blamed for colluding against them. "Whereas, many bills, or Resolutions has been offered, unconstitution[al] and... not historical for the Indians in the present State of North Carolina... unforeseen [*sic*]... has been the sole cause of the (Pamunkey Powhatans Indian) to not know their history[,] identity [or] Constitution" (parentheses original). Without ever mentioning the Lumbee by name, the council argued for the unconstitutionality of the Lumbee Act, which they felt had passed without their full consent, and criticized the Lumbee designation as ahistorical or artificial.⁶¹

Upon returning to Washington to present their constitution to Schifter for AAIA's legal review, Locklear and Brooks encountered a lone secretary, who informed them of her boss's

⁶⁰ Ibid.

⁶¹ Ibid.

absence and impatiently explained that the Association neither recognized tribal groups nor approved their governing documents. Rebuffed a final time, they retreated to Robeson County. In 1964, they briefly reappeared at Fayetteville law office of Talley and Taylor, where they complained about “high-hat” Lumbee leaders and requested help in securing federal recognition. Puzzled, one of the firm’s attorneys requested advice from Dick Schifter, who in turn gave him Helen Maynor’s contact information at the Judiciary Subcommittee for Constitutional Rights, an appropriate if unsatisfying resolution to the saga that demonstrated Maynor’s influence.⁶²

As an aide to North Carolina’s powerful Democratic senator Sam Ervin, the newly married Helen Maynor Scheirbeck shaped the Indian Civil Rights Act (ICRA), eventually passed in 1968 and designed to ensure that tribal governments’ respect for civil liberties, but which left an ambiguous legacy and straddled the boundary between the termination policy of the previous decade and the principle self-determination on the horizon. As chairman of the powerful Senate Subcommittee on Constitutional Rights, Ervin held a series of hearings beginning in 1961 on whether the Bill of Rights to the US Constitution bound tribal governments, a question the senator believed represented a “most important and all too long neglected” gray area in constitutional law. After a preliminary foray into the forbidding terrain of Indian law, he expressed surprise and alarm at the apparent dearth of constitutional constraints on tribal governments’ jurisdiction over their citizens. “[I]t appears that a tribe may constitutionally deprive its members of property and liberty without due process... and not come under the constitutional limitations applicable to federal and state governments,” the gray-haired lawmaker declared in his vinegary Burke County brogue. To gather further information on potential tribal

⁶² Report by Rose Flannell, no date; Nelson W. Taylor to Richard Schifter, 2 April 1964; Schifter to Taylor, 9 April 1964, in box 276, folder 8, AAIA;

abuses and to formulate proposals for remedy, Ervin called on newly hired staffer Helen Scheirbeck, whose Lumbee background and NCAI internship afforded granted her the credibility to bend the senator's ear. As their public statements and private writings indicated, Scheirbeck and Ervin each deeply influenced the other's thinking on American Indian rights, with Ervin amplifying his young aide's faith in the American tradition of constitutional liberalism, and Scheirbeck validating the senator's designs to impose that tradition on Indian Country.⁶³

With Scheirbeck as his guide and exemplar, Ervin championed the Lumbee community's apparent success in civic and economic integration as a model for other tribal peoples. Writing to Guy Benton Johnson, Ervin exclaimed that "[f]rom my own personal contacts with the Lumbees, I would heartily agree that there are no special problems with their constitutional rights," an impression he undoubtedly gleaned based on his interactions with Scheirbeck, but a peculiarly distorted portrait given the group's struggles with educational disfranchisement, pervasive public-sector employment discrimination, and tribal institutions dangerously intertwined with segregation law. In another missive to a Houma Indian from Louisiana, whose people likewise lacked federal acknowledgment, the senator offered the Lumbees as an example and lauded their leaders' initiative in pushing their congressional representatives to pass the Lumbee Act. "This legislation clearly gave them status as Indians," he concluded, "but of course, did not provide them with any special government services." In championing the Lumbee Act as a cornerstone of Lumbee civic engagement, Ervin exposed the intellectual affinity between termination and civil

⁶³ "Senator Ervin Announces Hearings on the Constitutional Rights of the American Indian," 28 August 1961, box 57, folder 2779, Sam J. Ervin Papers, Subgroup A: Senate Records, 1954-1975, Southern Historical Association, Wilson Library, University of North Carolina at Chapel Hill [hereinafter Ervin Papers]; "Monthly Staff Report to the Senate Subcommittee on Constitutional Rights: Constitutional Rights of the American Indian," 1 September 1961, box 57, folder 2779, Ervin Papers.

rights, reasoning that filtered into the final version of ICRA. Even after Scheirbeck left the subcommittee staff, the senator continued to cite her as an example of progressive Lumbee assimilation. In testimony from the assistant attorney general of South Dakota, Ervin pointed out that his own state had the largest Indian population east of the Mississippi but argued that they fared better than their reservation counterparts:

We have one tribe we call the Lumbee in Robeson County... who have no reservation. They live just like everybody else... [Some] carry on mercantile businesses. Most of them are engaged in farming. They participate in county and State and Federal elections, just like all the other inhabitants of Robeson County. As a matter of fact, I have had one of the girls from that group employed on this subcommittee... [H]er father was elected local judge... I would say that this represents a very fine thing, because these people have been entirely assimilated into the life of the state.

The associations among Ervin, ICRA, and Scheirbeck fueled and to some extent justified later fears among recognized tribal officials that Lumbees were a vector for latter-day termination, as white officials held them up as exemplars of Indian potential unshackled from stifling tribal governments and reservations. Given that crushing poverty and double-digit illiteracy characterized the Lumbee experience as much as middle-class fraternal organizations and successful businesses, such thinking demonstrated officials' capacity for willful self-delusion in service of ideology conveniently packaged as narrative shorthand.⁶⁴

Not unlike Scheirbeck, Ervin regarded the kind of unchecked, unmediated tribal authority that Jack and Benny Locklear championed as a threatening juridical anomaly to be eliminated. Based on anonymous testimony from "[s]everal witnesses," Ervin's office issued a staff report—

⁶⁴ Sam J. Ervin to Guy B. Johnson, 5 September 1961, box 57, folder 2778, Ervin Papers; Sam J. Ervin to Willie S. Gallet, 12 December 1961, box 57, folder 2779, Ervin Papers; US Congress, Senate, *Constitutional Rights of the American Indian: Hearings before the United States Senate Committee on the Judiciary, Subcommittee on Constitutional Rights*, 89th Congress, 1st sess., 22-24 and 29 June, 1965, 120.

which Scheirbeck herself likely authored at least in part—that characterized reservations as a “legal vacuum, a no man’s land.” This chilling language echoed earlier Anglophone justifications for extending settler jurisdiction into the supposed void of indigenous self-rule, such as the Australian *terra nullius* doctrine, cited to justify settler and deny aboriginal title, and the United States’ 1885 Major Crimes Act, which transferred jurisdiction over serious crimes from supposedly permissive tribal authorities to federal courts. By portraying tribal citizens as actual or potential victims of their governments, Ervin and his staff made the case for federal incursions into tribal authority. Although tribal authorities certainly committed abuses in some cases, particularly on Western reservations, Ervin’s primary motivation seemed to be defanging what he saw as unbounded tribal sovereignty by tightening the strictures of US federalism. The senator argued *reductio ad absurdum* that “the tribal governments presently have more power [to violate civil liberties] than State governments and indeed the federal government itself.” In a departure from termination ideology, however, Ervin and Scheirbeck also conducted hearings on the extension of state jurisdiction under the infamous PL 270 and compiled evidence that its haphazard implementation had produced “lawless area[s] created by act of Congress.” Rather than eliminate tribal governments altogether, Ervin and his staff endeavored to render them juridically legible through regulation and constitutional restraint, a bridge that highlighted the continuities between the waning termination era and the principle of self-determination to be articulated in the latter part of the 1960s.⁶⁵

⁶⁵ “Monthly Staff Report to the Senate Subcommittee on Constitutional Rights: Constitutional Rights of the American Indian,” 1 September 1961, box 57, folder 2779, Ervin Papers; Lisa Ford, *Settler Sovereignty*, 4-5, 50; Bruce Kercher, “Native Title in the Shadows: The Origins of the Myth of *Terra Nullius* in Early New South Wales Courts” in *Colonialism and the Modern World: Selected Studies*, ed. Gregory Blue, Martin Bunton, and Ralph Croizier (New York: M.E. Sharpe, 2002), 100-119; Stuart Banner, “Why *Terra Nullius*? Anthropology and Property Law in Early Australia,” *Law and History Review* 23, no. 1 (2005): 95-132.

*
**

In the years immediately after the Battle of Hayes Pond, the Maynor and Locklear camps followed parallel tracks toward tribal state development, both availing themselves of the invogue language of citizenship and the Constitution to articulate their people's indigeneity and the political obligations that that status entailed from settler officialdom. Helen and Lacy Maynor, however, spoke that language fluently, and Jack and Benny Locklear only haltingly. Ironically, the latter had a stronger claim to Indian legal identity by dint of their connection to the Original Twenty-Two, yet they were unable to make their claims legible to NCAI, AFSC, AAIA, the BIA, or Congress. In contrast to their respect for the highly educated Helen Maynor, officials at those institutions treated Locklear and his councilors with condescension and dismissiveness largely due to their limited literacy and often flamboyant presentation. But both the Maynors' brand of Lumbee tribal liberalism and the Locklears' populist constitutional claims burrowed into the intellectual fabric of Robeson County tribal politics for over two decades and provided competing models of a Native American Way.

CHAPTER 4
**“WHAT WE NEED IS A ‘RED POWER MOVEMENT’”: LUMBEEES, LABOR, AND MIGRATION IN
NORTH CAROLINA’S WAR ON POVERTY**

On the morning of April 10, 1967, Bruce Jones joined nine members of his staff in a small conference room at the Sheraton Motor Inn in Greensboro, North Carolina. The director of a vocational training program for displaced agricultural workers, Manpower Improvement Through Community Effort (MITCE), Jones had recently created an experimental “Urban Unit” in Greensboro to apply rural manpower methods to recent urban migrants. To help the Urban Unit staff apply for a federal contract extension, the director had scheduled a consultation with William Batt, a former Department of Labor administrator who had helped draft the 1962 Manpower Development and Training Act, the primary source of MITCE’s federal funding. When Batt arrived, Jones greeted his guest, introduced his colleagues, and settled into his seat at the table to begin a discussion with his fellow soldiers in the War on Poverty.¹

Since his retirement from public service, Batt had grown accustomed to mornings spent sipping coffee from styrofoam cups under the humming fluorescent lights of hotel conference rooms, and at first his meeting with Bruce Jones and the Urban Unit staff deviated little from his well-worn routine as a consultant. In a prepared opening statement, Jones traced the short history of the Urban Unit, identified several implementation problems, and detailed plans to expand the

¹ “Special Meeting,” 10 April 1967, folder 5817, box 424, in the North Carolina Fund Records, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill [hereinafter North Carolina Fund Records].

program to nearby High Point, a small satellite city known for its furniture manufacturing. Perhaps nodding along or scribbling notes, Batt held his comments during the director's dry, workaday presentation as he waited to hear from the Urban Unit staff. When Jones turned discussion over to his junior colleagues, however, they surprised their guest with a fusillade of comments and complaints about the largest and apparently most vexing segment of their client base, Lumbee Indians. Seemingly caught off guard, the consultant listened and slowly discovered what the ten other participants already knew: that the Urban Unit functioned as a quasi-tribal agency that overwhelmingly and disproportionately served Lumbee migrants. Despite accounting for fewer than three thousand of Greensboro's 140,000 inhabitants, Indians comprised an astounding sixty percent of MITCE's caseload in Greensboro. As Batt processed this blow to his black-white schema of the urban South, he abandoned his role as an expert to pepper his hosts with questions about these unexpected Indians.²

The mostly non-Indian members of the Urban Unit staff took the occasion to vent their frustrations about Lumbee migrants, whose behavior they believed departed from that of black and white clients in seemingly irrational ways. Ann Blakeney, a twenty-nine-year-old African American fieldworker, compared Indians to black migrants and expressed confusion at their apparent indifference to the pleasures and conveniences of urban living. "Negro migrants from South Carolina seem to adjust well," she observed. "They fit right in. They feel free. Like going to restaurants and stores (sic). The Indian feels rejected." Unimpressed with the freedom of movement and consumption that Greensboro offered, Indians "get the money and don't know how to use it... They drink and give money away. They pay for a friend or relative back home to

² Ibid.; Philip J. Deloria, *Indians in Unexpected Places* (Lawrence: University of Kansas Press, 2004).

come up and live in the city.” She added that many “clients go home on weekends too” and often failed to return, abandoning their jobs, leases, and other urban tethers on a whim. Virginia Mortimer, a white professional counselor, concurred and added that “turn over is a problem. Indians change jobs. They are absent from work—[their] work habits aren’t good.” Despite the efforts of the Urban Unit to aid their transition to urban living, Lumbee migrants seemed unimpressed with the metropolis’s cornucopia of goods and services, resistant to social and civic integration, and troublingly connected to their impoverished rural homeland.³

After listening to the litany of apparent challenges the Urban Unit faced in adapting Lumbee migrants to urban life, William Batt broke his silence. “What we need,” he mused, “is a ‘red power movement.’” Less a call for militant separatism than for some blander imitation of African American community organizing, Batt’s statement reflected the tendency of white midcentury liberals to impose intellectual frameworks designed to interpret African American political claims onto American Indians and other nonwhite subjects. During the classical civil rights movement, white center-left and black activists had developed a “middle ground” based on convenient misunderstandings and a mutual vocabulary rooted in the postwar civic religion of constitutional democracy. Although Lumbees and other American Indians sometimes co-opted civil rights rhetoric, they approached the War on Poverty as an opportunity to deploy federal resources toward strengthening their own tribal communities and institutions, rather than to advance a common good rooted in colorblind notions of US citizenship and belonging. Indeed, whether or not William Batt was aware, his audience included two Lumbee Indians who interpreted his advice through this more particularistic lens: Daphne Strickland, an Urban Unit

³ “Special Report,” 10 April 1967, North Carolina Fund Records, 1-2.

fieldworker, and Bruce Jones. In a deft administrative maneuver, Jones had crafted the Urban Unit's focus on "rural newcomers" as a race-neutral means to ensure that the program primarily served Greensboro's large and growing Lumbee population, and Strickland used her dense social network to effect this plan on the ground. In the years to come, Indian antipoverty warriors like Jones and Strickland used their experience with MITCE and other federally funded programs to craft their own vision of a "red power movement."⁴

This chapter examines the competing efforts of Lumbee and settler administrators in the War on Poverty to direct the flow of unskilled Indian labor to and from the emerging Sunbelt sprawl of North Carolina's central Piedmont. The federal campaign against want dawned during a pivotal moment in the political economies of the South, the state of North Carolina, and the Lumbee people. The advent of capital-intensive mechanized farming muscled tenant farmers and small landholders out of the cash crop economy that had tenuously supported millions of Southerners—black, white, and Indian—since Reconstruction. As the labor market collapsed in eastern North Carolina's tobacco fields, Lumbees increasingly looked to the tangle of low-density development in the state's booming midsection, which offered a surfeit of low-wage, unskilled employment in light industry and the service sector. Although such positions boasted neither the pay nor the security of the unionized jobs available to the earlier wave of Lumbee migrants to Detroit and Baltimore, the textile mills, construction crews, and retail chains of metropolitan Greensboro and Charlotte offered other advantages. Starved for workers, Piedmont employers hired more readily and tolerated greater turnover than their Northern counterparts, which allowed Lumbees to siphon the state's burgeoning Sunbelt affluence while keeping a foot

⁴ Ibid.; Richard White, *The Middle Ground*, xxv-xxvi.

planted in their Robeson County homelands. By 1968, five to six thousand Lumbees—as much as a fifth of the tribal population—resided in Piedmont towns, cities, and suburbs, and their dizzying mobility ensured that the exact composition of this fraction was in constant flux.⁵

This migration stream fueled critical changes in Lumbees' relationships with the state and federal governments at a moment when US federalism was at a crossroads. In addition to the rapid displacement of its agricultural workforce, North Carolina also faced the collapse of the Jim Crow legal order and the reorientation of US politics toward the federal center. In 1963, Governor Terry Sanford offered one vision for the state's racial and economic realignment when he incorporated the North Carolina Fund, a nonprofit corporation that administered experimental programs aimed at eradicating the state's joblessness, poverty, and racial discord. Funded first by private charities and then by the flood of federal War on Poverty spending, the Fund provided the local face to both the War on Poverty and the emerging ideology of race-neutral governance. Caught in this maelstrom of state-federal realignment were the Lumbees, whose Indian identity and institutions of self-government were inextricably intertwined with the crumbling system of segregation. Faced with the collapse of their state recognition under Jim Crow and barred from federal Indian affairs funding under the 1956 Lumbee Act, Lumbees turned to the North Carolina Fund to ease their transition to urban space, the consumer economy, and anonymous, administrative governance. Aided by the Fund's equal employment practices, Bruce Jones and other college-educated Indian bureaucrats grafted themselves onto the chain of command of MITCE and other programs in the Fund's "manpower" wing, which received funding under the Manpower Development and Training Act to retrain unskilled laborers displaced by

⁵ Pete Daniel, *Dispossession: Discrimination against African American Farmers in the Age of Civil Rights* (Chapel Hill: University of North Carolina Press, 2015), 33-5, 255-62.

technological advancements. Continuing the time-honored Lumbee tradition of turning settler institutions into makeshift organs of tribal governance, this crew of mid-level Lumbee bureaucrats helped ensure that Indian people benefited from antipoverty programs implicitly crafted for a biracial target population.⁶

Ultimately, however, Lumbee migrants vexed the North Carolina Fund's multiracial cast of administrators and frustrated attempts at surveillance and labor discipline with their unrelenting mobility. Struck by the absence of beaded garments, exotic ceremonies, or an indigenous language, non-Native staff members almost invariably commented on Lumbees' apparent lack of an "Indian culture," yet proffered cultural explanations for their poverty and griped about their inscrutable habits and values. As Blakeney and Mortimer complained to Batt, Lumbee migrants were "sensitive" to racial slights, quit their jobs over seemingly minor disputes, maintained troublingly large and "matriarchal" extended-family households, and seemed to appear and disappear at random—all attributes that confounded efforts to deliver services, compile information, and integrate Indians into the metropolitan landscape and consumer culture. Limited by their "culture of poverty" schema, bedeviled Fund administrators provided much-needed material assistance but also heightened Lumbees' stigma with employers, landlords, and other white Piedmont gatekeepers. By the end of the North Carolina Fund's existence in 1968, Bruce Jones and his colleagues had begun to realize that only a genuine tribal bureaucracy could corral and direct the swirling mass of Indian migration. The institution they built, the Lumbee Regional Development Association (LRDA), drew heavily on both the structure and liberal antipoverty ideology of the North Carolina Fund. In building a "red power

⁶ James Leloudis and Robert Korstad, *To Right These Wrongs*, 1-11; Wendy Wall, *Inventing the "American Way,"* 15-63; Lizabeth Cohen, *A Consumers Republic*, 3-17.

movement” in the image of the War on Poverty, Jones and his contemporaries maximized their hard-won expertise in manipulating the federal bureaucracy but also imported some of the limitations and contradictions inherent to the midcentury administrative state and liberal ideology into the next generation of Lumbee tribal government.⁷

*
**

In Robeson County and throughout the agrarian South, the rise of capital-intensive mechanized agriculture priced small landowners out of the cash crop economy, hastened the demise of tenant farming, and created a disproportionately nonwhite pool of unskilled, unemployed rural workers. As historian Pete Daniel has argued, farm mechanization and the displacement of nonwhite farmworkers were not historical inevitabilities, but calculated policy decisions at the US Department of Agriculture (USDA) and other federal agencies. USDA not only facilitated the adoption of scientific farming but also enforced crop reduction and farm subsidy practices that disproportionately harmed black, Indian, female, and other marginalized farmers. Dominated by white farmers through voter suppression and intimidation, the county-level boards that comprised the Agricultural Stabilization and Conservation Service (ASCS) routinely denied acreage increases to nonwhite farmers, either to eliminate competition or to suppress civil rights activism, community organizing, and other acts of racial insubordination. Robeson County’s ASCS board remained entirely white until 1964, when Lumbee farmers organized and lodged a complaint with the federal government. Leveraging romantic notions

⁷ Ibid.; Daniel Cobb, *Native Activism in Cold War America*, 106-111, 198-214.

about Indians, the Lumbee petitioners found a sympathetic ear in the national USDA bureaucracy, which imposed racial quotas that eventually ensured Indian representation.⁸

With an eye to mounting disruptions in the agricultural economy, political elites in Raleigh and Washington launched a campaign against poverty that did little to solve systemic inequality but created a diffuse bureaucracy that revitalized Lumbee tribal government. Frustrated by legislative inaction, Governor Terry Sanford helped found the North Carolina Fund in 1963. Intended to expire within four years to encourage experimentation, the Fund pooled money from charitable organizations and administered experimental programs designed to eradicate the state's endemic poverty. At the federal level, President John F. Kennedy launched an early initiative to mitigate agricultural unemployment with the 1962 Manpower Development and Training Act (MDTA), but the formal declaration of a federal War on Poverty came in Lyndon Johnson's 1964 State of the Union address. Inspired in part by Terry Sanford's North Carolina Fund, the national War on Poverty reciprocally increased the funding and scope of the Fund, which became the semi-governmental clearinghouse for federal antipoverty assistance in the state. With funding from an MDTA grant, the Fund launched Manpower Improvement Through Community Effort (MITCE) in 1966 to retrain agricultural workers across an economically ravaged swath of eastern North Carolina that included the Lumbee homelands in Robeson and adjoining counties. Required to hire racially representative staffs under Title VII of the Civil Rights Act, MITCE became a training ground for Lumbee activists and bureaucrats.

⁸ Pete Daniel, *Dispossession*; United States Bureau of the Census, vol. 5, part 7 of *United States Census of Agriculture, 1950* (Washington, DC: US Government Printing Office, 1952); Group Charges Discrimination in Jobs, Schools," *The Robesonian*, 17 March 1964, 1; "New Job Factor," *The Robesonian*, 6 August 1965, 2; Oscar Lewis, "Culture of Poverty," in *On Understanding Poverty: Perspectives from the Social Sciences*, Daniel P. Moynihan, ed. (New York: Basic Books), 187–220.

Most entered the ranks as low-level fieldworkers, but a handful of college-educated Lumbees qualified for professional or administrative positions. One such Indian administrator, Bruce Jones, rose to the head of the MITCE organization as project director in 1967.⁹

MITCE proved far more effective in incubating a class of Lumbee bureaucrats, however, than in alleviating Indian poverty and unemployment. Organized into semi-autonomous local units, MITCE's Tri-Counties field office in Lumberton served Robeson as well as the adjoining Richmond and Scotland counties. Economically dependent on tobacco farming and suffering from double-digit unemployment by the mid-1960s, Robeson County routinely ranked as or among the poorest of North Carolina's one hundred counties, and Indians ranked as the poorest of its three main racial groups. One North Carolina Fund survey found fifteen-percent unemployment among adult Indians, as opposed to thirteen percent for black Robesonians and only six percent among whites. It also estimated the proportion of Indians with less than four years of formal schooling at twenty-seven percent, about six percent more than African Americans and nearly double the rate for whites. Eager to help alleviate the severe poverty in Indian communities, many newly hired Lumbee staff members grew frustrated with the limitations of MITCE's manpower mission, which they complained trained clients for jobs that did not exist. One Lumbee counselor with the Tri-County office, J. Mark Brooks, revealed his frustration at the task of placing clients in subsidized on-the-job-training (OJT) slots. "I am trying hard not to be too negative about these OJT contracts," he wrote, "but its [*sic*] becoming more and more difficult for me to believe that we are going to be able to place 200 people... by

⁹ James Leloudis and Robert Korstad, *To Right These Wrongs*, 1-11, 34-6; United States R&D Corp, February 1968, box 494, folder 6428, North Carolina Fund Records; "Mobility Project - 1965-1966: Phase One," 29 July 1966, box 495, folder 6460, North Carolina Fund Records.

the end of year.” Questioning the value of manpower development in a rural economy with few opportunities for wage work, he added that he “doubt[ed] very seriously if we could place 200 college graduates in Robeson County by the end of the year,” let alone his unskilled clients.¹⁰

Brooks and other Indian staff soon recognized MITCE’s limitations in addressing the structural and especially racial dimensions of poverty. In November 1965, as farmers were hurdling toward settling-up time at the end of a bad year for tobacco, many cash-strapped Robesonians were desperate to supplement their incomes with wage work. When Mark Brooks arrived in Lumberton at the construction site of a new B.F. Goodrich footwear plant to inquire about placing clients, the manager informed him that between two and three hundred prospective employees were already in line by the time the plant opened. Of that number, he took only five and refused to give “any special consideration to [MITCE] clients.” Brooks fared little better with the public sector, where entrenched racial discrimination reigned. At one North Carolina Highway Division maintenance station that Brooks passed each day on his commute, he estimated that “there are some 50 state employees there” to operate “30-40 dump trucks and other equipment,” but he had “yet to see an Indian or Negro working there unless they are prisoners.” This oversight hardly seemed coincidental. “Could it be,” he mused, that “out of 30,000 Negroes and 30,000 Indians they can’t find even one that can drive a dump truck?” He also noted that the county courthouse in Lumberton, the welfare office, and most of the county’s other public agencies maintained exclusively white workforces. His frustration swelling, Brooks complained that MITCE was administering “first-aid to a patient that requires surgery... In order

¹⁰ J. Mark Brooks, untitled report, 16 February 1966, box 445, folder 5649, North Carolina Fund Records; “Mobility Project - 1965-1966: Phase One,” 29 July 1966, box 495, folder 6460, North Carolina Fund Records.

to make real progress, the whole dam [*sic*] system must change. What I would like to know is when in the hell are we going to operate?”¹¹

Land loss was among the bitterest outcomes for Indians in Robeson County’s racially stratified economy, where settler colonialism played out on a vast chess board of fee simple titles and moved in mundane, bureaucratic fashion, rather than in dramatic episodes of mass expropriation. Although such expropriation took place without BIA supervision, government policy underlay the process at every turn. After state-funded swamp drainage projects increased the county’s arable land base around the turn of the century, increased white settlement and consolidating state jurisdiction forced Indians to abandon squatting and other legally unprotected forms of collective land usage. Consolidating their grip one twenty-five-acre plot at a time, they battled white farmers and companies for control of the soil with surprising success until the federally-subsidized adoption of mechanized farming in the 1950s. At the county level, the exclusively white bureaucracy held an economic and social stake in transferring land out of indigenous hands. One Lumbee fieldworker, Alton Hunt, lamented the fate of an Indian client who lived near Fairmont with his grandmother. For the last several years of her life, the grandmother received aid from the county welfare office, which placed a lien on the property as a condition of her public assistance. Neither she nor her grandson consented to or were fully aware of the lien, but the office seized the property after her death and sold it to white speculators at public auction, leaving the grandson homeless. “In turn some of the towns people [*sic*] that owns other houses in the vicinity will buy [the property] real cheap and start charging rent,” Hunt predicted, adding that “this happens all the time.” Although Lumbees faced

¹¹ J. Mark Brooks, untitled report, 16 February 1966, box 445, folder 5649, North Carolina Fund Records; J. Mark Brooks, untitled report, 15 November 1965, box 445, folder 5649, North Carolina Fund Records.

a different combination of settler jurisdictions than federally recognized groups, the resulting poverty and dispossession mirrored that of other corners of midcentury Indian Country.¹²

After several years of futile efforts at vocational training, MITCE staff in Lumberton increasingly directed clients to urban areas where wage work was more plentiful. Mark Brooks and his fellow placement developers tried strenuously to direct clients to jobs in Tri-County's few incorporated municipalities, usually to minimum-wage positions at service stations or garages. Apart from such scattered opportunities in towns like Lumberton and Laurinburg, the closest city of any size was Fayetteville, where the ballooning military budget swelled adjoining Fort Bragg and created scattered job openings for black and Indian Robesonians. Most displaced Lumbee workers, however, understood that the most fertile job markets lay beyond southeastern North Carolina. Whereas a previous generation of migrants bolted for northern cities like Detroit and Baltimore, Indian migrants increasingly found employment in the small but growing cities in the North Carolina Piedmont, which offered lower wages but closer proximity to their families and homeland. As these migrants churned westward, MITCE and the North Carolina Fund developed a succession of programs to aid and regulate this flow.¹³

The North Carolina Mobility Project, 1965-1968

Southeastern North Carolina's economic stagnation stood in stark contrast to the explosive growth roughly a hundred miles west in the central Piedmont. Home to the state's embryonic prewar industrial base, the Piedmont served as the cradle of Sunbelt affluence that

¹² Alton Hunt, "Special Report," 29 December 1965, box 447, folder 5671, North Carolina Fund Records.

¹³ Box 445, folder 5649, North Carolina Fund Records; box 447, folder 5671, North Carolina Fund Records.

matured in the 1970s and 1980s. In 1965, the area was on the cusp of the urbanization and development that followed the South's final reintegration into the national economy. The Piedmont's ascent sprang from a complex combination of factors, including the credit thaw that accompanied the gradual dismantlement of Jim Crow, the development of an independent banking hub in Charlotte, federal spending directed by the South's cadre of virtually life-appointed Democratic senators, and robust postwar demand for the state's industrial products. By the mid- to late 1960s, these conditions yielded steady growth and rapid population increase. Migration from outlying rural areas and, increasingly, the Northern manufacturing belt contributed to population growth of nearly 50% in Charlotte and Greensboro between 1950 and 1960, but even this influx was insufficient to slake industrialists' thirst for low-wage labor. Manufacturers commonly complained that the area's chronic labor shortage forced them to operate their plants below capacity.¹⁴

With its diverse and experimental portfolio of antipoverty programs, the North Carolina Fund nurtured bureaucratic autonomy and provided space for deft Indian administrators to reroute federal resources to the Piedmont's growing population of urban Lumbees. In 1965, the US Department of Labor (DOL) awarded the North Carolina Fund a \$130,000 grant to administer a subsidized migration demonstration program, later dubbed the North Carolina Mobility Project. DOL funded similar projects in fifteen other locations, but federal officials were optimistic that North Carolina's dramatic regional imbalance in unemployment would provide ideal conditions for the demonstration. At the Fund headquarters in Durham, however,

¹⁴ "Mobility Project - 1965-1966: Phase One," 29 July, 1966, box 495, folder 6460, North Carolina Fund Records; Paul Johnson, "An Economic-Demographic Analysis of the N.C. Mobility Project: A Cost-Benefit Analysis," box 494, folder 6426, North Carolina Fund Records; Matthew Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton, NJ: Princeton University Press, 2007).

the Mobility Project languished behind better-funded, more established projects. Although the original proposal called for the new program to operate under the umbrella of MITCE, its overtaxed director failed to offer substantial assistance, setting Mobility adrift as a kind of orphan program. Such neglect from Durham seemed to suit the stubborn, independent streak in Mobility's director, Bob Lofaso, a former Department of Labor manpower specialist. Disdainful of paperwork and other administrative niceties, Lofaso took significant liberties with his staff, methodology, and budget. Perpetually on Durham's backburner, Lofaso oversaw a freewheeling, diffuse operation during the 1965 pilot program and delegated significant responsibility to his field recruiters. In order to reflect the demographic makeup of the eight-county target area in southeastern North Carolina, the Fund office in Durham selected one field recruiter from the area's major racial groups: Indian, "Negro," and "Caucasian." The Indian representative, a former high school teacher named Roderick "Rod" Locklear, seized on the program's experimental nature and lax hierarchy to transform it into a *de facto* tribal agency.¹⁵

After his prolific recruiting helped meet a looming federal quota, Rod Locklear earned the director's trust and substantial administrative latitude. During the first nine months of Mobility's contract, the Department of Labor expected the project's staff to subsidize and facilitate the migration of at least 200 unemployed individuals or family units. Behind schedule after staffing delays and other administrative headaches, Lofaso fretted that meeting the target would be impractical, as his greenhorn recruiters needed time to familiarize themselves with the target counties. Unlike the black and white fieldworkers, however, Rod Locklear had grown up

¹⁵ Paul Johnson, "An Economic-Demographic Analysis of the N.C. Mobility Project: A Cost-Benefit Analysis," box 494, folder 6426, North Carolina Fund Records; box 492, folders 6409-6410, North Carolina Fund Records; Roderick Locklear, interviewed by the author at Pembroke, North Carolina, 11 April, 2017.

in his recruitment area and could draw on a dense web of connections in Robeson County's Indian community, where unemployment ran as high as fifteen percent. As his black and white colleagues cold-called and knocked on doors in unfamiliar places, he personally delivered more than fifty recruits, almost all Indians, more than two months ahead of the federal deadline. By the conclusion of the pilot program's contract in September 1965, Locklear's pipeline had swelled the total number of assisted migrations to 278. Accounting for roughly half the total, Indians were represented at nearly five times their share of the general population in the eight-county recruitment area, a potentially troubling fact that Lofaso disguised through creative demographic reporting. As Department of Labor officials signaled their satisfaction with the rate of recruitment, a relieved Bob Lofaso rewarded his most prolific recruiter with a raise and additional administrative responsibilities.¹⁶

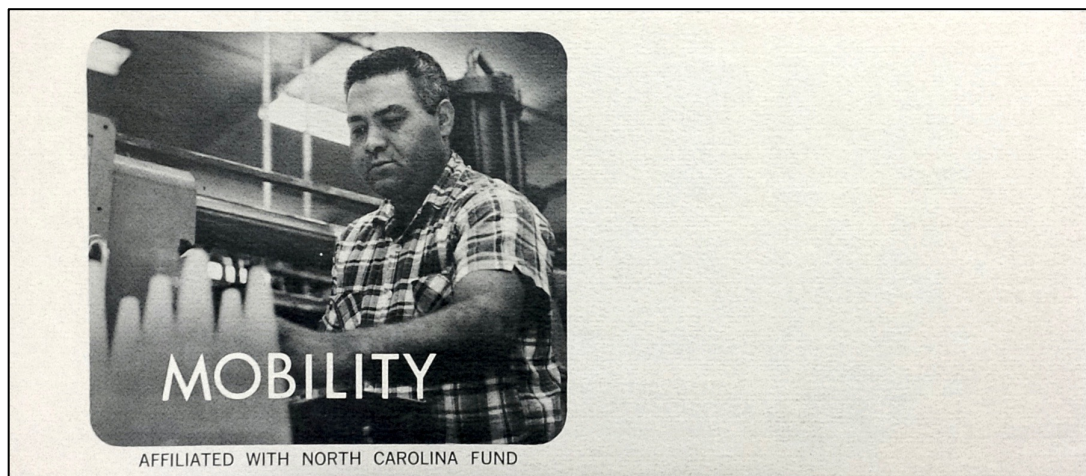


FIGURE 4.1: MOBILITY PROJECT PROMOTIONAL BOOKLET, CIRCA 1965. This photograph on the back cover depicts an American Indian migrant at work in a textile mill. Courtesy of the Southern Historical Collection.¹⁷

¹⁶ Gerald Sider, *Living Indian Histories*, lx-xliv, 283-95; Mobility Project - 1965-1966: Phase One," 29 July, 1966, box 495, folder 6460, North Carolina Fund Records; Paul Johnson, "An Economic-Demographic Analysis of the N.C. Mobility Project: A Cost-Benefit Analysis," box 494, folder 6426, North Carolina Fund Records.

¹⁷ "Mobility... matching men and jobs," promotional booklet, no date, box 496, folder 6475, North Carolina Fund Records.

Because the segregated Indian schools served as the center of Lumbee social and political life in Robeson County, Rod Locklear's stint as a high school social studies teacher granted him prestige, trust, and access to unemployed eighteen-year-olds, assets that proved invaluable in recruitment. On the advice of Mobility's job developers, Locklear met with Herb Glass, the personnel manager at the Florida Steel Corporation's Charlotte plant, and George Covington, a vice president of High Point's Chamber of Commerce. Florida Steel had recently added a new furnace and needed to hire 40 employees as soon as possible, and the High Point Chamber of Commerce had detailed Covington to address the small city's endemic labor shortage, so both men eagerly agreed when Locklear offered to take them to Robeson County. For the occasion, Locklear used his connections to bus over 150 newly minted (and newly unemployed) graduates for a jobs fair at Pembroke High School. Herb Glass staffed his new furnace in one fell swoop, and roughly a dozen other attendees registered on the spot for Mobility-assisted relocation to High Point. They became the first in a pipeline of young, unskilled, predominantly male Indian laborers from Robeson County to the textile mills of High Point, perhaps as many as 200 by the end of 1965. Some received assistance from the Mobility Project, but many others left on their own or with financial help from prospective employers.¹⁸

Beneath their outward exuberance, employers evaluated Indians' collective performance as a potential replacement for black labor in their segregated workplaces. Under increasing pressure to comply with nondiscrimination and affirmative action guidelines under Title VII, business leaders looked to Lumbees as a means to inflate their "minority" workforce without

¹⁸“Workers Imported for High Point Industry,” *The High Point Enterprise*, 13 June 1965; “Charlotte (Mecklenburg County,” report, no date, box 495, folder 6463; “Greensboro-High Point-Thomasville (Guilford and Davidson Counties,” report, no date, box 495, folder 6463

having to hire African Americans. Director Lofaso was aware of this practice but loath to interfere with the stream of migrants Rod Locklear was piping in from Robeson. “The problem of race crops up every day,” he complained to his DOL superiors. “We are probably the only program which is relocating people of three different races and we constantly have to be on our guard to be certain that in some roundabout way we are not aiding discrimination.” Nevertheless, he added plaintively, “[n]o matter how hard we try, we can seldom be certain that our Indian relocatees are not being used to integrate a plant while still not employing Negroes.”¹⁹

By early 1966, however, business leaders in High Point and Charlotte had soured on Lumbee employees, who proved notoriously resistant to industrial labor discipline. Fresh from Robeson County and unaccustomed to associating with non-Natives, the Triad’s fresh crop of Indian wage workers faced a steeper cultural gradient than employers had expected, particularly given the conspicuous absence of war bonnets and exotic dances. Many barriers stemmed from migrants’ backgrounds as sharecroppers and tenant farmers, but plant managers drew on a rich palate of pop cultural stereotypes to explain perceived faults. When Indian employees struggled to arrive on time, for example, some employers attributed the tardiness to a premodern inability to understand clocks, rather than the Piedmont’s inadequate and poorly integrated public transportation system. Threatened by this newfound wellspring of cheap Indian labor, white supervisors and co-workers often proved more strident. After receiving the worst of a verbal sparring match with a middle-aged Indian spinner, one High Point cotton mill foreman peevishly remarked on her hot “Indian temper.” At the Florida Steel plant in Charlotte, several Lumbee foundry workers walked off the job after taking offense to their white “co-workers’ jibes about

¹⁹ Robert Lofaso to Seymour Brandwein, “Monthly Report (August) late as usual (sic),” 20 September 1965, box 495, folder 6449, North Carolina Fund Records.

being ‘off the reservation,’” a protest that management credited to their “sensitivity” as members of a proud race.²⁰

More seriously for employers investing in on-the-job-training, Lumbee workers routinely left for Robeson County, often with little warning. Federal officials reported a similar tendency among federally relocated Indians in Chicago and St. Louis, but few could rival the panache with which Lumbees deserted their employers. Several years after the end of the Mobility Project, High Point employers remembered that “generally at break- or lunch-time, [Indian] employee[s] merely left the plant without a word, and [their] absence was discovered only after a foreman or fellow employee noticed a machin[e] left standing unattended, in some cases with the switch still on.” By early 1966, more than half of Mobility’s clients had left their original employers, and the majority were Lumbees returning to Robeson County. Over time, this “homing instinct,” as Fund officials phrased it, increasingly stigmatized Indian people in the Piedmont. “The reluctance or refusal of the Indian to at least orally inform the line foreman of his intentions,” wrote one Fund employee, “seems to have left an indelible mark of irresponsibility which is almost totally attributable to the Indian race, at least in the eyes of the employer.”²¹

In their transformation from backwaters to boomtowns, most Piedmont municipalities quickly outstripped their housing stocks, and the racially inflected rationing of scarce rental units impeded Mobility’s efforts to place nonwhite migrants and indirectly contributed to Indian transience. In High Point, where the shortage was especially severe, the Project contracted with a local boarding house to provide temporary, low-cost housing while relocatees searched for

²⁰ “A New Place in Life for the Unskilled,” *BusinessWeek*, 26 March 1966, in box 496, folder 6475, North Carolina Fund Records; United States R&D Corp, February 1968, box 494, folder 6428, North Carolina Fund Records.

²¹ Harold Chilton to William F. Peterson, “Information Bulletin,” 30 October 1967, box 459, folder 5808, North Carolina Fund Records.

permanent housing. Living cheek by jowl, tensions between white and Indian tenants flared. As Lofaso explained to his DOL superiors, “the boarding house contain[ed] the potential for highly explosive racial-sexual situations [that] the average boarding house operator is simply not equipped to handle[,] besides which the [landlords] may have even fostered a bit of trouble by sticking up for their own race too much.” The director failed to elaborate, but other internal reports alluded to racial disputes in roommate assignments, interracial dating between white men and Indian women, and white locals’ hostility toward nonwhite migrant boarders. “We found ourselves putting people in a boarding house,” Lofaso continued, “that...was headed for a riot.” He added that his office remedied the situation by buying out the white landlords and replacing them with “someone who really cares (a former school teacher from the sending area),” who Lofaso neglected to mention was a Lumbee Indian. As Rod Locklear later recalled, the High Point boarding house became such an island of familiarity for Indian migrants that many declined to seek permanent housing in the city’s mostly white, frequently hostile neighborhoods. By allowing Indian migrants to reap the fruits of High Point’s labor market without committing to a lease, the Mobility boarding house also facilitated Lumbee workers’ mobility and transience.²²

To deflect attention from the program’s shortcomings, Bob Lofaso and his staff launched a press campaign that exploited and solidified the perception that Mobility was an Indian program. Lofaso worked the phones and eagerly granted interviews to local papers, and his staff produced several slick brochures that belied their limited resources. One titled “Starting a New Life Through Mobility” depicted a middle-aged Indian man, deep in concentration, hunched over

²² Robert Lofaso to Seymour Brandwein, “Monthly Report (August) late as usual (sic),” 20 September 1965, box 495, folder 6449, North Carolina Fund Records.

bobbins of thread; another showed a young couple, likely Native, sauntering from their new Volkswagen to their two-story frame house, well-dressed children in tow. Mobility's informal publicity campaign even reached a limited national audience with a feature in *BusinessWeek*, a widely circulated magazine marketed to business owners and plant managers. "Only a few months ago," chirped an anonymous staff writer, "278 farm workers—white, Negro, and Indian—faced a bleak future: They were the victims of the inexorable process that is replacing men with machines in the tobacco and cotton fields of eastern North Carolina," a grim reality illustrated with a row of ramshackle houses described as "typical" dwellings for relocatees before their resettlement "to the brighter vistas of Charlotte" and other Piedmont locales. To draw a sharp before-and-after contrast, another photograph splashed across the centerfold depicted two young, attractive Indian women, beaming bright smiles as they flanked their landlady down the walkway from their attractive "home away from home" in High Point. To the right, a smaller side panel featured a close-up of one of the migrant women, Carol Elk, hard at work inspecting a roll of thread for Burlington Industries. Sporting a stylish shift dress and a bobbed hairdo teased and sprayed to perfection, Elk exuded success and modernity. These qualities implicitly contrasted with her stereotypically "Indian" surname, which she inherited from her father, Ray Elk, an Oglala military pilot who married into the Lumbee community. Although *BusinessWeek* and Mobility's own materials alluded to black clients, the unexpectedness and novelty of Indians working in urban South industrial jobs helped reinforce the perception—already common in the Piedmont business community—that Mobility's mission was to relocating Lumbee clients in particular. Although the disproportionately Indian clientele at first helped lessen suspicion that the federal program had a "civil rights" or integrationist agenda, the association eventually proved detrimental not only with employers, who increasingly

formed generalizations about group performance to support racist stereotypes about Lumbee workers, but also administrators at the Department of Labor and North Carolina Fund tasked with enforcing colorblind representativeness for principled and legal reasons.²³



FIGURE 4.2: CAROL ELK, A RELOCATED AMERICAN INDIAN TEXTILE MILL WORKER, 1966. The original caption in *BusinessWeek* noted that “Carol Elk works at Burlington Industries, Inc. as an inspector-packer. She hopes to attend college some day (sic).” Courtesy of *BusinessWeek*.²⁴

Impressed that the North Carolina Mobility Project had exceeded the quota for assisted migrants (and apparently unaware of its racial imbalance), the Department of Labor renewed the program’s contract and expanded its scope in 1966, a development that signaled increased oversight and threatened the *de facto* tribal program that Rod Locklear had created. The new Department of Labor contract increased funding nearly tenfold increase and expanded

²³ “Starting a New Life Through Mobility,” no date, box 496, folder 6475, North Carolina Fund Records; “A New Place in Life for the Unskilled,” *BusinessWeek*, 26 March 1966, in box 496, folder 6475, North Carolina Fund Records.

²⁴ Photographic image of Carol Elk at work in “A New Place in Life for the Unskilled,” *BusinessWeek*, 26 March 1966, in box 496, folder 6475, North Carolina Fund Records.

recruitment operations outside southeastern North Carolina, which proportionally decreased the pool of eligible Natives and threw the unrepresentativeness of relocated migrants into sharper contrast. Recently promoted to the newly created office of Supervisor of Recruitment in the East, Locklear cautiously but deliberately ensured continued Indian influence in the program. The second contract necessitated the hiring of new fieldworkers, and Lofaso appointed Locklear to chair the selection committee. Locklear selected a thoroughly tri-racial group of applicants but recommended Indians as the recruiters for both Robeson County and the Haliwa-Saponi homelands in northeastern North Carolina. At Locklear's suggestion, the Mobility also hired a second Lumbee staff member, Horace Locklear, to oversee operations in Statesville.²⁵

After a racialized scandal led to Director Lofaso's ouster, Fund officials in Durham reeled in the long-adrift Mobility Project and uncovered the dramatic racial imbalance in the program's recruitment and staffing. In a review of the pilot program's finances, the Fund office in Durham questioned Lofaso's lax accounting practices and unnecessary expenditures, including for air conditioning in Mobility vans. His temper flaring at these new constraints, the director lashed out at Durham officials and crudely attempted to justify the expense by noting that "[p]oor people in general have a tendency to smell" and that "[b]ecause of differences in body chemistry... Negroes who have spent 5 or 6 hours [in a vehicle without air conditioning] will seem particularly offensive to white middle-class plant managers." Incensed, Tom Hartmann, the Fund's deputy director of programs and a staunch white liberal, immediately

²⁵ "Monthly Report-May," May 1966, box 495, folder 6450, North Carolina Fund Records; "Monthly Report-June," 6 June 1966, box 495, folder 6450, North Carolina Fund Records.

recommended Lofaso's firing and led an investigation into alleged corruption, mismanagement, and racial bias under Lofaso's watch.²⁶

After conducting an "analysis of the racial breakdown of the clients moved in the original Mobility program," Hartmann began to notice troubling "racial overtones [in] the selection of clients." Although poor record-keeping practices obscured the precise racial make-up of relocatees during the pilot program, Indians likely accounted for more than half of assisted migrants. Hartmann also uncovered "a degree of racial discrimination in the hiring practices of the Mobility project" and fretted about "[t]he tendency of the previous director and the staff... to hire immature and inexperienced people with no background in dealing with minority groups other than Indians." Urging further review, the deputy director warned that "the Fund could be severely criticized for the entire project and for its administration." Reluctant to use his white privilege to undermine nonwhite Fund employees, Hartmann resorted to condescension in lauding Locklear's "competen[ce] in a program which has many weaknesses" and emphasizing that he did "not consider [Indian overrepresentation] a matter of racial discrimination as much as...immaturity and inexperience." A midcentury white liberal who prized clean government and racial impartiality, Hartmann dismissed the Indian staff's efforts to redirect government spending as immaturity and cronyism.²⁷

After resigning his post in May 1966, Hartmann, apparently still seething at apparent racial bias in favor of Indians, singled out the Mobility Project in a revealing memorandum he described as his "parting shot as [he] le[ft] the Fund." Reluctant to adjudicate the black-Indian

²⁶ Bob Lofaso to Tom Hartmann, "Air-conditioning for the Mobility Buses," 19 April, 1966, folder 6411, box 494, North Carolina Fund Records.

²⁷ Tom Hartmann to George Esser, "Mobility Program," 19 May 1966, box 492, folder 6411, North Carolina Fund Records.

racial dispute that he had invented, Hartmann redirected some of his outrage toward corporate interests and channeled the rest into thinly veiled racial euphemisms. “Employers want Mobility,” he opined. “The *Charlotte Observer* wants Mobility. I cannot trust the motives of these people.” Questioning DOL and Mobility’s stated commitment to moving clients only to areas lacking “equally well-qualified” local workers, Hartmann complained that unskilled relocatees took better-paid industrial jobs from the “many Negroes in the Piedmont [who] cannot find other than menial employment.” In his view, the Fund was obligated “to break the cycle of poverty for all North Carolinians including, of course, the [predominantly black] poor of East Spencer who cannot get the better paying jobs in [the adjacent city of] Salisbury, primarily because of race.” In a covert reference to Indians, Hartmann asked that “this memo be made a permanent part of the Mobility records... [for] if that dishwasher in a restaurant in Salisbury is limited to \$.85-\$1.00 per hour, and the Mobility client from Robeson County gets \$1.25 plus from a Salisbury manufacturer, my conscience will begin to prick me 600 miles away.” Apparently based more in Hartmann’s imagination than in any complaints from real-life black people, this diatribe about the Mobility Project illustrated white liberals’ relative evaluation of black and Indian political claims and worthiness as subjects in the War on Poverty.²⁸

This vicarious racial outrage stemmed in part from the midcentury center left’s inability to shoehorn indigenous peoples into the rights-based schema they had constructed to interpret black political claims. For white liberals like Hartmann, the classical civil rights movement of the 1950s had confirmed what Gunnar Myrdal had posited in his galvanizing 1944 book that littered the desks and coffee tables of well-meaning white people, *An American Dilemma*: that

²⁸ Tom Hartmann to William Patterson, “Mobility,” 6 June 1966, box 492, folder 6412, North Carolina Fund Records.

(white) Americans and their institutions of government were fundamentally just, that black marginalization was a perversion of the American idea, and that “the Negro” craved civic inclusion and fair play above all else. Intruding on this soothing liberal fable were the figures of Rod Locklear, Lumbees, and American Indians in general, who operated under motives altogether more inscrutable and threatening. Locklear’s machinations appeared not only biased and “immature,” but also indicative of a troubling indigenous tendency toward particularism and disengagement from national political solidarities. Hartmann’s discomfort with Lumbees stemmed less from what they had done than what they represented: namely, an unwelcome reminder of the settler colonial taint on American institutions and the unsettling prospect that white America’s historical debts might persist, despite the elaborate civic ablutions underway. Indians represented a loose thread tugging at the fabric of American liberal democracy and the postwar project of suturing together an ethnically, religiously, and racially fragmented population with a civic religion of tolerance and carefully managed pluralism.²⁹

Before departing, Hartmann approved the appointment of Charles Davis, an African American civil rights activist, as Mobility’s project director, a change in leadership that gradually dissolved Locklear’s tribal agency-within-an-agency. In the short term, the well-developed recruiting pipeline from Robeson and adjoining counties continued apace, and Rod Locklear and his Indian field staffers produced disproportionately Native crops of relocatees each month. Gradually, however, the new director’s influence, pressure from Durham, and the expanded recruitment area tightened the spigot on Indian recruitment. In July 1966, the North Carolina Fund director ordered Mobility to conduct a survey to track returned migrants and to

²⁹ Wendy Wall, *Inventing the “American Way,”* 95-99.

“[r]eview the racial mix of the total number moved to ensure that the service is being made available to all of the poor” on a more representative basis. In November 1966, Rod Locklear left to follow Bob Lofaso to a position with Philadelphia’s Opportunities Industrialization Center, perhaps in response to the diminution of his authority under Davis. In an anonymous 1967 report, a former Mobility employee, perhaps Locklear, complained that the program was beset with “many hang-ups and personality conflicts” and that the “new director... came on strong in the area of civil rights, but weak in other areas.” Although Davis appointed another Lumbee to fill Locklear’s vacancy, he eliminated other key Indian staff members, including the head of recruitment in Robeson County. Although the director purged white and black employees, his notes indicated his desire for racial representativeness, as he fastidiously scribbled an I, N, or W next to each name on his list. Although these staff decisions brought in recruitment and hiring in line with federal law and DOL regulations, his actions eliminated one of the few sources of federal assistance available to North Carolina’s non-recognized Indian groups. By early 1967, both the proportion and absolute numbers of Native assisted migrants declined substantially. In May 1966, ten of the fifteen relocated migrants were Indians, but by October, a majority were African American. In December, only four of twenty-two were Indians. This precipitous drop in Indian relocation after Davis’s appointment and Locklear’s departure demonstrated both the power of mid-level administrators to reformulate policy.³⁰

The Mobility Project’s program of subsidizing American Indian migration and urban integration invites comparison to federal Indian relocation under the Adult Vocational Training Program. Although the latter relocated Native Americans exclusively, the two programs shared a

³⁰ Anonymous report, no date, 1968, box 493, folder 6418, North Carolina Fund Records; Recruitment report, 18 July 1966, box 495, folder 6464, North Carolina Fund Records; Recruiting reports, no date, box 494, folder 6434.

common ideological lineage steeped in a postwar political culture that emphasized consumption and interethnic harmony. Congress and Bureau of Indian bureaucrats saw Indian reservations in much the same way that North Carolina Fund officials saw eastern North Carolina's clusters of tri-racial poverty: as virtual prisons that trapped inhabitants in jobless dependency, locked out of the "freedom" to consume. Whereas scholars continue to debate the legacy of the War on Poverty, however, the federal Indian relocation program remains infamous in Native American studies scholarship. Yet new research has begun to create a more nuanced picture of federal relocation and bring Native people's agency into clearer focus. Far from victims of government coercion, federal relocatees usually left voluntarily, frequently benefited from subsidized relocation, and proved adept at gaming the system, in some instances returning home and reapplying multiple times to pocket federal cash. Regardless of the shared ideological origins and shortcomings of federal relocation and the War on Poverty, Native people found ways to turn government largesse to their benefit. Unlike its BIA-administered cousin, however, the Mobility Project was a nominally colorblind agency that a robust cast of Native administrators transformed into a *de facto* Indian agency, and their efforts even more clearly illustrate the relationship between migration and tribal sovereignty. As cities and their consumer goods enticed Indians away from home, their indigeneity did not fade away, as some policymakers hoped, but became less localized in particular places, whether Standing Rock Indian Reservation or the Saddletree community in Robeson County, than in Indian people themselves. As twentieth-century Indians became ever more mobile, their Indian status became increasingly portable as well.³¹

³¹ Douglas K. Miller, "Willing Workers," 51–76.

As the North Carolina Fund dismantled Rod Locklear's handiwork with the Mobility Project, his friend and fellow Indian Bruce Jones ascended to the top position in MITCE, where he developed a race-neutral proxy to direct federal funding to the Piedmont's largest community of Lumbee migrants in Greensboro. Pitched to the Department of Labor as an experiment in applying rural manpower methods to urban migrants, MITCE's "Urban Unit" reserved seventy-five percent of its available slots for "rural newcomers," defined as migrants who had arrived from rural areas within the previous year and made less than \$1200 annually. In practice, these requirements ensured that Greensboro office served an overwhelmingly Indian clientele. Because the income limit excluded almost all white migrants, and most black Greensborians were either long-term residents or urban-to-urban migrants, the Urban Unit staff struggled to recruit non-Indian clients who met both stipulations and often overran the quota on non-newcomers to achieve a semblance of racial balance. Nearly five months after operations began in Greensboro, one counselor complained that staff had identified "[o]nly 4 Negroes [who had been] here less than 6 months to a year; 2 were nieces who happened to move in with a family we were already working with." By May 1967, the unit's caseload was sixty-two percent Indian, with African Americans comprising twenty-two percent and whites the remainder.³²

The Urban Unit's hiring and recruitment methods also contributed to its disproportionately Indian client base. Although Durham directed the Greensboro office to use door-to-door recruitment methods that had proven effective in eastern North Carolina, the local director, Lynn Sullivan jettisoned this directive as impractical and turned to referrals from government agencies and community organizations. In filling the first of two fieldworker

³² "Purpose-Problems-Area: Rural Newcomer Experiment and Demonstration, Or 'What MITCE Would Like to Do,'" 17 August 1967, box 460, folder 5817, North Carolina Fund Records.

positions, Sullivan hired, Ann Blakeney, a twenty-nine-year-old African American originally from South Carolina, on the recommendation of the county welfare office. For her second slot, however, she turned to Reverend Joe West, the pastor of the exclusively Indian Fraser Chapel and the most reliable source of qualified candidates for MITCE assistance. West recommended Daphine Strickland, a twenty-one-year-old Lumbee woman and one of Fraser Chapel's parishioners. Much like Rod Locklear, Strickland drew on her connection to Fraser Chapel and trove of contacts in the Greensboro Lumbee community to bolster her recruitment efforts as she became the grassroots force behind the Urban Unit's transformation into a *de facto* tribal program.³³

³³ Lynn Sullivan to Nancy Wheeler, "Use of Non-Professionals in Greensboro," 25 January 1967, box 460, folder 5816, North Carolina Fund Records; "Greensboro Chapel Has Lumbee Indians as Entire Congregation," *The Robesonian*, 8 March 1965; Helen Scheirbeck to Bruce Jones, "The Urbanization of the Lumbee Indians through Greensboro MITCIE (sic) Project," 13 November 1967, folder 5814, North Carolina Fund Records.



FIGURE 4.3: FOLD-OUT BROCHURE FOR MITCE’S RURAL NEWCOMER PROGRAM, CIRCA 1968. MITCE borrowed a stock photograph of an American Indian textile worker from the Mobility Project.³⁴

To find qualified rural newcomers, Strickland also solicited referrals from “Big Chief” Jimmy Locklear, the proprietor of a large Indian boarding house on South Mendenhall Street that served young, transient, Indian migrants. One of the first arrivals to newly prosperous Greensboro, Jimmy Locklear left Robeson County in 1954 after the devastation following

³⁴ “Newcomers to Greensboro-Highpoint (sic),” brochure, no date, in box 496, folder 6475, North Carolina Fund Records.

Hurricane Hazel persuaded him to move farther inland. After learning the ropes of his new urban environment, Locklear purchased a large, dilapidated house on South Mendenhall and began renting rooms to fellow Indians, sometimes as many as twenty-five at a time. By the late 1950s, his boarding house had become an informal jobs placement and social services agency, and he personally served as tenants' liaison with white Greensboro. As a gatekeeper to employment and housing, he proved generous to tenants struggling with money or legal problems, but he sometimes wielded his power more aggressively when he believed the community's interests were at stake. After one Lumbee migrant, James Sweat, published a letter in a local paper alleging racial discrimination in late 1959, Locklear aggressively (and catchily) dismissed Sweat as "all wet" and vigorously defended white Greensboro from his accusations. Although Locklear doubtless recognized the prevalence of anti-Indian bigotry, he interpreted Sweat's high-profile complaint as a threat to his young, transient boarders' tenuous access to employment and municipal services amid the mounting racial unrest of the late 1950s.³⁵

Despite Greensboro's relatively small Indian population, white gatekeepers in both the private and public sector were well aware of the community's existence and had developed a unique system of discrimination rooted in perceptions of Indians' mobility. In June of 1967, Placement Developer Harold Chilton took two Indian clients, both with distinctively Lumbee surnames, to the Employment Security Commission office to register for unemployment benefits and job placement. As Chilton helped his clients fill out the necessary forms, "an elderly lady with blue hair" approached the trio, introduced herself as the supervisor, and hissed at them to hurry so as "not [to] hold up other applicants." After the clients hastily completed their

³⁵ "Indian Fuss 'All Wet,' Lumbee Says," *The Daily Times-News (Burlington, NC)*, 29 December 1959; "Indians Battle Bias, Make Home in Greensboro," *The Greensboro News and Record*, 22 September 1990.

paperwork, both were whisked off to be interviewed. As Chilton waited, he noticed that his male client, H.J., “appeared to be having trouble with the interviewer, who was also an elderly woman.” When he approached the interviewer to offer assistance, she pointed out several errors in the application but urged Chilton not to waste his time correcting them, since “she knew the [J.] people [and] they would run back and forth to Pembroke.” She further informed him that ESC “had a job opening but not for him.” Although Chilton was “shocked by this abusive attitude,” H.J. seemed unfazed and “continued to smile as if nothing had happened.” Given the state of Greensboro’s job market, he likely reasoned that he would have little trouble finding employment on his own, and he was working as a roofer within a week. In an amusing twist, he indeed quit his job in order to “run back” to Robeson County, where he stayed with family for several weeks before trying his luck again, this time working in construction.³⁶

Urban Unit staff quickly realized that MITCE’s focus on vocational training and jobs placement suited neither their transient Indian clients nor Greensboro’s low-wage, low-skill, low-unemployment labor market. In preparation for their upcoming request for a DOL contract extension, Urban Unit Director Lynn Sullivan called a full staff meeting to reframe their mission in Greensboro. In recognition of their overwhelmingly Lumbee caseload, Sullivan also invited Indian fieldworker Mark Brooks from MITCE’s office in Robeson County to serve as an informal consultant on Native and rural affairs. As their conversation turned to the frustrations and complications of delivering services to their highly mobile clientele, the tri-racial MITCE crafted a new mission for the Urban Unit based on the “urbanization” of rural Indian clients, and

³⁶ File of MITCE Client G-A-Q-193, 19 June 1967, box 482, folder 6249, North Carolina Fund Records.

in so doing revealed their assumptions about race, consumption, and the purpose of the War on Poverty.³⁷

Sullivan and the non-Native members of the Urban Unit proved most exasperated with the wild instability of the city's Indian population, which complicated virtually every aspect of service delivery and to which they unfavorably compared the relative stasis of their African American charges. Lamenting the effects of such turnover on canvassing, Sullivan complained that "I don't think we know what is in the city. People say: here is a person, or we get referrals from Joe West as his congregation reports new arrivals," but effective surveillance of the target population remained elusive. Virginia Mortimer, a white family counselor, added that "[t]here is such a flood of new arrivals that the next day the situation in one area is completely different from what it was the day before." To make matters even more confusing, Indian population flowed in both directions. "[S]ome [Indians] have been here 10 or 12 years and are still planning to go home," reported Ann Blakeney. "[T]hey came with that intention—of earning money and then going back home." Asked by the stenographer whether white or black migrants shared this transience, Blakeney replied that she had observed "[a] few, but Negroes don't go back home."³⁸

After identifying return migration as a distinctly Indian "problem," the Urban Unit staff speculated on the psychology of this behavior. In a moment of perceptiveness, Sullivan advanced Indians' fear of ethnic dissolution as a driving force, which she linked to public education: "They lose their identity as a race; they are quite sensitive. They are concerned about their children—in school, will their children be rejected...?" Strickland, conspicuously quiet for most of the

³⁷ Transcript of MITCE Greensboro staff meeting, "Effectiveness of rural methods and techniques," 20 April 1967, box 424, folder 5355, North Carolina Fund Records.

³⁸ Ibid.

meeting, perked up at this suggestion, concurring that Indians often “plan to go back to Pembroke if their children have a rough time at school.” Lumbee, she elaborated, “don’t want to be recognized as Negro or as white; they want to be recognized as what they are. I would go on the book as saying that half of them go back to Robeson because of some racial problem.” Summoning up Indian parents’ fears that Greensboro’s biracial, nominally desegregated public schools would strip their children of their identities, she explained that at times she and her husband “have planned to go. We might end up going back to Robeson, if my children are not treated right in school.” Mark Brooks, a jaded former teacher in the Indian schools, pushed back against Strickland’s romanticized view of segregated education, claiming that he “would rather have my children here [in Greensboro] in a Negro school than in an Indian school in Robeson.” Strickland snapped back with a response that succinctly encapsulated the relationship between Indian schools and Indian identity: “Education is nothing,” she replied, “if you are pushed off. Education [as such] is not important to most of [her Indian clients].” Across the United States, many white parents greeted integration with outrage and dread because it threatened their presumed rights as homeowners, taxpayers, and as white people to send their children to “good” schools, hopefully allowing them to “get ahead” or at least replicate their parents’ tenuous middle-class affluence. For Indian parents, the potential for schools to enable upward class mobility or even to provide a quality education were at best secondary concerns; instead, they relied on the schools to bind their children to their ancestral communities and transmit an indigenous identity across generations. Even Greensboro’s white schools, despite their dramatic advantages in prestige and resources, could never fulfill that function.³⁹

³⁹ Ibid.; Matthew D. Lassiter, “The Suburban Origins of Colorblind Conservatism: Middle-Class Consciousness in the Charlotte Busing Crisis,” *Journal of Urban History* 30, no. 4 (May 2004), 549-82.

This prioritization of identity over opportunity perplexed and irritated the Urban Unit's white staffers. In response to Strickland's soliloquy on Indian education, Virginia Mortimer complained that "even before [Indians] know anything about the city, they come with the idea of going back, even before they know the difficulties, regardless of how successful they may become." For Mortimer and her non-Indian colleagues, Lumbees' willingness to exchange the glittering abundance and opportunities for career advancement of Greensboro for rural poverty and substandard education in Robeson County seemed nothing short of irrational. Her frustration mounting, Mortimer concluded that many Indians "make the move and it is not based on reasoning... It is just impulsive moving."⁴⁰

Pushing back against Mortimer's thesis that Lumbees were irrational for fleeing Greensboro's burgeoning Sunbelt affluence, Mark Brooks suggested that returning to Robeson County offered both material and cultural benefits. Upon learning that the typical Lumbee worker made between \$1.50 and \$2.25 hourly, he embarked on a brief thought experiment in rural home economics. "So he makes \$60 a week," Brooks reasoned. "At home he is on welfare; he was making \$30 and he paid no rent, had a little garden, [and] paid no taxes, so he was just as well off." At least among small landholders and better-situated tenant farmers, he concluded, "[t]he reason they go home is because they have a subsistence living." Unlike metropolitan whites, who were socialized into consumption from childhood, Indians often saw little difference between subsistence farming, supplemented by irregular agricultural labor and community support, and minimum wage employment in an atomized, cash-draining urban environment. White officials like Mortimer labeled the former "poverty" and celebrated the latter as the first

⁴⁰ Ibid.

rung on the ladder of success. Lumbees, on the other hand, saw landownership and food crops as bulwarks of independence and integral components of their cultural identity.⁴¹

Faced with an affront to her deeply held personal and political values, Virginia Mortimer responded testily to Brooks. Dismissing Brooks's argument on subsistence farming, she insisted that Lumbees failed to appreciate the difference between rural poverty and metropolitan striving only because they rarely stayed long enough to advance their careers. If anything, Mortimer lamented, Lumbees fell victim to the very vortex of job creation that drew them to Greensboro in the first place: tricked by the ease of securing abundant "entry-level" positions, Indians viewed individual jobs as expendable and "hopped" to the next one at the first sign of trouble, unaware that the insults and racial slurs of their foremen and supervisors were mere implements of industrial labor discipline to be patiently endured along the ascent to middle-class nirvana. "At \$2.25 [per hour] he is the type of employee who comes to work when he is ready, who lays out when he wants to, and can get another job the next day." As the staff's plan to shift their mission from vocational training to urban adaptation crystallized, this "culture of poverty" ideology increasingly dominated the Urban Unit's interactions with indigenous migrants.⁴²

Even after the renewal of the Urban Unit's DOL contract, entrenched anti-Indian racism and dogged Indian mobility continued to frustrate the staff as they implemented their newfound "urbanization" mission. When the Urban Unit implemented its long-planned expansion to nearby High Point, staff discovered the lasting imprint that the 1965 Mobility Project pilot program had

⁴¹ Transcript of MITCE Greensboro staff meeting, "Effectiveness of rural methods and techniques," 20 April 1967, box 424, folder 5355, North Carolina Fund Records. When I visited the Baltimore American Indian Center in early 2015, one non-Indian visitor asked a panel of long-term Lumbee residents how they preserved their "Indian culture" during their relocation to Maryland in the late 1950s and early 1960s. After shaking off initial looks of puzzlement, more than one cited their attempts to grow beans or other staples in the windowsills of their Baltimore apartments.

⁴² Ibid.; Lewis, "Culture of Poverty," in *Understanding Poverty*, 187-220.

left on the city's capital and managerial classes. In a special report to the MITCE office, Harold Chilton reported that "[m]any business managers are very skeptical toward accepting applications for employment from the Indian race, and quite frequently I am told none will be accepted under any circumstances." In a clear reference to Rod Locklear's efforts with Mobility, he explained that "[a]pproximately 80% to 85% of the personnel managers with whom I have talked have memories of the migration of the Indians to High Point a few years ago and remember quite well the number accepted by their firms, and the small number remaining." Some of the personnel managers recalled traveling to Robeson County to assist in recruitment and relocation, but Chilton believed that most were "were highly antagonized solely because of the *manner* in which many of the employees left." Accustomed to agricultural labor and not particularly receptive to white authority, Lumbees came and went with a nonchalance that apparently drove foremen and managerial staff, tasked with enforcing strict industrial labor discipline, to the brink of apoplexy. "Some of the Indians stayed for as little as two hours," Chilton reported, "which actually amounted to the first coffee break." Signaling his intentions to mitigate this stigma, he lamented the damage caused by Mobility's previous "endeavor to migrate and urbanize this race which failed so totally."⁴³

Despite efforts to rehabilitate High Point employers' opinions of Indian workers, the frustrating mobility of individual clients threatened to intensify collective discrimination. Chilton ended his memorandum on job discrimination on an upbeat note, declaring that "[m]any plants are now working one to five Indians and are generally pleased with their performance; in fact," he added with an upbeat flourish, "the ability of the Indian on production work appears to be

⁴³ Harold Chilton to William F. Peterson, "Information Bulletin," 30 October 1967, box 459, folder 5808, North Carolina Fund Records

quite above average.” But no sooner had Chilton expressed his belief that Lumbees’ prowess on the assembly line was “slowly erasing any negative moods toward accepting the Indian,” than he received some disheartening news about an Indian client, J.L., whom he had tried to place at one of High Point’s biggest employers, Heritage Furniture Company. “Heritage is one of the firms which is very skeptical of the Indian workforce,” wrote Chilton, “and I do hope this client will work to improve this image of negativism.” To allay the fears of Heritage’s personnel manager, identified only as “Mr. Campbell,” Chilton gave his assurances that J.L. had left his previous job at Alma Desk Company after a “small argument with the supervisor, and was out of work [only] two days during his six months of employment.” Unwilling to take the job developer at his word, Campbell contacted his colleague at Alma to request J.L.’s work record, which revealed that the young man had been fired for racking up an impressive slew of thirteen absences and twenty-five late days. When Chilton arrived to bring J.L.’s contract, an irate Campbell announced that Urban Unit staff members were “unwelcome” at Heritage, unless they brought “a documented work record” for each client. “[O]f course,” Chilton reported, “this applies to any race under any circumstances.”⁴⁴

Drawing on years of surveillance on Indian employees, Piedmont employers sometimes attempted to leverage Lumbees’ sense of peoplehood in cultivating labor discipline. In June 1967, Virginia Mortimer counseled two young Indian women who had recently graduated from high school and were seeking clerical jobs. In Mortimer’s judgement, however, neither was suited for secretarial employment. In the brutally sexist calculations of the late 1960s, Mortimer

⁴⁴ Harold Chilton to William F. Peterson, “[Name Redacted], G-B-Q-109,” 30 October 1967, box 487, folder 6331, North Carolina Fund Records; File on MITCE Client G-B-Q-109, 25 October 1967, box 486, folder 6323, North Carolina Fund Records.

deemed the first “pretty” but also “a very large girl” and reasoned that “her size may be a problem in finding secretarial work.” The second, although “very slender” and possessing what Mortimer considered a “fair appearance,” was insufficiently trained in typing and shorthand. Dissuaded from pursuing clerical positions, the clients accepted textile jobs at Melrose Hosiery Mills but reported that their offers were conditional. Each received a stern warning to report for work on Monday only if she “intended to stay permanently,” for “[i]f she took the job and then several weeks later decided to return to Lumberton, it could affect [the plant manager’s] attitude toward hiring other Indians.” Mortimer noted that each took this threat of collective punishment “very seriously and was very much concerned about what to do,” particularly since neither had her heart in textiles. The pair ultimately reported for work at Melrose, but in a display of disregard for their employer’s prerogatives, both resigned within a month and returned to Robeson County.⁴⁵

Lumbee mobility also hampered access to Greensboro’s housing market, where landlords and realtors normed their financial expectations to “rational”—meaning white—consumption patterns and objected to Indian transience. Unwilling to risk six- or twelve-month leases on Lumbee tenants, landlords charged Indians weekly rent at inflated rates, often withholding repairs or resorting to eviction for any delay in payment, a major hardship for the majority of tenants who worked irregular hours. In conjunction with landlords, realtors represented another enforcement mechanism in Greensboro’s robust system of housing segregation, which members of the profession often defended in overtly racial terms before the advent of federal fair housing regulations. Citing previous experience with fickle Lumbee clients, one bluntly informed Urban

⁴⁵ Virginia Mortimer, “[Names Redacted],” no date, box 487, folder 6331, North Carolina Fund Records.

Unit staff that “I don’t rent to Indians anymore.” Using their gatekeeper status to limit options for prospective Lumbee tenants, realtors helped restrict Indians to within a three- to four-block radius of West Lee Street. Bordering the campuses of UNC-Greensboro and Greensboro College, most of the neighborhood was to be demolished in an imminent urban renewal project, and the owners of the dilapidated houses and converted storefronts were eager to extract as much rent as possible from their cornered tenants.⁴⁶

Fieldworkers attempted to mitigate the dire housing conditions facing Indian clients as part of their new “urbanization” mandate. No stranger to housing discrimination, Blakeney expressed shock at the conditions of some Indian clients’ homes. On a February visit to one Lumbee family’s West Lee Street apartment, Blakeney discovered that the only source of heat was a dilapidated kerosene heater. After the client lit the wick, Blakeney noticed that the “oil began to come out in this pan and it looked so hazardous to have this oil leaking so freely that I mentioned it to [the client], and she said that the landlord put the heater there and refuse[d] to” replace it. Disgusted, Blakeney ranted that the family was “paying an extreme amount of rent, approximately \$17 per week, and this place is horrible... [T]he plaster is falling from the walls, and the place is just generally in an awful condition, but yet this real estate man [who owned the building] seems to have no regards of his responsibility as a realtor.” When she returned in March to find the leaky heater still in place, Blakeney pleaded with her clients to apply for public housing. The couple agreed and became among the first Indians in Greensboro’s federal housing

⁴⁶ “Open Housing Testimony: Special Hearing,” 17 May 1967, box 460, folder 5817, North Carolina Fund Records.

projects, but others were not so lucky. A short time later, another apartment in the West Lee neighborhood burned to the ground and left an Indian family homeless.⁴⁷

Because landlords were loath to invest in properties slated for demolition, withholding repairs became a favorite tactic for ensuring rent payment from unpredictable Indian tenants. One of Daphine Strickland's clients, a former tenant farmer who worked at Dixie Furniture, was ten days behind on his weekly rent because he drew a bi-weekly paycheck. During this short delinquency, "the upstairs bathroom pipes had burst, the house was flooded, a section of the ceiling fell through on the downstairs bedroom, [and] the house was without light, heat or water." The corporate landlord, Agapion and Agapion, refused even to assess the damage until rent was paid in full, even though these hazards endangered the client's three school-aged children and wholly destroyed the family's furniture. As soon as the client's check came in, he immediately paid the back rent, despite his suspicion that the landlord would accept it without making the repairs. When two days had elapsed and no plumber had arrived, Strickland called a representative of Agapion, who proceeded to make excuses and "sort of put me off is what it sounded like to me." A week later, the burst pipes had been sealed, but none of the other damage was ever repaired. Strickland attempted to help the client apply for public housing until she discovered that he was not formally married to his white wife, an illegal union under North Carolina's anti-miscegenation statute. After a month of searching, she finally found an agency, Norman Boyles Realty Company, willing to show apartments to Indians. "The onliest hold-back is that Mr. Boyles is always trying to palm off his worst houses on me for my clients," Strickland

⁴⁷ Files of MITCE Clients G-A-Q-93 and G-A-Q-93A, Ann Blakeney's field notes, various dates, box 484, folder 6286, North Carolina Fund Records.

complained, “but as long as I can find a good one every once in a while, I can take the bad ones, too.”⁴⁸

Unlike neighboring High Point, Greensboro featured several federal housing projects, but institutional and cultural barriers kept most Lumbees from taking advantage. Speaking a non-standard dialect of English and rarely equipped with formal schooling past the eighth grade, Lumbee clients often became discouraged with the opaque bureaucratic language of housing applications. For some, the anonymity and crowded conditions also presented too radical a departure from rural Robeson County. Rather than live in close but up-to-code quarters, Indians opted for single-family dwellings or larger apartments, even those that were dilapidated or hazardous. The most important factor in Lumbees’ aversion to public housing, however, was race. Although Lumbees suffered under Jim Crow alongside African Americans, the state’s recognition of their Indian identity under Jim Crow had long depended on social separation from black people, and many employed racial slurs and other racist behavioral markers to perform non-blackness. As Lumbee historian Malinda Maynor Lowery has argued, this phenomenon was a relatively recent innovation in Lumbee political culture, as Indians and blacks had lived, voted, and occasionally conceived children together before North Carolina granted state recognition to the “Croatan Indians” in 1885. In 1967, when unabashed white supremacists populated the state legislature and authorized funding bills for Indian schools, many Lumbees were understandably wary of any affiliation with housing projects, which whites marked as black and associated with federal meddling. Despite the Urban Unit’s placement of several Indian families in public

⁴⁸ “Open Housing Testimony: Special Hearing,” 17 May 1967, box 460, folder 5817, North Carolina Fund Records.

apartments, many more refused even to step foot in the Hampton Homes apartment complex for adult basic education classes.⁴⁹

To escape the West Lee neighborhood's crumbling housing stock, Indians occasionally turned to deception and racial passing. In several instances, Lumbees in mixed marriages sent their white spouses to view homes, only to be denied a lease once the landlord met the other partner. One relatively well-paid Urban Unit Client, a talented auto mechanic, "made every attempt to hide his Indian identification" to rent a house in a predominantly white neighborhood on Franklin Boulevard. According to his family counselor, the client "ma[de] a point of avoiding association with other Indians whenever possible" and "ke[pt] his address unknown to his Indian friends—if they visited in his home, or attempted to obtain nearby rentals, he fear[ed] his own rental would be jeopardized." Although the phenomenon of racial passing remained taboo among Greensboro's Lumbees, such instances heightened widespread anxieties about the effects of urban migration on their collective indigenous identity.⁵⁰

Despite abject housing conditions, many Indians enjoyed living among relatives, friends, and fellow Lumbees in the West Lee neighborhood. In an attempt to mimic settlement patterns from back home, where families often built several clustered households on the same plot, Indians tried to rent apartments or houses within walking distance of relatives. As in Baltimore, the experience of living alongside Lumbees from other family clusters and home communities helped build ethnic solidarity. In addition to nearby Fraser Chapel, West Lee developed other fledgling community institutions, including Native American youth groups and informal

⁴⁹ Malinda Maynor Lowery, *Lumbee Indians in the Jim Crow South: Race, Identity, and the Making of a Nation* (Chapel Hill: University of North Carolina Press, 2010).

⁵⁰File of MITCE Client G-A-Q-35, notes of Virginia Mortimer, 23 January 1967, North Carolina Fund Records.

childcare services. Daphine Strickland helped one group of clients organize what they dubbed the “Westside Improvement Team,” which worked to beautify the neighborhood and resolve intra-community disputes. Ultimately, the looming threat of urban renewal meant that the West Lee Lumbee neighborhood was temporary from its inception, but of course, few Indians had any desire to remain permanently in Greensboro.⁵¹

The successive waves of Lumbee migrants to Greensboro, High Point, and other Piedmont destinations illustrate the importance of mobility as a conceptual tool for understanding the development of both the US welfare state and administrative tribal government. For the foot soldiers in North Carolina’s war on poverty, Lumbees’ dizzying mobility obstructed their efforts at service delivery. Indians simply moved too fast to submit to the requisite battery of cataloguing and surveillance, and even when they stayed put long enough to receive public assistance, they often made use of it in ways that frustrated and repulsed non-Native administrators. Migration also stressed the intensely local structures of Indian government in Robeson County, which relied on Indian schools, ad hoc mass meetings, and informal mediation with settler officials to coordinate the political life of the diffuse Lumbee settlements. Urban housing markets jumbled together Indians from families and communities that seldom interacted, and urban school districts compelled parents to send their children to non-Indian schools, trends that paradoxically both strengthened ethnic cohesion and raised the specter of ethnic dissolution. Detached from the rural spaces that defined their indigeneity, increasingly

⁵¹ Transcript of MITCE Greensboro staff meeting, “Effectiveness of rural methods and techniques,” 20 April 1967, box 424, folder 5355, North Carolina Fund Records.

mobile Indians looked for new ways to mark themselves in the urban spaces of the North Carolina Piedmont.⁵²

*
**

Chartered as a five-year experiment, the North Carolina Fund ceased operations in 1968. Some programs were scuttled altogether, but MITCE merged into the newly chartered, statewide successor organization, the Manpower Development Corporation (MDC). Bruce Jones accepted an offer from MDC to aid in the transition, but he soon tendered his resignation and returned to Robeson County at the urging of two Indian colleagues: Rod and Horace Locklear, the former recruitment directors at the Mobility Project. With MITCE shuttered and Robeson County's inept community action agency hobbling along without Fund guidance, the pair acutely felt the vacuum of federal spending in Robeson County and determined to enlist Jones's administrative savvy in the fight to renew it. In addition to their status as recently demobilized veterans of the War on Poverty, the trio shared other intellectual and institutional bonds: all three had graduated from Pembroke State College, and both Jones and Rod Locklear had served as teachers in Robeson's Indian schools. Facing an uncertain future in the hands of a formally colorblind federal government, they understood the need for new institutions to promote Lumbee welfare and protect Lumbee peoplehood.⁵³

Sometime in early 1968, Bruce Jones spent "one joyful, optimistic night on the trunk of a parked car under a streetlight on the outskirts of Durham," poring over a stack of incorporation paperwork with Gerald Sider, a white graduate student in anthropology and former contract

⁵² Karen Blu, *The Lumbee Problem: The Making of an American Indian People* (Lincoln: University of Nebraska Press, 2001), 118-121.

⁵³ Bruce Jones, interviewed by the author at Raleigh, North Carolina, 2 May 2017; Roderick Locklear, interviewed by the author at Pembroke, North Carolina, 11 April, 2017; Gerald Sider, *Living Indian Histories*, lx-xliv, 283-95.

researcher for MITCE and the Mobility Project. The quartet of Sider, Jones, Rod Locklear, and Horace Locklear formed the original board of the Regional Development Associates (RDA), a nonprofit corporation they envisioned as a miniature North Carolina Fund for the Robeson County area. According to Sider, Horace and Rod Locklear envisaged RDA as a tribal council from its inception, but Jones and Sider favored an anti-poverty focus and service to both Indians and African Americans. In 1970, after several years of inaction, the associates drifted toward the Locklears' tribal nationalist stance, seating additional Indian trustees and renaming their organization the *Lumbee* Regional Development Association (LRDA). Over the next several years, the directors transformed LRDA from an underfunded, regional clone of the North Carolina Fund into the Lumbees' *de facto* tribal government.⁵⁴

⁵⁴ Ibid.; Gerald Sider, *Living Indian Histories*, 262-3.

CHAPTER 5
**OF LUMBEEES AND TUSCARORAS: SCHOOL DESEGREGATION, THE ADMINISTRATIVE STATE,
AND EXCLUSIONARY INCORPORATION**

In February 1974, Howard Alexander Brooks, chief of the Tuscarora Council, stood before a small crowd of about twenty people in a disused “aluminum covered grocery store” roughly three miles west of Pembroke, near the confluence of NC-711 and 710. The abandoned building served as the makeshift headquarters both for Brooks’s organization, a splinter group of Robeson County Indians, and his allies from the American Indian Movement (AIM), the infamous indigenous rights group known for radical politics, disruptive tactics, and near-comical disorganization. Slimly built and standing only five feet and seven inches tall, Brooks nevertheless possessed a forceful, charismatic presence that commanded attention well out of proportion to his small frame. Less than a year prior, he had commanded upwards of three hundred followers, organized highly publicized mass protests in both Robeson County and the state capital of Raleigh, and attracted the attention of nationally known black radicals like former professor and professed communist Angela Davis. By early 1974, however, the Tuscarora Council was an organization in steep decline, and attendance at its regular meetings had dwindled amid mounting legal trouble, internecine bickering, and controversy over Brooks’s endorsement of interracial alliances.¹

¹ Department of Justice, Federal Bureau of Investigation, Bureau File Number 157-CE-8059: Howard Alexander Brooks, vol. 1, 1-14 [hereinafter “FBI File 157-CE-8059, 1”]; Department of Justice, Federal Bureau of Investigation, Bureau File Number 157-CE-8059: Howard Alexander Brooks, vol. 2, 248-9 (hereinafter cited as

Proceeding to the main order of business, Brooks flashed his stern gray eyes across the sparsely peopled meeting hall and asked for volunteers to represent the Tuscarora Council in Raleigh at an important meeting of the National Alliance Against Racist and Political Repression (NAARPR), a left-wing group comprised mainly of African Americans. NAARPR had invited Brooks and his followers to the historically black Shaw University for a conference on structural racism and political prisoners in North Carolina. Eager to showcase his organization's strength and deflect from its declining following, the chief impressed on his audience the importance of Tuscarora representation at the Raleigh event. To drum up interest, Brooks read aloud from the list of speakers, a virtual who's-who of famous and infamous race radicals that included Angela Davis; Benjamin Chavis, free on bond pending an appeal of his racially motivated arson conviction alongside the internationally celebrated Wilmington Ten; and Vernon Bellecourt, the Ojibwe activist and national director of AIM. Less prominent nationally but perhaps most notorious among the Tuscarora Council membership was Golden Frinks, North Carolina's rogue Southern Christian Leadership Conference organizer and Chief Brooks's most reliable African American ally. Appointed to an honorary position on the tribal council at one point in recognition of his support, Frinks had generated suspicion and resentment among some Tuscarora supporters.²

Although an event featuring Angela Davis and Benjamin Chavis might have turned out classroom radicals in Berkeley or Ann Arbor, the proposal landed with a wet thud in the tin-shingled meeting hall outside Pembroke. When a show of hands produced only three volunteers,

"FBI File 157-CE-8059 2"); Howard Alexander Brooks and Virginia Hunt Brooks, in unrecorded interview with the author, written notes with verbatim quotations in possession of the author, 5 August 2015.

² Ibid.

a chagrined Chief Brooks harangued his audience and “demanded that more people agree to go.” In response, a lone member of the audience stood and declared that he had “fought against communists in Korea and did not think the Indian movement should associate themselves with black communists” like Davis. Emboldened, a second Tuscarora spoke up in opposition to alliances with “either blacks *or* communists” (emphasis added). In an attempt to reassert ideological control, Bill Sargent—an Ojibwe and national AIM organizer—pushed back against the two dissenters. He argued that Davis, as a black woman, had endured a lifetime of racial injustice “just like the Robeson County Indians” and that her experiences “left her no other outlet except the Communist Party in her continuing fight for the rights of minority citizens both black and red.” Sargent’s soliloquy apparently fell on deaf ears, however, as no additional members volunteered to for the conference at Shaw. Because Brooks and Sargent had spent their formative years in Detroit and Minneapolis-St. Paul, respectively, they understood the common interest that black and Native people shared in thwarting structural racism, as well as the practical advantages of allying with relatively well-developed and visible black protest movements. The Tuscarora rank-and-file, while never as rural or insular as their Lumbee detractors alleged, hailed mostly from the poorest margins of the Robeson Indian community, where distance from African Americans counted among the few readily available social and economic resources. Decades of Jim Crow had instilled the lesson that recognition as Indian depended on separation from black people.³

Unbeknownst to Brooks and Sargent, the invisible hand of the federal government was at work in inflaming racial tensions among their followers and undermining their fragile black-red

³ Ibid.

alliance. The unidentified Korean War veteran who first stood and objected to meeting with Angela Davis was an informant for the Federal Bureau of Investigation (FBI), his name redacted in Howard Brooks's lengthy dossier under the Freedom of Information Act's protections for confidential sources. Ostensibly, the FBI had terminated its long-running counterintelligence program targeting left-wing and racial nationalist groups, COINTELPRO, in 1971 amid backlash to its public disclosure, but the bureau continued to employ COINTELPRO-like tactics in its infiltration of the American Indian Movement, including the cultivation of several informants in Brooks's AIM-aligned Tuscarora Council. In its years-long campaign to extinguish the Tuscarora Council, the bureau exacerbated the group's racial cleavages, intimidated its most legally vulnerable members, and inspired endless rounds of finger-pointing and recrimination, as leaders vainly struggled to identify the informants in the FBI's barely concealed infiltration campaign. Although Howard Brooks's movement had always existed on the margins of Indian political life in Robeson County and may have disintegrated on its own, federal investigators pressed their collective thumb firmly on the scale.⁴

⁴ Ibid.; Ward Churchill and Jim Vander Wall, *Agents of Repression*, ix-xvii.



FIGURE 5.1: HOWARD BROOKS AND ANGELA DAVIS AT A MEETING OF THE NORTH CAROLINA ALLIANCE AGAINST RACIST AND POLITICAL REPRESSION, 1974. Courtesy of *Jet* magazine.⁵

In the early 1970s, the federal administrative state consolidated its influence in Robeson County Indian politics. Although the community's formal relationship with the federal government began with the 1956 Lumbee Act and grew during the War on Poverty, only during the Nixon administration did Washington fully supplant North Carolina's Jim Crow recognition. The rhizomes of federal bureaucracy spread into Indian political life as never before in ways

⁵ "Angela Davis Proclaims N.C. a 'Disaster Area,'" *Jet* 45, no. 25 (14 March 1974), 21.

financial, legal, and ideological; benign, malign, and neutral; compartmentalized, coordinated, and at cross-purposes. The Department of Health, Education, and Welfare (HEW) dismantled the Indian primary and secondary schools with its desegregation order for the 1970-71 school year, severing the last meaningful artery of state recognition and ending a three-decade epoch of Lumbee self-government. The National Council on Indian Opportunity (NCIO), an interagency advisory body that coordinated federal support for Indian economic and political development, encouraged Lumbee and Tuscarora groups to adopt articles of incorporation modeled on recognized tribal constitutions. The Bureau of Indian Affairs (BIA) dispatched an agent to evaluate Brooks's radicalized Tuscarora Council, even as the FBI infiltrated the organization and exploited its racial fissures. The Office of Economic Opportunity (OEO), HEW, and the Office of Native American Programs (ONAP) skirted the Lumbee Act's termination clause to disburse Indian-specific funding to the moderate Lumbee Regional Development Association (LRDA), a local antipoverty organization founded by Indian veterans of the North Carolina Fund fluent in the language of grant applications and reporting requirements. This dramatic increase in federal assistance and accountability slowly pushed LRDA to approximate the form and functions of a tribal government. The smiles and wiles, winks and handshakes of racist white Democrats in Raleigh had finally given way to a more anonymous, pervasive, and mechanistic alphabet soup of federal agencies, each a separate piece of a jigsaw puzzle of an increasingly decentralized federal Indian policy.

Administrators from this dyslexia-triggering assortment of federal agencies encountered an Indian system of government that was symmetrically disparate and multi-local. Although Indian officials at the segregated schools largely complied with the federal desegregation plan, HEW merely scraped away the top layer in a deep-rooted structure of governance and ignited a

brushfire of opposition to busing and school consolidation that smoldered for the better part of a decade. As HEW dismantled the Indian schools, the BIA rejected the suddenly renewed claims of a group of twenty-two Robeson County Indians determined in the late 1930s to possess “one-half or more Indian blood” under a seldom-used section of the Indian Reorganization Act, ruling that the Lumbee Act had terminated any possibility recognition or services. In response to both HEW’s meddling and the BIA’s intransigence, a movement coalesced around the surviving members of the so-called Original Twenty-Two, and adherents began labeling themselves “Tuscaroras” in an overt rejection of both the Lumbee Act and the emerging Lumbee tribal establishment. Internal agreements split the Tuscarora movement between Howard Brooks’s Tuscarora Council and the more moderate East Carolina Indian Organization (ECIO), but both espoused similar visions of Indian control of schools, unqualified sovereignty, and the fulfillment of the federal government’s long-neglected obligations to their communities. But whereas ECIO and the Tuscarora Council represented specific local constituencies, the Lumbee Regional Development Association (LRDA) increasingly positioned itself as the legitimate representative of the Lumbee people as its leadership cunningly exploited the proliferation of competing federal bureaucracies to fund its ascent. Bruce Jones, Rod Locklear, and the other LRDA administrators did so in concert with a final node of Indian leadership: the small but influential group of Lumbees embedded in Washington’s federal bureaucracy as career civil servants. Known as the “Washington Group,” Helen Scheirbeck and Pernell Swett of HEW, Tom Oxendine of the BIA, and Brantley Blue of the Indian Claims Commission bent ears, called in favors, and relayed information back to LRDA. These branches of Indian tribal governance, much like their federal counterparts, worked less like the fingers of a hand than the lymphatic system: diffuse,

sometimes at war with itself, but ultimately comprising a herky-jerky totality that stitched together the constituent parts of an indigenous nation.

In their uncoordinated interactions with the various nodes of Robeson County Indian governance, federal agents starved subversive political movements, reinforced Lumbee exclusion from federal acknowledgement, and offered limited benefits to nurture moderate leaders and create a legible tribal bureaucracy. In his work on sexuality and immigration status in modern Germany, anthropologist Damani Partridge has identified this configuration of the state and marginal others as “exclusionary incorporation.” In this relationship, the liberal state offers marginal subjects a limited stake in the status quo to render them legally legible and also neutralize the threat they pose. In the settler context, American Indians bring into conflict the twin liberal impulses toward maintaining the rule of law and crafting homogenous, unmarked citizen-subjects. The disunited federal agencies reconciled this paradox in different ways. Whereas the Office for Civil Rights at HEW actively dismissed Lumbees’ appeals for exemption from Robeson County’s desegregation plan, other agencies—including the Office of Education, another division within HEW—funded the LRDA and the nominally desegregated Robeson County public schools from appropriations specifically set aside for American Indians. The decisive and disproportionate FBI response to the bombastic Howard Brooks and his motley crew of out-of-state AIMster braggarts, bored Indian teenagers, and septua- and octogenarians suggested serious ideological concern about their political claims. Separately and haltingly, the manifold components of the federal government used Robeson County as a testing ground as they stumbled toward a solution to the problems Indians presented for the colorblind turn.⁶

⁶ Damani J. Partridge, *Hypersexuality and Headscarves: Race, Sex, and Citizenship in the New Germany* (Bloomington: Indiana University Press, 2012), 19-23.

*
**

All hell broke loose for Danford Dial on the morning of August 31, 1971, the first day of the school year after the county acquiesced to HEW's desegregation plan. Dial, the principal of Prospect High School, was in his office when he first heard the chants and jeers from a group of Indian parents protesting in the school parking lot. What began as mere shouting threatened to turn violent. After attempting to pull two newly reassigned African American teachers from their vehicles, the parents rushed toward the arriving school buses carrying the school's first nominally integrated group of students. After Principal Dial frustrated these efforts by directing bus drivers not to stop, the protestors stormed the classrooms and hurled threats at the new faculty members. The teachers fled to the principal's office, where Dial stood between them and the Indian parents. He pleaded with the crowd, telling them that "[y]ou cannot hurt these people... They were sent here, and they have to work just like everyone else does." When the protestors refused to relent, he escorted the black teachers to their cars and offered his apologies. He returned to the crowd of Indian parents and tearfully announced his resignation. Stunned, the Indian parents dispersed, but desegregation continued unabated.⁷

Although the dramatic confrontation between Dial and the Indian protestors mirrored widespread white opposition to busing and African American civil rights gains, the historical role of the Indian schools as an arm of tribal government informed the protests at least as much as anti-black prejudice. Failing to grasp this context, local and national media folded the Prospect High School demonstration into a general anti-busing narrative. One local paper noted that Lumbees "were particularly opposed to their children going to school with blacks," and a

⁷Danford Dial, interview by Dexter Brooks, 1 August, 1972, SPOHP.

northern publication tacked the Prospect incident onto an unrelated story about white protestors burning buses in Pontiac, Michigan. Lumbee participants in the drama, however, told a more complicated story that acknowledged both the genuine racial hostility and outrage at federal tampering with Indian self-government. Danford Dial insisted that Indian parents were primarily concerned with maintaining the school's distinctively Indian character of the school and equally opposed to integration with white students. The county school board, however, had ensured that the burden of desegregating Indian schools fell disproportionately on black teachers and students. The parents' specific targeting of teachers suggested that they viewed the incursion of non-Indian leadership as a particularly potent threat. Lumbee opposition to school desegregation was not merely a red-tinted reflection of the white anti-busing movement, but a more complicated confrontation with federal Indian policy and postwar liberalism.⁸

HEW administrators determined to bring Robeson County's long-ignored Indian schools into the colorblind mainstream after its 1968 survey of racial isolation in minority students turned up astronomical segregation rates among Native students in North Carolina. In the report's demographic findings, North Carolina reported by far the largest total of American Indian students among eastern states—14,021—and trailed only Oklahoma, New Mexico, South Dakota, and Arizona. By proportion, the state ranked seventh nationally. Because the state's substantial indigenous population reduced the very relevant threat of sampling error, HEW staffers were particularly alarmed at rate at which Indian students attended "hyper-segregated" schools, or those with ninety-five to one hundred percent minority enrollment. In North Carolina,

⁸ Matthew Lassiter, "The Suburban Origins of Colorblind Conservatism," 549-82; "Disgruntled Parents Disrupt N.C. School," *The Dispatch (Lexington, NC)*, 31 August, 1971; "10 Michigan Buses Burned," *Bangor Daily News*, 1 September, 1971.

just over three-quarters of Indian students attended such schools, a far higher proportion than any other state. In Texas and South Dakota, the next most serious offenders, the figure was just over fifty percent. Indeed, Indian segregation rates in North Carolina exceeded even the dismal figures for African American students, just over two-thirds of whom attended hyper-segregated schools. Because counties like Harnett and Sampson had far smaller Indian populations and had partially or fully desegregated in the 1960s, Robeson overwhelmingly accounted for these state-level figures, and HEW administrators reacted accordingly. Within months of publishing the survey analysis in early 1970, the agency had negotiated a voluntary desegregation plan with the county school board for the upcoming academic year.⁹

Immediately before in 1970, Helen Scheirbeck protested from within HEW as the Office of Education's director for American Indians, critiquing the department's one-size-fits-all, colorblind approach to a unique racial problem. In an eleventh-hour memorandum circulated to officials at various divisions of HEW as well as the NCIO, Scheirbeck pleaded for a special exemption for Lumbee students and wrote that "the right to maintain their own school system is basic for Indian people." Disputing the notion that segregation represented a burden for Lumbee students, she noted that the schools embodied "the hard work of the Lumbee people themselves" that desegregation would dissolve and functionally turn over to white people. In a tacit reference to the discredited termination ideology of two decades prior, Scheirbeck argued that Indians "must be permitted...to organize and maintain their identity until they feel free to move in other directions," and that to do otherwise "will thwart the true meaning of democracy." Perhaps anticipating administrative resistance to her people's request for special status, she turned to

⁹Table 1-A, *HEW News*, 4 January 1970, folder CR 5-1, box 522, RG 12, Entry 122, NARA; Table 1-C, *HEW News*, 4 January 1970, folder CR 5-1, box 522, RG 12, Entry 122, NARA.

practical considerations in an ominous closing statement that correctly predicted “widespread violence” and “massive sit-in[s]” if HEW did not revise its plan. Although Scheirbeck had doubtless attempted to bend her superiors’ ears during the drafting process for the desegregation plan, her final desperate plea came only days before the scheduled start of the academic year, and her colleagues simply ignored it. In an unusual move, she leaked her missive to the press, and it appeared in both local papers and ultimately the *New York Times*. Despite widespread publicity, her plea did little more than register the dissent of HEW’s top Indian affairs official to the destructive potential of the agency’s actions: the director issued only a tepid statement claiming that the agency was working “through diplomatic... political... and legal channels” to head off the threat of violence. Unlike Indian schools on federal reservations, Lumbee schools were under state, rather than BIA, jurisdiction and therefore subject to HEW’s enforcement of Title IV of the Civil Rights Act. Scheirbeck’s immediate superiors lacked the intellectual or legal framework to distinguish between garden-variety Southern segregation and the more benign version integral to Lumbee peoplehood.¹⁰

In a letter that Scheirbeck enclosed with her own scathing memorandum, former Prospect School principal Danford Dial outlined the unfairness of federal desegregation efforts and expressed his implicit sense of the Indian schools as an essential component of Lumbees’ tribal government and distinct peoplehood. Dial argued that “[t]he Federal Government, which refused to assist us in the construction and maintenance of these schools originally, compelling us to build... our own with the assistance of the State of North Carolina, [is] now ready to take them away from us.” In repeatedly denying Lumbees the recognized status and educational assistance

¹⁰“H.E.W. Aide Backs Indians’ Schools: Fears Violence if Tribe is Forced to Desegregate,” *New York Times*, 8 September 1970 in folder ED 7-1, box 524, RG 12, Entry 122, NARA.

they had repeatedly requested since the 1890s, federal authorities had essentially driven Indians, Dial argued, into the arms of the North Carolina segregation regime that they now sought to dismantle. Without the shield of federal acknowledgment, Lumbees and their segregated institutions were vulnerable to federal action.¹¹

At HEW's Office for Civil Rights (OCR), administrators dismissed Indian assertions about the centrality of segregated schools to indigenous self-government, in part because white Robeson school officials co-opted Indian opposition as a pretext for creative foot-dragging. In an application for continued funding under the Emergency School Assistance Plan (ESAP) for school systems carrying out desegregation plans, Superintendent Young Allen and school board chairman Albert McCormick both cited the county's "unique" tri-racial makeup and "complex" desegregation process as reasons for their failure to achieve racial balance in the schools' student bodies and faculties. The first ESAP disbursement had infused over a quarter of a million dollars in federal assistance into Robeson County, and white school officials recognized the dire need for ESAP-II in what was by most metrics the poorest county in North Carolina and one of the poorest in the United States. A 1968 commission report from the governor's office found Robeson County dead last among the state's one hundred counties in its tax base relative to school population, and recent official figures pegged per-pupil spending from local sources at less than one-third of the state average in a state nationally infamous for its rural poverty and substandard educational funding. In light of these dismal numbers, McCormick used capital letters to heap praise on the 1970-71 ESAP grant and its "MIRACULOUS EFFECTS... IN WHAT IS PROBABLY ONE OF THE NATION'S MOST COMPLEX RACIAL

¹¹Ibid.

SITUATIONS.” To explain what they undoubtedly understood were substandard integration results, Young and McCormick cited the county’s racial, geographic, and political dynamics and subtly shifted blame onto Indians. McCormick reported that the county board had been “required to call on state police to give aid in the opening of one school in the fall of 1971” and was “still experiencing *great difficulty* in getting teachers to work in schools of predominantly or historically another race,” both veiled references to Indian resistance (emphasis original). Off the record, Superintendent Allen was more straightforward in his scapegoating of Indian students, parents, and teachers. The unimpressed Office for Civil Rights reviewer for their case complained that “[t]he superintendent has repeatedly insisted that the problem [was] that the Indian teachers refuse to move or that the white and black teachers are afraid (fear of bodily harm) to move to the Indian school[s].” Allen also cited the threat of “mass resignations” if desegregation proceeded too quickly.¹²

The “tri-racial situation” and Indian opposition to desegregation provided cover for Superintendent Allen and the school board as they endeavored to limit the impact of the plan on white schools and communities while minimizing the outrage of the district’s sizable Indian minority. In addition to their three-way racial separation, Robeson’s schools were also divided between the rural county school district and five independent municipal school districts for Lumberton, Red Springs, Maxton, Fairmont, and St. Paul. These municipal districts served majority-white towns with mostly black minority populations, whereas the overwhelming majority of Indian students attended the county schools. In his ESAP funding application,

¹² W. Albert McCormick, Jr., “Pertinent Facts Relative to the Robeson County School District,” no date, attached in Y.H. Allen to John R. Lovegrove, 24 September 1971, box 72, folder “Robeson County Schools: Lumberton, North Carolina,” Office of Civil Rights: Emergency School Assistance Program, RG 12, NARA-Atlanta.

Chairman McCormick argued that these divisions “complicate[d] greatly the desegregation problem” and reported that the county schools “were experiencing white flight” that heightened demographic cleavages. Although the chairman alleged that “all possible is being done and must continue to be done to halt” the relocation of white families to within municipal boundaries, the methods he and his colleagues employed hardly satisfied the Office for Civil Rights. Indeed, their solution seemed to consist mainly in limiting the influx of minority students and massaging faculty transfers to assuage the fears of white parents and teachers. OCR’s year-by-year demographic breakdowns for the county schools suggest a particular reluctance to assign black students to white schools or white teachers to Indian schools. Conversely, the board tried to meet quotas at white schools with Indian students and black faculty. These strategies minimized the emotional impact of desegregation by catering to white prejudices and predilections in the tri-racial environment. Since the late 1950s and early 1960s, white people in southeastern North Carolina had consistently shown greater willingness to accept Indian than black students. Almost immediately after token desegregation in the mid-1950s, white public universities began accepting Indian students, who reported far less hostility on campus than their black peers. And after their protracted court battle ended in 1963, Indian students entered Dunn High School without incident and quickly integrated into student life. Into the 1970s, however, whites disdained Indian teachers, questioning their qualifications and heaping derision on their unusual dialect of English. For example, McCormick noted that “[m]any teachers of all races have been educated in elementary, secondary, and... in colleges within the county... thereby bringing about educational [provincialism] to some degree.” Despite his careful elision of racial language, the chairman clearly had Indian teachers in mind—Pembroke State was the only college in the county, and virtually all Indian teachers trained there. By contrast, the possibility of African

Americans, and especially black women, as teachers fit relatively easily into the white schema of blacks as nurturers.¹³

Demographic data on the initial implementation of the desegregation plan suggested that Robeson County officials crafted school assignments on this three-dimensional chessboard of racial animosity, positive stereotyping, and paternalistic horse-trading. The most extreme example was Allenton School, an historically white school institution located in a sliver of unincorporated land outside Lumberton. After a year under the desegregation plan, Allenton's student body had 325 white students and 160 Indians, but only five black children, despite Lumberton's significant black population. Although the OCR found the school's faculty roughly in compliance with the *Singleton* Ratio, administrators noted a surplus of nine white teachers and a deficit of eight Indian ones. All seven of the county's formerly white county schools had deficits of between five and fifteen Indian teachers, whereas most at least approached compliance in hiring black faculty. Only one formerly black school had even remotely representative ratios of white teachers or students. The burden of desegregating black schools fell overwhelmingly on Indian students.¹⁴

In return for deploying Indian children to the front lines of desegregation, the board left the racial composition of most Indian schools relatively intact. All retained Indian principals, disproportionately Indian faculties, and majority-Indian student bodies, sometimes to stunning degrees. Prospect School claimed thirty-seven Indian teachers with only two black and one

¹³ *Janie Maynor Locklear, et al. v. North Carolina State Board of Elections, et al.*, 23 April 1975 in box 72, folder "Red Springs City Schools: Red Springs, North Carolina," Office of Civil Rights Emergency: School Assistance Program, RG 12, NARA-Atlanta; "Student-Teacher Assignment by Race, 1971-72," no date, 1972, Office of Civil Rights: Emergency School Assistance Program, RG 12, NARA-Atlanta; "Student-Teacher Assignment by Race – Varies (+) or (-) from *Singleton* ratio," no date, 1972, box 72, folder "Robeson County Schools: Lumberton, North Carolina," Office of Civil Rights: Emergency School Assistance Program, RG 12, NARA-Atlanta.

¹⁴ *Ibid.*

white; its student body comprised 890 Indians, with only seven white and three black students. Indeed, as these figures suggested, Indian anger at the HEW plan stemmed not only from the loss of schools as important Indian tribal institutions, but also from the unfair burden that the school board displaced onto Indian children as agents of desegregation.¹⁵

Unimpressed by local officials' excuses and unsympathetic to this delicate racial calculus, the Office for Civil Rights rejected the school board's ESAP-II application. The OCR auditor, Joe Wilson, excoriated the district in a memorandum to North Carolina's local coordinator. He complained that since the previous school year, twenty of the district's twenty-five schools, instead of moving toward racial balance, had in fact hired *additional* teachers of the school's historical race. Only one had achieved the *Singleton* ratio. He also breezily dismissed Superintendent Allen's excuse that Indian teachers, students, and parents were too intransigent, frightening, and violent for his board to implement the plan on schedule. He noted that only two of eleven non-Indian schools, both white and black, had the appropriate racial balance on their faculties, and that every single principal in the district was of the same race as in 1968. Despite more than a quarter-million dollars in federal assistance, Wilson argued that "[t]here is no evidence to show funds assisted... in efforts to desegregate facilities." In a dry bureaucratic joke, he questioned whether "enough money is available" in the entire ESAP program "to achieve faculty desegregation in Robeson County." He recommended that HEW withhold funding, which the OCR director approved in October 1972.¹⁶

¹⁵ Ibid.

¹⁶ Joe R. Wilson, "ESAP 1971-72 OCR Clearance Form," 28 September 1971; Joe R. Wilson to W. Lamar Clements, "Robeson County, N.C. ESAP-II application 43-76," 1 October 1971, box 72, folder "Robeson County Schools: Lumberton, North Carolina," Office of Civil Rights: Emergency School Assistance Program, RG 12, NARA-Atlanta.

Slow-moving targets like Superintendent Young Allen and Chairman Albert McCormick allowed OCR to overlook the uniquely complicated dynamics of Lumbee school desegregation and instead see typical Southern white racism in need of boilerplate remedies. From his air-conditioned office in Atlanta, Joe Wilson had little reason to differentiate the good-ole-boy shenanigans that produced token desegregation at Allenton from the decades-old tradition of indigenous self-government that kept Prospect School 98.9 percent Indian. Looking at the same figures for the same schools, Wilson and the OCR staff in Atlanta saw clear compliance issues; in Lumberton, Allen and McCormick saw a declining rural tax base and a looming race war; and in Prospect and Pembroke, Indian parents and teachers saw the end of an epoch of self-governance and a threat to their distinct peoplehood. By near-universal proclamation, Young Allen was a bigot and a buffoon, but his blame-shifting protestations contained kernels of truth about a situation he confronted in ways that Wilson did not and which led him to a different understanding of what was and was not possible.

As the Office of Civil Rights oversaw the dismantlement of the Indian schools, a separate division of HEW, the Office of Education (OE), indirectly refashioned Lumbee tribal government with the implantation of the Indian Education Act. In 1969, the Senate Special Subcommittee on Indian Education, chaired by Massachusetts Senator Edward Kennedy, issued a scathing report on the administration of Indian education. Pressured to address its shortcomings, the Bureau of Indian Affairs looked to cooperation with HEW to supplement its inadequate education staff and eliminate redundancy, and in 1970 the two agencies joined with NCIO to launch a task force on Indian education. President Richard Nixon's July message to Congress endorsing self-determination and reinvigorated federal support created political urgency for the new task force's mission. Early in this cooperative process, HEW officials

recognized that “educational services... are not generally available to Indians who have left their Native communities” and took an interest in providing services for urban Indians and other indigenous peoples outside the bureau’s jurisdiction. In planning for Fiscal Year 1971, HEW’s secretary endorsed a task force proposal to commit department resources to vocational training for urban Indians. Encouraged by these initial experiments in the administration of Indian programs outside the BIA, Senator Kennedy and other lawmakers assigned HEW with the responsibility to administer the landmark Indian Education Act, passed as Title IV of the 1972 Education Amendments and which provided federal assistance for public schools and tribes to provide educational programming catered to Indian students’ specific cultural and socioeconomic needs. In addition to its administrative home in HEW rather than Interior, the IEA included a broad statutory definition of “Indian” calculated to cover urban migrants and other groups underserved by the BIA. In addition to granting broad discretion over eligibility to the commissioner of HEW’s newly authorized Office of Indian Education, the IEA definition specifically included terminated and state-recognized tribes, Alaska Natives, and all children and grandchildren of eligible persons. This inclusive language ultimately allowed the department to disburse IEA funding for Lumbee students to both the Robeson County public schools and LRDA. The IEA provided a rare opportunity for Lumbees to collect federal largesse and created a new category of Indian legislation targeted at underserved and excluded groups and administered outside the BIA.¹⁷

¹⁷ Helen Maynor Scheirbeck to Dick Hays, “Special Education Subcommittee of National Council on Indian Opportunity,” 21 October 1970, box 524, folder 7-1, A1, Entry 122, RG 12, NARA-II; “The Federal Education Program for American Indians,” no date, circa 1970, box 524, folder 7-1, A1, Entry 122, RG 12, NARA-II; Elliot L. Richardson to Leonard Garment, “Urban Indians,” 6 July 1970, box 524, folder 7-1, A1, Entry 122, RG 12, NARA-II.

As OE's Indian affairs director, Helen Scheirbeck oversaw the implementation of IEA and helped direct benefits to her fellow Lumbees, a lifeline that revitalized struggling Indian tribal institutions. Scheirbeck joined HEW in 1968, when the department was first exploring interagency cooperation with the BIA. Scheirbeck served on the early task forces on service delivery to urban and non-reservation Indians, and she testified before the Senate as it drafted the Indian Education Act. Reserved and tersely bureaucratic in her official communications, she was assertive and infectiously energetic in person, and the gravity of her intellect and personality probably influenced the agency's position on Lumbee eligibility. In the mid-1970s, after officials from recognized groups had soured on the IEA for its circumvention of tribal authority, detractors painted Scheirbeck as a Lumbee chauvinist bent on illegally redirecting funds from federally acknowledged tribes. In reality, Scheirbeck's professional decorum rarely wavered; her frantic phone calls and letters of protest after desegregation in Robeson County were an exception fueled by intense pressure from home. In shaping the administration of the IEA, she ensured access to non-recognized Indians in accordance with the statutory language and ensured vigorous Lumbee participation by keeping in contact with her colleagues in Pembroke. Lumbee applicants were always aware of deadlines and well-versed in the agency's expectations, substantial but hardly nefarious advantages. Although most IEA grants went to the Robeson County public schools, the legislation also boosted the struggling Lumbee Regional Development Association and jumpstarted its transformation into a tribal government... Grants from other agencies eventually far exceeded HEW's contributions to LRDA's budget, but the

IEA kept the organization afloat during some of its leanest years and established a precedent for Lumbee eligibility for non-BIA funding that other administrators followed.¹⁸

In a starkly different response to the desegregation of the Indian school system, a group of Robeson County Indians known as the Original Twenty-Two bypassed the emerging Lumbee establishment and attempted to invoke their long-forgotten status under the 1934 Indian Reorganization Act (IRA) to forge a direct relationship with the federal government. The final section of the IRA defined the term “Indian” to include “members of any recognized Indian tribe now under Federal jurisdiction,” the descendants of such Indians living on reservation land, Alaska Natives, and—curiously—“all other persons one-half or more Indian blood.” The Office of Indian Affairs (OIA) interpreted this provision to cover detribalized, individual Indians, regardless of the recognition status of their communities or formal documentation of blood quantum. To determine whether undocumented claimants met the required half-blood status, OIA relied on expert anthropometry analysis, or the pseudoscientific measure of physical traits such as skull protrusions, hair texture, and tooth recesses. At the request of Robeson County Indian leaders, the office dispatched anthropologist Carl Seltzer to Robeson County in 1936. After collecting the measurements of roughly two hundred volunteers, Seltzer deemed nineteen to possess the requisite blood quantum, and the subsequent addition of qualified relatives brought the total to twenty-two. Despite the scientific dubiousness of these claims—Seltzer’s tests determined some full siblings to possess different blood quanta—these twenty-two “half-bloods” became the only subset of the Robeson County community certified for Department of Interior

¹⁸ Helen Maynor Scheirbeck, Professional Curriculum Vitae, no date, circa 1980s, box 58, folder 489, Scheirbeck Papers; US Congress, Senate, *Hearings before the Subcommittee on Education of the Committee on Labor and Public Welfare*, 92nd Cong., 1st sess., 28-9 April and 6 May 1971, 1720-5.

services for Indians. After an initial flurry, the group's correspondence with the OIA trailed off, and none of its members received the promised assistance. Because the twenty-two hailed primarily from the most rural and impoverished corners of the Indian community, they lacked the resources, spare time, and formal education to interface with the federal bureaucracy. Furthermore, the IRA provided no concrete procedure for enrolling detribalized half-blood Indians for benefits, and the Office of Indian Affairs demonstrated little initiative in implementing one.¹⁹

Long after Robeson County's certified half-bloods had faded from Washington's short institutional memory, however, memory and oral tradition of the federal government's unfulfilled promises persisted among participants in what was locally known as the "blood test." Inspired by heightened national visibility of pan-tribal American Indian protest movements, members of the Original Twenty-Two renewed their push for federal recognition with support from their descendants and community leaders. Although the half-bloods and their supporters nominally campaigned for the long-overdue disbursement of their IRA benefits, their diffuse movement also sharply protested the dismantlement of the Indian schools and the perceived failures of the "Lumbee" leadership class, whom they blamed for the toothless recognition of the 1956 Lumbee Act. To differentiate themselves from middle-class political opponents like Helen Scheirbeck and Bruce Jones, the Original Twenty-Two and their comrades adopted the name "Tuscarora," a reference both to the plausible theory of descent from remnants from the

¹⁹ Lowery, "Coming Together" and "Measuring Identity" in *Lumbee Indians in the Jim Crow South*, 19-54, 181-212; R.M. Pennington to Carnell Locklear, 29 November 1971, box 67, folder "North Carolina Indians," Records of the National Council on Indian Opportunity, RG 0220, NARA II.

Carolinas' eighteenth-century Tuscarora population, as well as the group's more recent intertribal connections.²⁰

Acutely aware that the locus of settler power had shifted to Washington, the Tuscaroras' elected representative, Carnell Locklear, peppered the federal Indian affairs bureaucracy with pleas for assistance; only the newly formed National Council on Indian Opportunity (NCIO), with its relatively capacious mandate, responded in good faith. Established as part of Lyndon Johnson's pivot from termination policy, the NCIO nominally promoted economic development in Indian Country and fostered interagency cooperation on Indian affairs, but the organization had little actual authority. Executive Director Bob Robertson, a white political appointee, and the Indian members of the council like Dale Wing, a Fort Peck Sioux and labor expert, made a strength of their organization's toothlessness. Relatively untethered from congressional appropriations and stakeholder concerns, the NCIO leadership advocated for marginalized, underserved Indian groups in ways that sometimes subverted the BIA's priorities and authority. After meeting with Carnell Locklear and other Tuscarora leaders in November of 1971, one member of the NCIO staff drew up a memorandum in support of the group's efforts to achieve federal acknowledgment. The document outlined a strategy culminating in the development of "an Indian Reorganization Act constitution and bylaws" and suggested that the group refer to themselves as the East Carolina Indian Community. As a first step, the NCIO staff recommended forming a "temporary organizational committee" of the surviving Original Twenty-Two and their blood relatives. Working under a broad reading of the IRA, the NCIO expressed optimism not only about the Original Twenty-Two's prospects for recognition, but also that group's status

²⁰ Ibid; Gerald Sider, *Living Indian Histories*, Lx-lxiii

could open the door for “*all* Indian people in Robeson County and the surrounding area” (emphasis original). The council also explored options for securing a tract of land and petitioning the Secretary of Interior to place in trust as a reservation, a precondition for submitting a tribal constitution under the IRA. Such expansiveness put NCIO at odds with conservative career bureaucratic elements of the BIA. As the NCIO stoked Tuscarora optimism, the bureau’s solicitor was busily drafting an opinion specifying that IRA-designated half-blood Indians were eligible only for limited federal services, not incorporation or acknowledgment as a tribe.²¹

NCIO officers exuded a liberal faith in constitutional government, a remedy they eagerly applied to the rupture that the Original Twenty-Two threatened to create in federal Indian jurisdiction. Despite consistent opposition to an IRA constitution for the certified half-bloods from their BIA counterparts, NCIO administrators continued to push the Tuscaroras toward adopting the trappings of constitutional tribal government, which helped render the group’s claims legible to federal authorities and placed reassuring limits on their expressions of sovereignty. As a further step toward rationalizing the federal relationship with the Original Twenty-Two, Director Robertson contacted the Office of Economic Opportunity (OEO) about legal representation for Carnell Locklear’s band of Tuscaroras, who increasingly styled themselves as the East Carolina Indian Community (ECIC) on the recommendation of NCIO. In January of 1972, NCIO contacted the OEO director, who in turn directed his legal services office to dispatch an attorney to Robeson County. After initial discussions with Carnell Locklear and other ECIC leaders, the staff felt that the meeting was productive enough to warrant a second

²¹ Thomas Britten, *The National Council on Indian Opportunity: Quiet Champion of Self-Determination* (Albuquerque: University of New Mexico Press, 2014), 69-80. R.M. Pennington to Carnell Locklear, 29 November 1971, box 67, folder “North Carolina Indians,” Records of the National Council on Indian Opportunity, RG 0220, NARA II

visit in February. These discussions ultimately led the ECIC to retain Thomas Tureen, a nationally renowned Indian rights attorney based in Maine. Tureen represented the surviving certified half-bloods as they sued the Department of the Interior to restore their long-denied benefits, a dispute that dragged on until 1975. His legal firm also helped ECIC draft a tribal constitution and prepare to file it in accordance with the IRA. Whereas the forebears of the Tuscarora movement, Jack and Benny Locklear, faced ridicule and dismissal in the early 1960s as they struggled to articulate their credible claims in the language of white officialdom, Carnell Locklear's organization wielded more sophisticated tools for interfacing with settler power. Thanks in large part to the sympathetic efforts of the NCIO leadership, ECIC could communicate with the federal bureaucracy and judiciary in ways that eluded the Locklear brothers.²²

NCIO leadership also recognized the cleavages between Tuscaroras and the Lumbee establishment, and its members resisted efforts by the Washington Group of Lumbees to assert influence. Although Assistant Director Dale Wing initially notified Helen Scheirbeck of NCIO's November meeting with the Tuscaroras and asked for assistance in gathering information, the NCIO staff grew to appreciate the resentment that Locklear's group felt toward educated Lumbee elites. In February, as the NCIO's involvement in the Tuscarora case deepened, Scheirbeck sent a letter to Director Bob Robertson expressing that she was "extremely concerned over the lack of clarity surrounding the issues involved" in the Tuscarora case and particularly about "the apparent misinformation given by certain Bureau of Indian Affairs staff" to Carnell Locklear and his associates. Always cautious in official communications, she declined to state her concerns more specifically, but the BIA had recently released documents related to the

²² Philip V. Sanchez to Robert Robertson, 17 February 1972, box 56, folder "North Carolina Indians," Records of the National Council on Indian Opportunity, RG 0220, NARA II.

Original Twenty-Two at the behest of NCIO, and Scheirbeck may have worried that these actions would encourage the Tuscarora splinter movement. Dating back to her interactions with Jack and Benny Locklear, Scheirbeck had generally discouraged “swamp Indian” insurrections and urged unity, implicitly under the Lumbee banner. She urged Robertson to convene an emergency meeting with Washington Group heavyweights. The director acknowledged the “confusion surrounding the entire matter” but demurred in calling a meeting until NCIO had completed its fact-finding mission and come to independent conclusions.²³

To investigate the claims of the Original Twenty-Two and their Tuscarora allies, the BIA and NCIO dispatched personnel to Robeson County on a joint advisory and fact-finding mission. The BIA selected Stephen Feraca, a white career bureaucrat with over fifteen years of experience with the bureau. An Ivy League-trained anthropologist and entrenched member of the Washington office, Feraca held a narrow view of Indian identity that served to protect both the limited resources of his agency, as well as his job security amid the increasing prevalence of well-educated “mixed-bloods,” as he called them, eligible for preferential hiring. After retiring from the bureau in the 1980s, he entered academe and wrote an embittered screed on the BIA’s Indian preference policy, which Native studies scholar Joane Nagel described as “a particularly virulent challenge to the ethnic authenticity of a variety of American Indian individuals and groups.” Choctaw historian Devon Mihesuah sardonically noted Feraca’s belief “that no Indian really knows anything about Indians and... should be trained before they are allowed to be employed by the BIA—preferably by Feraca.” In its interagency coordinating role, NCIO

²³ Helen Scheirbeck to Robert Robertson, 28 February 1972; Robert Robertson to Helen Scheirbeck, 10 March 1972, box 56, folder “North Carolina Indians,” Records of the National Council on Indian Opportunity, RG 0220, NARA II.

selected a Colonel Locklear, a Lumbee and employee of the Department of Agriculture, to be Feraca's cultural guide and political advisor. Because Locklear worked outside the direct sphere of Indian affairs and was not closely affiliated with the Scheirbeck-led Washington Group, Locklear was as neutral an arbiter as NCIO was likely to find. Feraca, however, seemingly ignored Locklear and scarcely mentioned him in the final report, a likely reflection of his esteem for Indian expertise and his agency's for NCIO's judgment.²⁴

Despite NCIO's good-faith assistance and optimistic encouragement, the BIA's problematic legal reasoning and exclusionary agenda twisted the joint fact-finding mission into an antagonistic posture, stoking Tuscarora outrage and deepening divisions in the Robeson County Indian community. Shortly before Stephen Feraca left Washington, the Interior Department's solicitor rejected the legal basis for ECIC's recognition strategy in an opinion that cited both the IRA and the Lumbee Act. This recourse to the Lumbee Act to buttress the bureau's position was not only legally dubious and potentially inflammatory, but also largely superfluous. The Twenty-Two sought benefits under Section 19 of the IRA, which distinguished between tribes and legally "Indian" half-blood individuals. As recognized Indian individuals, members of the Original Twenty-Two were eligible for IRA-defined benefits, like Indian preference for BIA positions, and possibly certain other benefits, such as access to Indian Health Services facilities; however, the provisions on tribal constitutions applied exclusively to tribes, not individual Indians, and seemingly required reservation land. Barring a decision by the Interior secretary to

²⁴Steve Kruse to Dale Wing, "Eastern Carolina Indian Community," 16 March 1972, box 56, folder "North Carolina Indians," Records of the National Council on Indian Opportunity, RG 0220, NARA II; Steve Feraca to Bob Robertson, 14 March 1972, box 54, folder "Lumbees," Records of the National Council on Indian Opportunity, RG 0220, NARA II; Joane Nagel, *American Indian Ethnic Renewal: Red Power and the Resurgence of Identity and Culture* (New York: Oxford University Press, 1997), 249, footnote 11; Devon Abbott Mihesuah, *Natives and Academics: Researching and Writing about American Indians* (Lincoln: University of Nebraska Press, 1998), 80.

place new reservation land in trust for the Tuscaroras, the statutory language provided the BIA with ample basis to reject the constitution and petition that Tureen had drafted on ECIC's behalf. Apparently, BIA administrators worried that any concessions to even this tiny subset of the Robeson County Indian community risked eventual Lumbee acknowledgment, and the Interior Department's legal staff determined that the Original Twenty-Two were legally considered Lumbees under the 1956 Lumbee Act, which had implicitly repealed their half-blood status under the IRA. Because federal courts consistently frowned on claims to implicit repeal, the Interior Department's willingness to play a weak legal hand to deny limited benefits to a group numbering less than a dozen demonstrated the agency's hostility. Invoking the Lumbee Act in this context also threatened to exacerbate deeply held Tuscarora resentment of middle-class Lumbees. Although the Lumbee movement emanated from the rural Brooks Settlement during the late 1940s, early supporters grew to resent "town" Indians' co-option of the name, particularly after the Lumbee Act failed to produce tangible benefits for the poor rural communities that needed them most. From the Locklear brothers' short-lived "Pamunkey" organization to the ECIC, an entire tradition of insurgent "swamp Indian" political movements emerged around the rejection of the Lumbee name, but Indian affairs authorities consistently rebuffed them and elevated the voices of more educated, polite, and affluent "Lumbees" as representatives of the entire group. When the BIA's Stephen Feraca came to Robeson County in 1972, he brought this same elite attitude and a preliminary solicitor's opinion tailor-made to inflame long-simmering divisions between "town" and "swamp" Indians in Robeson County.²⁵

²⁵ Ibid; Lowery, "Recognizing the Lumbee" in *Lumbee Indians in the Jim Crow South*, 213-250.

As if magnetically attracted to controversy, BIA representative Stephen Feraca almost immediately pressured ECIC representatives to subsume their unique historical claims under LRDA leadership. In “preliminary but very intense discussions,” Carnell Locklear and his colleagues bristled when Feraca repeatedly and forcefully suggested they “establish close relations with the Lumbee Regional Development Association.” Feraca emphasized that “unlike the ECIC[,] [the LRDA] is an incorporated entity” with “public membership” and a state-issued nonprofit charter. Given that the bureau also refused to recognize LRDA, however, the agent’s insistence suggested a keener interest in advancing the bureau’s legal position than in genuinely helping his Tuscarora hosts. Because LRDA embraced the Lumbee designation and accepted the 1956 termination clause, Feraca likely hoped to convince the ECIC and Original Twenty-Two to join with them and implicitly relinquish their worrisome claims to federal acknowledgment under the IRA. As a fallback, he hoped to convince them that pursuit of those claims was futile and therefore to settle for separate-but-equal tribal status as a state-chartered nonprofit corporation eligible for “Federal funds derived from other than Indian appropriations.”²⁶

When Feraca finally revealed the content of the Interior solicitor’s opinion, he made his announcement in the most damaging setting imaginable: a joint meeting of ECIC and LRDA officials. Whether out of politeness or simple resignation, Carnell Locklear and his colleagues acquiesced to the proposed meeting. Jammed uncomfortably together in a small meeting space in Pembroke, ECIC and LRDA officials listened to Feraca drone on about the Indian Reorganization Act and his agency’s history with the Original Twenty-Two. After reviewing the ECIC’s draft constitution, the pasty-faced mandarin declared that “the Bureau had already

²⁶ Steve Feraca to Bob Robertson, 14 March 1972, box 54, folder “Lumbees,” Records of the National Council on Indian Opportunity, RG 0220, NARA II.

concluded” that “until and unless the Lumbee Act of 1956 is amended,” it would reject the constitution and application. “A letter to this effect is presently under preparation in the Bureau,” he said in reference to the preliminary solicitor’s opinion, “and there is little doubt that it will be signed.” Feraca explained that “although in 1938 some twenty-two residents were designated one-half or more Indian under the IRA, the 1956 Lumbee Act included such persons in providing that ‘Lumbee Indians’ are denied special Federal services and recognition.” By invoking the termination language of the 1956 act, Feraca argued that his agency’s hands were tied and subtly directed Tuscarora anger away from the bureau and toward their Lumbee counterparts.²⁷

In a final meeting before departing for Washington, Feraca reminded frustrated Tuscarora leaders that their group was still eligible for assistance from NCIO, a hollow gesture that typified BIA’s increasing abdication of its Indian affairs responsibilities to other agencies. After suggesting that ECIC redraft its proposed IRA constitution as a state charter, Feraca—an ardent devotee of the passive voice—reported that “it was explained [to Carnell Locklear] that the guidance of such federal agencies as NCIO is available to them as a state chartered, non-profit Indian organization.” In 1972, such advice clearly conferred a second-class tribal status, but as the decade wore on, new legislation created Indian-specific programs under a growing array of federal agencies, where administrators adopted broader definitions of legal Indianness than their BIA counterparts.²⁸

*
**

²⁷ Ibid.

²⁸ Ibid.

In the early 1970s, Howard Brooks left his longtime adopted city of Detroit and returned home to Robeson County, where he channeled his urban experiences into leadership of a militant movement against desegregation. Brooks had worked as a die-setter at the Chevrolet Gear and Axle plant on Nine Mile Road since 1955, and he loved both the intellectual challenge of casting automotive molds and the bustling cosmopolitanism of his adopted city. By the late 1960s, however, Detroit struggled with white flight, a declining tax base, the over-extension of city services, and aggressive new policing tactics aimed at curbing a thriving underground drug economy. Tensions between black neighborhoods and the overwhelmingly white Detroit police boiled over in the 1967 Detroit Rebellion, a devastating race riot that left forty-three dead, hundreds wounded, and thousands in jail. Brooks lived on Brooklyn Street, only a few blocks south of the initial flashpoint, and was no stranger to police harassment: he amassed more a dozen unpaid traffic tickets during his time in Detroit and had spent the night in jail after a bar fight in the late 1950s. Although he sympathized with his black neighbors and pointedly refused to flee to the suburbs, he worried about his teenage daughter, found himself returning home more often to care for his aging parents, and had begun to confront middle age as an industrial worker. By his forty-fifth birthday, he had already undergone four surgeries for work-related injuries. “Factory’ll kill you if you stay there,” he intimated in a 2015 interview. He left Detroit around 1970 but lingered along the urban I-95 corridor between Baltimore and Washington, where, like many other Indian migrants, he found work in construction. While on the job constructing a bridge, he suffered a herniated disk lifting steel rods and received an \$11,000 settlement, which he used to buy a parcel of land in his native Brooks Settlement and begin constructing a house. He continued to draw on his experience as a foundry worker in the emerging the North Carolina

Piedmont's emerging industrial sector, using his earnings to construct his home without accumulating any debt, an achievement in which he took considerable pride.²⁹

As he readjusted to the rural Indian community he had left some fifteen years prior, Howard Brooks joined the Tuscarora movement and met his future wife, Virginia Hunt, who became an organizing force in his nascent activism. Brooks returned to Robeson County in 1970 or 1971, just as HEW was implementing the desegregation order that galvanized particularly fierce opposition in rural, more traditional communities like the Brooks Settlement and Prospect. Although he himself had attended school only sporadically—"I ain't got a lick of education," he told me in 2015—the retired die setter grasped the political and cultural importance of the segregated school system. Indeed, much of the most visceral outrage about desegregation came from the segments of the Indian population with the lowest levels of formal education, an indication that opponents were motivated more to salvage the schools as tribal institutions than by more middle-class racial concerns about classroom environment or the perceived quality of the educational credentials. Concerned about the collapse of Indian institutions, Brooks gravitated toward the nascent Tuscarora movement and Carnell Locklear's newly organized ECIC. Organized around both anti-desegregation sentiment and the claims of the Original Twenty-Two, ECIC was particularly appealing for Brooks, the grandson of a certified half-blood and at least distantly related to most others. As the single, middle-aged die setter settled into a social routine, he met and became close to Virginia Hunt, who was, like Brooks, single, in her early forties, and recently returned from a long stint in the urban North—ten years in Baltimore,

²⁹ Howard and Virginia Brooks, unrecorded interview, notes in possession of the author, 5 August 2015; Thomas J. Sugrue, *The Origins of the Urban Crisis*, 259-65; Heather Ann Thompson, "Citizens, Politicians, and the Escalating War for Detroit's Civic Future" in *Whose Detroit?: Politics, Labor, and Race in a Modern American City* (Ithaca, NY: Cornell University Press, 2001), 71-102.

in her case. After a brief courtship, Brooks proposed to Hunt, who accepted (generously, given that the romantic crux of the budding radical's pitch was "you ain't got nowhere to stay, and I ain't either"). Quiet but inwardly intense, Virginia Brooks focused her impetuous, charismatic, rather distractible husband and contributed substantially to the intellectual architecture of the movement they founded together. As was often the case for Indian women of her generation, she had more schooling than her husband and served as a kind of interpreter for him. Over the course of their brief but eventful careers as indigenous rights agitators, the couple marched together, stood side-by-side at public speeches, and were arrested alongside each other on multiple occasions.³⁰

When the American Indian Movement (AIM) and allied groups organized the Trail of Broken Treaties in late 1972 to highlight the federal government's failure to fulfill its obligations to indigenous peoples, Howard Brooks joined a sizable contingent of Tuscaroras who saw their own struggle in this larger context. Many Tuscaroras interpreted federal intransigence on the claims of the Original Twenty-Two claims as analogous to the abrogation of a treaty and hailed from rural communities with strong intertribal ties.³¹ Participants in the Trail of Broken Treaties, which never had the logistical infrastructure to match its ideological fervor, arrived in Washington with a twenty-item list of demands for federal authorities and no plan for lodging or other accommodations. Reasoning that the BIA was accountable for their needs, AIM leaders proposed to stay at the bureau headquarters, but when negotiations soured, protestors forcibly

³⁰ Howard and Virginia Brooks, unrecorded interview, notes in possession of the author, 5 August 2015; Lowery, "Telling Our Own Stories: Lumbee History and the Federal Acknowledgment Process" *American Indian Quarterly* 33, no. 4 (Fall 2009), 499-522.

³¹ Lowery, *Lumbee Indians in the Jim Crow South*, 233-6, 246-7. In the late 1950s, for example, the militant New York Tuscarora agitator Wallace "Mad Bear" Anderson helped ignite interest in the community's Tuscarora heritage when he visited Prospect in the late 1950s. Members of the Brooks Settlement had close ties to activist and healer Turkey Tayac, a Piscataway from Maryland.

occupied the building, triggering a tense, weeklong standoff with federal authorities. Following a settlement brokered by Nixon administration officials, the departing occupiers stole reams of documents they hoped would contain dramatic evidence of the bureau's crimes against indigenous peoples. Instead, the records drily chronicled the mundane proceedings of settler colonial administration, from water rights disputes to health services appropriations. Although the theft harmed tribal governments far more than the bureau, possession of the stolen BIA documents became a badge of resistance to federal authority. As occupiers dispersed to their respective corners of Indian Country, many smuggled boxes the purloined records with them. The Tuscarora contingent had a particularly rich haul, somehow secreting away more than seven thousand pounds of bureaucratic loot to Robeson County. Howard Brooks claimed to have transported a "truckload" of them himself.³²

In addition to thousands of disappointingly boring BIA documents, Howard Brooks also collected several close allies in the national American Indian Movement (AIM) who helped him stage an insurrection against Carnell Locklear's moderate leadership. During and after the Trail of Broken Treaties, Brooks established relationships with nationally notorious AIMsters like Vernon Bellecourt and Dennis Banks, but he bonded closely with mid-level operators Bill Sargent and Bob Garvie, both Ojibwes from urban backgrounds in Minnesota. Intrigued by the militant swagger of Brooks and his fellow Tuscaroras, the pair of Minnesotans tagged along to Robeson County, where they founded the "Eastern National Office" of AIM. Wheels still spinning after the excitement of the BIA occupation, Brooks, the Ojibwe AIMsters, and many rank-and-file Tuscaroras grew dissatisfied Carnell Locklear's leadership of the ECIC, eventually

³² Ibid.; Vine Deloria, Jr., *Behind the Trail of Broken Treaties: An Indian Declaration of Independence* (Austin: University of Texas Press, 1985);

rechristened the Eastern Carolina Indian Organization (ECIO). At the suggestion of federal authorities, Carnell Locklear oversaw ECIO's incorporation as a state-chartered nonprofit, which allowed the group to collect a trickle of federal grant money. In short order, the disappointing scope and pace of material improvements led some adherents to whisper (baselessly) that Locklear was embezzling funds. Bill Sargent and Bob Garvie, incorrigible troublemakers dismayed with ECIO's institutionalization, encouraged Howard Brooks to mount an insurgent campaign to challenge Locklear in the upcoming election for chief. In December 1972, Brooks won a stunning victory over Locklear that roiled ECIO leadership and divided its members. Amid the acrimony, Brooks broke away from the ECIO and founded a new, AIM-affiliated faction known as the Tuscarora Council.³³

As chief of the Tuscarora Council, Howard Brooks adopted a tight focus on school desegregation, the Original Twenty-Two's claims to federal assistance, and the economic disfranchisement of Indians. The new chief stridently defended Indian control of public education, bellowing at one point that he was "willing to die on the steps of any of our schools" than see whites control Indian education. Under Robeson County's idiosyncratic and discriminatory school districting process, the prospect of white dominance on the school board was virtually assured, as segregation had previously been the only means of Indian control. In an arrangement later deemed unconstitutional, the county split its schools into five white-majority, black-minority municipal districts and one rural, majority-Indian county district; voters in the towns were permitted to vote for both municipal and county school boards, a ploy derided as "double voting" which ensured white control of the largely Indian county schools. Rather than

³³ FBI File 157-CE-8059, 1: 22; FBI File 157-CE-8059, 2: 83.

engage in intricate judicial battles like his Lumbee adversaries, however, Brooks advocated for wholesale control of the schools as genuine tribal institutions. The Original Twenty-Two served as the legitimating cornerstone of this Tuscarora tribal community. Of the ten IRA-certified half-blood Indians alive in 1973, six definitively allied with Tuscarora Council, decisions motivated by some combination of kinship loyalty to Brooks, fascination with the new chief's charisma, and irritation with the deliberate institutionalism of the ECIO. For Chief Brooks, the dangers of the solidifying colorblind political and legal order for indigenous autonomy were both apparent and personal. His father Dougald Brooks, the son of an IRA half-blood, lost his home and property in the mid-1960s after accumulating debt from farm loans and property taxes, an all-too-common fate for small Indian landholders in Robeson County. For Tuscarora adherents, white federal and county officials, Lumbee moderates, and the ECIO were all obstacles slowing progress toward the genuine protections for indigenous land that only in-trust reservation status offered.³⁴

In service to these goals, Brooks and Tuscarora Council adopted a two-pronged strategy of staging highly visible protests, supplemented with threatened and actual violence. The public protests allowed Brooks to attract press attention out of proportion to his relatively small following. The targeted violence helped heightened media attention and intimidated white Robesonians, but the group's strategic deployment of arson and unaimed gunfire had deep roots in Indian political culture. Although Brooks repeatedly denied his organization's involvement in specific violent acts, he rhetorically encouraged the tactic in his public addresses, which intimidated and titillated his indirect white audience and sent coded approval to his adherents.

³⁴ Ibid., FBI File 157-CE-8059, 1: 42-50; FBI File 157-CE-8059, 2: 86; Bill Price, "Tuscarora Chief Offers Tribal History Account," *The Robesonian*, 18 March 1973, 1-2; "Sider, *Living Indian Histories*, 121-2.

“[I]f it takes killing to get the Indian schools back then let it be,” he pronounced ominously in the spring of 1973. Drawing on the expanding rhetorical toolbox of 1970s separatist radicalism, Brooks defended his position as defensive and reasonable in the face of white intransigence and the inherent violence of the status quo. In reference to the public schools, the chief argued that “[t]he time for sitting down around the table negotiating with white people has ended... We’ve got a fight on our hands and I want everybody to know that we are not afraid of this fight.” But whereas the fight against desegregation involved mostly the rhetorical threat of violence, Brooks’s against white landholders revolved around arson, a clandestine and destructive tactic that Indians in the county had favored since at least the 1930s to cow local powerbrokers. In the early months of 1973, some forty tobacco barns, virtually all of them white-owned, burned in as many nights. An FBI informant told federal officers that Howard Brooks and Bill Sargent were responsible for the rash of suspicious fires. The Tuscarora Council and its supporters also enacted violent threats and property crimes on Indian rivals, most often Carnell Locklear of ECIO, who posed a more present threat and offered a softer target than the equally despised LRDA. Anonymous assailants shot at Locklear’s home on two separate occasions and set fire to the ECIO headquarters. Locklear accused Brooks and Sargent of committing or orchestrating the crimes, although unauthorized sympathizers may have been responsible.³⁵

The Tuscarora Council and AIM staged a public spectacle to air their grievances on the night of March 6, 1973, when Chief Brooks and Bill Sargent led a caravan of cars and trucks through the streets of Lumberton. In a display of the council’s growing strength, an estimated one hundred and twenty-five Indians rode through the county seat, blocking traffic and sounding

³⁵ Ibid.; FBI File 157-CE-8059, 1: 28, 34, 40-2, 56, 62, 74; Lowery, *Lumbee Indians in the Jim Crow South*, 46-8, 73; Blu, *The Lumbee Problem*, 70, 89-90.

their horns to protest school desegregation and express solidarity with AIM's ongoing, highly publicized standoff with federal authorities in Wounded Knee, South Dakota. The contingent met with "[a] full contingent of Robeson County Sheriff's Deputies and Lumberton Police Department personnel, armed with riot sticks, MACE, helmets, and shotguns" and charged with maintaining public order. The standoff grew tense as rock-throwing Tuscarora demonstrators broke the windows of nearly thirty white-owned businesses and damaged police vehicles. The overwhelmed police contingent arrested only eight participants in the late-night caravan. Speaking to the press after the event, Brooks and Sargent implausibly claimed "peaceable" intentions and called the property damage "an unfortunate, unavoidable thing," attributable to a few rogue supporters.³⁶

³⁶ Ibid., C.E. McLaurin, "'In Support of Wounded Knee': 28 Downtown Store Windows Smashed as 'Tuscaroras' Stage Demonstration Here," *The Robesonian*, 7 March 1973, 1-2.



FIGURE 5.2: HOWARD BROOKS AND BILL SARGENT IN LUMBERTON, 1973. Brooks (center) and Sargent (right) were photographed speaking to a Lumberton police officer about Tuscaroras arrested during the March 6, 1973 caravan. Courtesy of C.E. McLaurin and *The Robesonian*.³⁷

Boasting a following of several hundred after the highly publicized caravan campaign, Brooks determined that the time was right to forcibly return the schools to Indian control by direct action. According a March 21, 1973 entry in his FBI file, the chief “told an assembled meeting of Tuscaroras and AIM people that the time for action ha[d] come and that the group was then strong enough” reclaim control of the Indian schools. Brooks announced plans to “seize

³⁷ C.E. McLaurin, untitled press photograph, *The Robesonian*, 7 March 1973, 1.

a school building and permit only Indian teachers and students to attend,” although he failed to specify how the council would enforce this policy after occupying the building. In a clear allusion to the traditional role of segregated schools as tribal governing institutions, he also declared that all future meetings of the Tuscarora Council would take place at “historical Indians [*sic*] schools in Robeson County.” In a gesture toward procedural niceties probably intended to highlight middle-class Indian opposition, Brooks planned to petition the local school advisory board for permission to meet at Prospect School, site of the 1970 anti-busing disturbance and the county’s most heavily Indian campus. In the likely event that the board denied access, he plotted to occupy the building, a signature AIM tactic that Brooks had experienced firsthand at the BIA headquarters. For a joint press briefing about desegregation and the Wounded Knee occupation, Brooks also enlisted the support of AIM organizer Vernon Bellecourt, a nationally infamous figure whose presence in Robeson County galvanized Tuscarora supporters.³⁸

In a decision that proved controversial among his followers, Howard Brooks also reached across racial lines to Golden Asro Frinks, an African-American field secretary with the Southern Christian Leadership Conference (SCLC). In a 2015 interview, Brooks offered few details about how he first met his black colleague, but Frinks, a persistent agitator with a talent for publicity, clearly found a kindred spirit in the Tuscarora chief. Both leaders recognized the potential benefits of interracial cooperation in Robeson County, where black and Native residents together outnumbered the white plurality. Brooks had spent nearly two decades living in a racially diverse section of Detroit, where he had “black, white, Indian, [and] Mexican” neighbors. Frinks, a civil rights organizer increasingly seduced by black power ideology, had soured on school

³⁸ FBI File 157-CE-8059, 2: 84.

desegregation as a remedy for racial discrimination and sympathized with the separatist aims of the Tuscarora Council. His personal chemistry with Brooks helped steer the Tuscarora anti-busing crusade from the pitfalls of racist and anti-black sentiment, but their alliance also opened fissures in Brooks' Indian coalition. As Frinks gained influence, the Tuscarora Council drifted toward radical left-wing politics and interracial networking, which awakened racial resentments among some Tuscarora movement adherents that sapped Brooks's support. The pair's eventual veer toward socialist, class-inflected rhetoric also alarmed the staunchly anticommunist FBI agents monitoring the Council and intensified their efforts to subvert the organization.³⁹



FIGURE 5.3: GOLDEN ASRO FRINKS, 1973. Courtesy of *The Asheville Citizen-Times*.⁴⁰

³⁹ "Brooks' Tuscarora Group hears Frinks, Attorneys," *The Robesonian*, 29 March, 1973; FBI File 157-CE-8059, 1: 68.

⁴⁰ Unattributed photograph in "Tuscarora Protest Marches Only Another Mile for Golden Frinks," *The Asheville Citizen-Times*, 15 April 1973, 9.

On Friday, March 23, 1973, Howard Brooks, Golden Frinks, and Vernon Bellecourt held their scheduled press conference at an abandoned music venue in Pembroke known as The Stable, where the trio restated their opposition to Indian school desegregation, expressed support for the Wounded Knee occupiers, and provocatively declared their intent to hold an unauthorized tribal meeting at Prospect School. The moderate Lumbee parents on the school advisory board had voted to bar the Tuscarora Council from the facility, but Brooks “vowed he would not be denied access to Robeson County public schools for tribal meetings.” When the protestors arrived at Prospect, however, a contingent of fifty-three state troopers and county sheriff’s deputies “clad in full riot gear” and wielding “riot stick[s] and pump shotgun[s]” blocked the entrance to the building. Incensed but overmatched, Brooks, his AIM allies, and “[a]pproximately seventy-five to one hundred” Tuscaroras regrouped outside the United Methodist church across the road. The chief rallied his forces with a stirring speech, reportedly telling the crowd that “[t]his is Indian land, these are Indian schools” and that police had “no right to deny my people admission to that school.” Projecting the collective frustrations of his people on to his person, Brooks metaphorically claimed to have “built Prospect with my own hands.” In an ominous and prescient flourish, the chief gestured toward “those white pigs over there... trespassing on Indian land” and announced that “[w]hat they are asking for is an Indian War.”⁴¹

As the standoff at Prospect School lingered into the night, Howard Brooks’s “Indian War” came perilously close to fruition as tensions between the police and protestors boiled over

⁴¹ FBI File 157-CE-8059, 1: 65-72; *State of North Carolina v. Howard Brooks*, 287 NC 392, 215 S.E.2d 111 (1975) in *North Carolina Reports: Cases Argued and Determined in the Supreme Court of North Carolina* (Raleigh: Edwards and Broughton, 1975), 394-7.

into physical confrontation. Accounts from each of the opposing camps differed in the details, but both relayed a scene of tightly coiled racial tension. Officers reported hearing shouts of “Red Power” and renditions of “such songs as ‘We Shall Overcome’” from the crowd of Indians in the churchyard. They also alleged that “several members of the crowd [were] drinking alcoholic beverages” and that small groups of protestors intermittently “would start across the road” to hurl colorful insults and warn the troopers and deputies that “if they ever got across the road, they were going to take the officers’ riot sticks and guns and use them to ‘beat the officers to death.’” A maestro of intimidation, Howard Brooks restrained his Tuscarora adherents just enough to forestall violence but left their reins sufficiently slackened to keep police on edge. He watched as the small squads of Tuscarora skirmishers approached the officers, but time and again he “would call them back, telling them not to cross” until he gave the command. This theatrical display of power had the intended effect. “Many officers, veterans of previous crowd control situations, testified they had never before been as frightened,” state prosecutors later intimated. Adding to the eeriness, news began to circulate around ten o’clock that several fires, likely arsons, had erupted at nearby structures. Almost supernaturally, a stream of reinforcements swelled the ranks of Brooks’s Tuscarora army until it was nearly two hundred strong by midnight. Some twenty minutes after Friday night gave way to Saturday morning, spooked law enforcement officials alleged that a protestor threw a glass bottle, which exploded as it “struck the pavement and splattered glass” against their riot shields. At almost the same instant, “three shotgun blasts rang out” and sent a hail of shot clattering down on their vehicles. The lead sheriff’s deputy retrieved a megaphone and told the Tuscaroras that they had five minutes to vacate the premises. When only about two dozen heeded the order, the half-hundred riot police rushed the churchyard and, in their telling, calmly subdued those “who had refused to comply.” A search of the premises

yielded a small-caliber pistol, “a beer bottle containing amber liquid with paper stuck in its mouth,” two shotguns, a length of iron tubing, “and a machete.” The number of demonstrators arrested totaled fifty-eight, including Bellecourt and Chief Brooks, the latter on charges of inciting a riot.⁴²

Some Indian protestors held to a different narrative of the so-called Prospect Riot and accused police of provocation, subterfuge, and brutality. James Yellowbanks, a Ho-Chunk AIM organizer from Chicago, was present at the demonstration but avoided arrest after ducking into a car and fleeing the scene. In a letter intercepted by the FBI, Yellowbanks discounted the state’s official narrative that the AIM-Tuscarora contingent had provoked officers and attributed the timing of the conflict to the dynamic between police and the gaggle of reporters at the scene. At around midnight, he remembered, most of the reporters had grown tired and either left or retreated to their cars. Suddenly free from oversight, the frustrated troopers and sheriff’s deputies became aggressive and confrontational. Despite Yellowbanks’s dubious reliability as a narrator, his theory does help explain the officers’ mysterious decision to wait outside a rural schoolhouse in full riot gear for nearly six hours, allegedly in the face of threats and harassment from gun-wielding protestors. According to Yellowbanks, “the oinkers” waited only a few minutes after issuing the order to disperse before charging across the street (“like a bunch of wild Injuns,” the AIMster added by way of ironic jest). More seriously, he claimed that after Chief Brooks and Vernon Bellecourt directed protestors not to resist, officers took the opportunity to “star[t] busting head[s] and hitting a pregnant woman with” their riot sticks. Although no other

⁴² Ibid.; FBI File 157-CE-8059, 2: 45-55, 106-9.

protestors appear to have committed these allegations of brutality to paper, many alluded to the conduct in passing, and at least one other AIM member helped Yellowbanks draft his account.⁴³

The FBI profile on the arrested demonstrators suggested that participants in the so-called Prospect Riot were generally young, predominantly but not exclusively male, and comprised overwhelmingly of local Indians. Their listed occupations ranged from truck driver to beekeeper, but most were working-class manual laborers and very few were farmers, by far the most common Indian occupation in the county as a whole. Although the arrest records may not have been a representative sample, they indicated that Brooks's Tuscarora followers, while generally from the community's relative socioeconomic margins, were more mobile and less agrarian than presumed in contemporary accounts and subsequent scholarship. Perhaps a half-dozen national AIM activists joined the estimated one to two hundred local Tuscaroras who participated in the Prospect Riot. Despite their urban backgrounds, tough-guy personas, and authentic Indian credentials, some of the AIMsters privately expressed awe at the casual militancy of their Tuscarora hosts. After gleefully recounting that "a barn, a house, and a store were burned to the ground" during the riot, an impressed James Yellowbanks exclaimed, simply: "Far out!" In a boast to an AIM colleague, he boasted that Robeson County "will have the strongest A.I.M. chapter in the country" and could draw on at least "300 members that are willing to fight."⁴⁴

Whereas Howard Brooks's early activism had focused narrowly on local Indian concerns, during a march on Raleigh planned with Golden Frinks, the Tuscarora chief articulated far-left positions on more global class and racial issues, which prompted the FBI to shift from

⁴³ FBI File 157-CE-8059, 2: 106-9.

⁴⁴ Ibid.; FBI File 157-CE-8059, 1: 69; FBI File 157-CE-8059, 2: 45-54; Karen Blu, *The Lumbee Problem*, 75-83; Sider, *Living Indian Histories*, xx-xxii.

observation to active subterfuge. After members of AIM and the Tuscarora Council scraped together the nearly two thousand dollars to post his bail, Brooks proposed to march from on Raleigh to demand an audience with the governor and state Indian affairs commissioner. Coordinating with Golden Frinks, an increasingly influential figure within the Tuscarora Council, the chief helped secure lodging and logistical support from sympathetic students at Raleigh's historically black Shaw University. After leading a caravan from Robeson County to the state capital—during which Brooks, his wife Virginia, and a number of supporters were arrested in Smithfield—some fifty Tuscaroras, three of them on horseback, marched down Fayetteville Street and Main to the grounds of the General Assembly. African-American students from Shaw bolstered their ranks in a gesture of interracial solidarity, as well as to behold the spectacle of Howard Brooks. Arrayed in a Plains-style war bonnet, a fringed leather shirt and leggings, and a pair of high-top work boots, the Tuscarora chief addressed the crowd and declared that “[t]he day has come that white people must realize that we are the landlords of this country... Today, we are assembled in Raleigh to collect the rent.” According to FBI agents, Brooks, Frinks, Bob Garvey of AIM, and other speakers addressed the crowd of “approximately one hundred and twentyfive [*sic*], mostly blacks” and urged “blacks and Indians [to] unite all over the country to obtain their common objectives.” They squarely identified wealthy, powerful white people as responsible for their peoples’ oppression, stating that “land was taken from the Indians illegally, and [enslaved] blacks made to [work] on Indian land.” Most troublingly for staunchly anticommunist federal agents, however, Brooks and his allies argued that theirs was “not a racist battle but a battle between have’s and have not’s [*sic*], meaning poor and wealthy.” After this initial Tuscarora rally, however, the state Indian affairs commissioner, William Robert Richardson of the Haliwa Indian community, pointedly refused to meet with any delegation that

included Frinks or other black supporters. The chief balked at this transparently racist stipulation, dismissing Richardson's demand as "fool talk" and vowing that he would "not be part of any racial business." After Governor James Holshouser likewise refused to hear Tuscarora demands, Brooks and his supporters encamped on the lawn outside the North Carolina Commission of Indian Affairs, where they remained for eleven days. Defiant as ever, Brooks declared that "they'd better get the National Guard and come on down and have fun shooting me because I'm going to stay." Shortly before his arrest on charges of organizing without a permit, the Tuscarora chief further alarmed FBI observers when he attended a meeting of the North Carolina Political Prisoners Committee at Shaw, where he met and posed for a photograph alongside Angela Davis, "a self-admitted member of the Communist Party." The first of two meetings between Brooks and Davis, the Shaw event, along with Brooks's statements on economic inequality, turned FBI agents' focus toward racial divisions within the Tuscarora Council, which they deftly exploited to hasten the organization's demise.⁴⁵

⁴⁵ FBI File 157-CE-8059, 1: 108-164; "Blacks, Indians ban [sic] together... Stage demonstration," *The Pittsburgh Courier*, 21 April 1973, 3; "Brooks Stresses Call with NCCIA," *The Robesonian*, 12 April 1973, 1.



FIGURE 5.4: INTERRACIAL SPEAKERS AT A TUSCARORA COUNCIL DEMONSTRATION IN RALEIGH, 1973. Dupree Clark of the Tuscarora Council (left) flanks Joe Hammond of the SCLC (right) as he addresses the crowd. Supporters behind them hold a banner reading “Self-Determination for Tuscarora Council.” Courtesy of the Associated Press.⁴⁶

As the FBI collected information on the Tuscarora Council’s racial fault lines, its direct-action approach attracted the attention from another arm of the federal bureaucracy: the Bureau of Indian Affairs, which dispatched an agent to hear their grievances in what proved to be the high-water mark for Howard Brooks’s chieftaincy. After Brooks’s repeated efforts to contact top BIA officials, the bureau directed the regional director of the southeastern Indian agencies, Harry Rainbolt, to attend a meeting of the Tuscarora Council. An Akimel O’Odham from Arizona, Rainbolt approached his mission with a healthy dose of skepticism about their claims. In a final

⁴⁶ AP Wirephoto, “Indians, Blacks Rally” in *The Asheville Citizen-Times*, 10 April 1973, 1.

report to the commissioner several months after the meeting, he referred to his hosts as the “so-called ‘Tuscarora Indians of North Carolina’” and inserted several snide comments on Brooks’s bombastic leadership style. Nevertheless, his review of the original documentation from the late 1930s and in-person experience with members of the Original Twenty-Two, led him to a sympathetic understanding of the group and their vexed relationship with his agency.⁴⁷

Chief Brooks designed his audience with Rainbolt as a spectacle of Tuscarora power, and he vigorously aired grievances with both federal authorities and the nascent Lumbee tribal apparatus in Pembroke. After greeting the BIA representative, Brooks emphasized his legitimacy as the elected representative of the Original Twenty-Two and denigrated his rivals, the LRDA and ECIO. The “original 22 and the heirs therefrom,” the area director dryly paraphrased, “were absolutely and positively not Lumbee Indians and furthermore, the Eastern Carolina Indian Organization and the Lumbee Indians Organization [*sic*] did not under any circumstance represent or speak for the original 22.” After following the chief into a small meeting hall, filled beyond capacity with some sixty in attendance, Rainbolt reported that “Mr. Brooks commenced by saying (for my benefit, I’m sure) ‘we are not Lumbee Indians’ (applause)!” Indeed, the chief’s carefully choreographed performance seemed designed to achieve a symmetry of officialdom with his visitor, as if to signal that he, and not the federal government, was sovereign in that corner of Robeson County. Although the repetitive fixation on tribal names seemingly lulled the director into the belief that his host was a rube, he listened attentively as Brooks delivered a well-reasoned and factually specific address, albeit in characteristically exuberant style. Tuscaroras rejected Lumbee name, the chief explained, as both an artifact of middle-class

⁴⁷ Memorandum, Director of Southeastern Agencies to Assistant to the Secretary for Indian Affairs, “Hatteras Tuscarora Indians of North Carolina,” 6 September 1973, box 275, folder 9, AAIA.

Indian chicanery and the legal cornerstone of the BIA's efforts to deny benefits to the Original Twenty-Two:

How can the original 22 in 1938 be recognized, enrolled and told you are eligible for Bureau of Indian Affairs services and then do nothing for us, and then in 1956 be classed... as Lumbee and be included in the Lumbee act without the original 22 and their descendants ever being advised, consulted with, or even told about the Act until after it was passed?

Despite his factual mastery of the IRA half-bloods' legal history and forceful delivery, Brooks failed to alter the Interior Department's position. After reviewing the documentary evidence, Rainbolt affirmed the solicitor's opinion, but he admitted that "the 22 recognized individuals...have considerable reason to be upset and concerned about the affect [*sic*] of the Lumbee Act." Although the encounter produced no tangible results, Rainbolt's visit extended the federal bureaucracy deeper into Robeson County and, even its fruitlessness, paradoxically acknowledged the Tuscarora Council as the legitimate representative body of the Original Twenty-Two and the surrounding Indian community.⁴⁸

Shortly after Area Director Harry Rainbolt's meeting with the Tuscarora Council, however, FBI subterfuge, along with the serious criminal charges pending against Howard Brooks, began to erode the chief's popularity and ultimately led to the collapse of his chieftaincy. From the moment of the Tuscarora Council's founding, Brooks and his allies suspected—correctly—that the FBI had infiltrated their organization—correctly. Mere minutes after winning the ECIO election that launched his splinter organization, Brooks and his AIM-affiliated backers announced "that there were two informers in the group and that they would be take care [of] in the near future." One or more informants relayed the threat to federal agents,

⁴⁸ Ibid.

who dutifully recorded it in Brooks's rapidly thickening FBI file on Brooks. After Brooks adopted socialist-inflected talking points and had his first encounter with "self-admitted" communist Angela Davis, the chief's alarmed federal minders recommended "recommended [him] for ADEX [the Administrative Index] and the Key Extremist Program," both master lists of extremists regarded among the most serious threats to national security. They also began compiling evidence to charge Brooks under the federal criminal statutes on "Rebellion or Insurrection" or "Seditious Conspiracy." Ultimately, however, agents declined to recommend federal charges and instead cooperated with the State Bureau of Investigation and North Carolina prosecutors on the charges of inciting a riot stemming from the Prospect School demonstration. In May 1973, a Robeson County District Court jury found Brooks guilty on the incitement charge along with two lesser offenses and sentenced him to two concurrent twelve-month prison sentences, a stiff punishment that defense lawyers appealed. As attorney fees mounted during the appeals process, the weekly meetings of the Tuscarora Council involved fewer plots for disruptive direct action and increasing calls for donations to defray legal costs for Brooks, as well as Bill Sargent and other leaders. These repeated pleas for financial assistance gradually wore on the nerves of regular attendees, and FBI agents reported in September 1973 that "meetings have been poorly attended and interest is waning." They inferred that Chief Brooks "is losing the confidence of the people but does not realize this." Over the course of late summer and fall, Brooks grew agitated and despondent, at times ranting about the poor attendance and anemic financial support. ⁴⁹

⁴⁹ FBI File 157-CE-805,9 1: 8; FBI File 157-CE-8059, 2: 12-7, 25, 37, 116-8,133, 214-15; Gerald K. Haines and David A. Langbart, *Unlocking the Files of the FBI: A Guide to Its Records and Classification System* (Wilmington, DE: Scholarly Resources, Inc., 1993), 222-23.

Apart from collaborating with state law enforcement, FBI surveillance eroded the Tuscarora Council's cohesion by inspiring endless rounds of recrimination and finger-pointing that sapped morale and exacerbated internal divisions. This effect was a strategy, rather than a byproduct of the agency's operation: agents took few precautions to conceal their infiltration and at times actively encouraged speculation about informants. Brooks and his unofficial cabinet of national AIMsters hurled frequent accusations, mostly false, at subordinate and peripheral members of the group, which contributed to dwindling attendance at tribal meetings. On one occasion in early 1973, Bill Sargent, convinced that his arrest was imminent after FBI agents arrested an AIM colleague, falsely accused fellow out-of-state Indian Vernon Blackhorse of "squeal[ing]" to the FBI and tasked a subordinate with "interrogating BLACKHOURSE [*sic*] in an attempt to get a confession from him." At an AIM convention in Oklahoma that Brooks and allies attended, James Yellowbanks, who chronicled the Prospect Riot, accused his colleague Michael Wolf—in jail for his own role at Prospect—of cooperating with authorities and threatened to have him "taken care of." Chief Brooks himself leveled the accusation against at least one follower, who became so disgruntled by the experience that she *became* an informant. As the movement dissolved, and internecine bickering intensified, endemic paranoia about FBI informants turned on even core members of the group. In the last weeks of 1973, Howard Brooks and Bill Sargent met national AIM leaders Dennis Banks and Vernon Bellecourt in Atlanta to confront officials at the regional USDA office about the treatment of Indian food stamp recipients, as well as to "participate in an Indian rock [music] festival." Under surveillance and all facing various legal pressures, the Indian radicals took out their frustrations on one another shortly after checking into their hotel. Banks and Bellecourt accused Sargent of providing information on the location of stolen documents from the 1972 BIA takeover. With help from

thee “National Security Director for AIM,” the two leaders “conducted a ‘fine tooth comb search’ of Sargent’s room” in an attempt to uncover listening devices. After coming up empty-handed, they shifted focus to upbraiding Howard Brooks for his waning influence among his Tuscarora followers. The incident in Atlanta exposed the toll that a year of constant, barely concealed federal surveillance had taken on Brooks’s organization and relationships.⁵⁰

In the course of investigating Howard Brooks and his movement, the FBI uncovered and weaponized the fear and prejudice that many Tuscaroras harbored toward African Americans. The march on Raleigh exposed these racial fault lines, as the leaders of competing Tuscarora factions sought to weaken Brooks by condemning his cooperation with Golden Frinks and other black activists. Speaking to a reporter from a national news services, one such rival expressed racial and political solidarity with Brooks but objected to his tactics. In a telling explication, the critic argued that Brooks was “throwing himself right back under discrimination when that’s what we’re trying to get ourselves out from under, and that’s what he is doing by taking in blacks.” Many Tuscaroras believed that Brooks was courting disaster by conspicuously associating with black people, particularly in the shadow of the General Assembly and governor’s mansion, when such social proximity would have amounted to racial and political suicide barely twenty years earlier. Under Jim Crow, social distance from black people was an ironclad condition for official recognition of the community’s Indianness, and that lesson proved difficult to unlearn. Once attuned to the fear that this taboo instilled, FBI agents scrupulously documented Brooks’s interracial contacts, as well as the discord that those contacts fostered. After Dennis Banks angrily “questioned [Brooks] as to why the American Indian Movement was

⁵⁰ FBI File 157-CE-8059, 1: 15; FBI File 157-CE-8059, 2: 96-8, 117, 139, 214-15.

‘coming apart in Robeson County,’” Bill Sargent told Banks that the chief “had lost the confidence of the people when [he] went outside his own race and sought leadership for the Indians among the blacks, namely Golden Frinks.” Deeply hurt by these comments, Brooks left Atlanta without Sargent and drove back to North Carolina alone. After the FBI obtained Sargent’s account of the incident, they deployed informants both to amplify anti-black sentiment among the Tuscaroras and to nudge the chief toward further meetings with black radicals. Before Brooks met with Angela Davis for a second time at the February 1974 NAARPR conference, Benjamin Chavis requested that an intermediary invite Brooks to the event. That intermediary was an FBI informant, whom federal agents furnished money to defray travel expenses and encourage the chief’s attendance. Another informant attended a Tuscarora Council meeting and rallied opposition to the meeting with to Davis, as well as to interracial alliances and far-left politics generally.⁵¹

By 1975, after more than two years of coordinated federal and state pressure, Howard Brooks’s following had dissipated, and the forty-eight-year-old activist and provocateur decided to hang up his headdress (both proverbially and literally) and retire from what he called “the Indian business.” On appeal, the state courts overturned his prison sentence for inciting a riot, and he escaped with probation on a lesser charge. He completed work on the home he built atop his beloved plot of land a half-mile west of Baker’s Chapel, the historic Indian Baptist church to which he and his family belonged. Chief Brooks lived there with his wife Virginia and among

⁵¹ FBI File 157-CE-8059, 2: 214-15, 221-22, 246, 265-66; Melvin Lang, “Arrest of Howard Brooks Highlights Tuscarora Drive,” *The Robesonian*, 18 April 1973, 1-2. Howard Brooks also briefly planned to travel to California to meet with Mexican-American labor organizer César Chávez. At a tribal meeting, an attendee angered and embarrassed Brooks by asking how he planned to pay for the trip. The FBI file is ambiguous as to whether that attendee was an informant.

his sprawling web of relatives until his death in 2018. Although his organization represented a militant but small sliver of the Robeson County Indian population, his activism alarmed authorities, generated intense publicity, forged an important precedent for black-Indian politics, and altered the relationship between the federal government and the community as a whole.⁵²

*
**

As the FBI and BIA quietly suffocated Howard Brooks's Tuscarora Council, the directors of the newly chartered Lumbee Regional Development Association busily cultivated more productive, if ultimately also vexed, relationships with the federal bureaucracy that aided the association's slow transformation into a tribal governing body. In the lean years directly after the association's founding in 1968, small non-Indian grants from the Office of Economic Opportunity kept the fledgling organization solvent, but its footprint remained limited until small influx of grants from Native American set-asides beginning in the 1973 fiscal year. Although the Department of the Interior steadfastly maintained that the Lumbee Act precluded funding from the Bureau of Indian Affairs, LRDA secured grants from agencies outside the bureau that administered programs with more inclusive definitions of Indian status. This lifeline was the result of the growing discretionary latitude of federal executive agencies, the administrative wizardry of Bruce Jones, and the efforts of several influential Lumbee federal employees led by

⁵² Howard and Virginia Brooks, unrecorded interview, notes in possession of the author, 5 August 2015; *State v. Brooks*, 287 NC 392, 215 S.E.2d 111 (1975) in *North Carolina Reports*, 394-7; FBI File 157-CE-8059 2: 280-85. Although the FBI actively and effectively undermined the Tuscarora Council, the full extent of bureau's involvement in the organization's final collapse remains unclear. At the time of writing, the National Archives staff have declassified only two of a total four sections of Howard Brooks's FBI file under the Freedom of Information Act. The reports comprising the second section terminate shortly after Brooks's second encounter with Angela Davis.

Helen Scheirbeck who called themselves the “Washington Group.” During the implementation of the 1972 Indian Education Act, which Scheirbeck helped oversee, HEW’s US Office of Education ruled Lumbees eligible for assistance. In accordance with the statutory language, the office distributed most assistance directly to the Robeson County public schools, but other provisions in the act permitted LRDA to access funding for adult basic education classes, sorely needed given lingering, double-digit illiteracy rates in the Indian community. Funding under the 1974 Native American Programs Act from a separate division of HEW, the Office of Native American Programs (ONAP), provided yet another lifeline. After Department of Labor administrators deemed LRDA eligible for Indian vocational training set-asides under the 1973 Comprehensive Employment and Training Act (CETA), the organization’s 1975 budget ballooned to \$2.5 million, a more than five-fold increase in only five years. Given that the association provided services to more than 30,000 Indian people, its level of federal assistance fell paled in comparison to that of tribes eligible for BIA services, but the rapid increase wrought substantial changes in LRDA’s structure and mission. Across Indian Country, the federal government’s newly articulated self-determination policy spurred a small burst of congressional Indian affairs appropriations that revitalized tribal governments from their low ebb under termination. In Robeson County’s corner of Native America, the growing docket of programs administered outside the Interior Department allowed the Lumbees to emulate this trend as community leaders built a new makeshift tribal infrastructure atop the ruins of the segregated Indian school system. The vacuum left by desegregation combined with the stipulations of

federal programs to transform the LRDA from an interracial antipoverty program to a budding tribal government.⁵³

Pressure for LRDA to assume more attributes of a democratically constituted, constitutional tribal government came in part from within the federal bureaucracy. One particularly overt push followed the implementation of Comprehensive Employment and Training Act, which updated and replaced the 1962 MDTA. Unlike its more centrally administered predecessor, CETA provided relatively unstructured “block grants” to “prime sponsors”—usually municipal governments—with substantial autonomy to disburse funds to subordinate agencies or contractors. Initially, LRDA’s eligibility for prime sponsorship under the new law was unclear. Eligible prime sponsors included elected municipal or county governments that met a minimum population threshold, as well as consortia of governments representing smaller municipalities and tribal governments. Significantly, the act also specified Indians among the special “target groups” authorized to receive assistance to remedy severe “disadvantages in the labor market,” a category that included such other nonracial groups as the young and elderly, seasonal workers, criminal offenders, and non-native English speakers. To clarify LRDA’s eligibility under the new regulations, Helen Scheirbeck conferred with her colleagues in the federal bureaucracy, including Dale Wing of NCIO. As Wing explained, however, LRDA appeared ineligible due to its unelected board of directors, as the new block grant formula was predicated on administration by representative local or tribal governments. LRDA could only apply for prime sponsorship if it held elections to determine board membership; otherwise, Lumbee applicants needed to find an eligible local governmental body,

⁵³ Gerald Sider, *Living Indian Histories*, 264-5.

such as the Town of Pembroke, as a proxy. Similar requirements structured access to other federal programs as well, and Pembroke's municipal government already administered Indian housing grants from HUD. Because LRDA had organizational roots in manpower program administration, however, ineligibility under the new CETA requirements threatened to cripple its core mission. As a remedy, Dale Wing "suggest[ed] that it would be well if LRDA could reorganize [by] changing [its] by-laws to provide for [the] election of [the] Board of Directors," and LRDA officials began to mull their options.⁵⁴

Despite the strictures of federal grant regulations and latent aspirations to tribal status, LRDA ceded control over its board of directors reluctantly and in line with indigenous Lumbee political models with little resemblance to election procedures under IRA or settler constitutions. In early 1974, the board met to amend the association's nonprofit charter to provide for the election of directors, who would serve as either at-large members or representatives of specific Indian settlements. Rather than cast secret paper ballots at designated polling locations, however, the directors instituted an unusual voting system based on traditional "Indian meetings," ad hoc community gatherings where members of local settlements selected leaders by public debate and acclamation, usually for narrowly delimited, temporary roles in dealing with outsiders. LRDA organized a series of meetings to be held sequentially, rather than concurrently, in the various settlements, such as Saddletree, Magnolia, and greater Pembroke. Those in attendance, usually a crowd of forty to one hundred people, nominated one or more representatives for each slot in the

⁵⁴ Typed memorandum of conversation with Dale Wing, "The New Manpower Act," no date, 1974, box 43, folder 351, Scheirbeck Papers; Advisory Commission on Intergovernmental Relations, *The Comprehensive Employment and Training Act: Early Readings from a Hybrid Block Grant* (Washington, DC: 1977), 17.

community's delegation, then immediately put them to a vote. Crucially, the LRDA Board of Directors initially retained the authority to reject newly elected members deemed unsuitable.⁵⁵

Unforeseen problems with the election format, combined with the directors' class-inflected reluctance to cede authority to the public, resulted in chaos after the first series of community meetings. The first elections were for members with expiring terms, as the democratic reforms were to be phased in. In the first meeting, voters elected Walter Oxendine over Bruce Jones and ousted another director, Earl Hughes Oxendine. The second meeting proved even more controversial, as supporters of Tuscarora leader Carnell Locklear flocked to the meeting and elected their leader to replace incumbent chairman James Woods. In both elections, poorer and less powerful voters turned out to express their long-simmering displeasure with LRDA's middle-class leadership. Some apparently relished the irony of installing a Tuscarora to depose the chairman of a Lumbee organization; others cited their frustration that some directors lived outside the settlements they purported to represent. Building on a long tradition of middle-class Lumbee suppression of poorer and more rural Indians, the board convened and effectively nullified the election results, voting to extend the appointments for all members with expiring terms, including Jones, Woods, and Oxendine. Although skirmishes in the Lumbee-Tuscarora controversy and the community's low-grade, endemic class conflict marred LRDA's first steps toward tribalization, board members eventually learned from the experience and became more responsive to the needs of the tribal population.⁵⁶

⁵⁵ "LRDA Meeting," *The Robesonian*, 10 July 1974, 5; Karen Blu, *The Lumbee Problem*, 118-22; Clyde Ellis, "'There's a Dance Every Weekend': Powwow Culture in Southeast North Carolina" in *Southern Heritage on Display: Public Ritual and Ethnic Diversity within Southern Regionalism*, ed. Celeste Ray (Tuscaloosa: University of Alabama Press, 2003), 96.

⁵⁶ "'Storm' Arises over LRDA Board of Directors Terms," *Robesonian*, 14 August, 1974, Wednesday, page 5.

In the immediate aftermath of the first LRDA elections, supporters of spurned director-elect Carnell Locklear chastened the board with hardball politics as they leveraged federal funding to gain concessions. Outraged after the board's procedural retrenchment, Tuscarora partisans quickly gathered more than 450 signatures for a petition demanding Locklear be seated. In a savvy and effective maneuver, the dissidents mailed signed petition to the director of ONAP in Washington. Because Locklear's East Carolina Indian Organization also received non-BIA federal funding, his followers Locklear's followers keenly understood the power that executive agencies wielded. As planned, the stunt jolted the LRDA directors into action. The board called special session to consider options to appease Locklear and his followers. After a tense closed-door discussion, they confirmed that the board would extend the terms of the three defeated directors, arguing that confusion over residency requirements had created enough out-of-district voting to taint the results. In light of the public outcry, however, the board had amended its charter to grant Locklear a special one-year appointment. In an omission that suggested the centrality of the ONAP threat to the directors' decision, they extended this offer only to Locklear, snubbing the candidates elected to succeed Jones and Oxendine. Although Locklear's followers grouched about the brevity of his appointment, their outrage dissipated. The Locklear controversy demonstrated the LRDA's uneven, organic evolution from nonprofit corporation to a publicly accountable tribal government, as well as federal agencies' role in catalyzing and adjudicating that process.⁵⁷

⁵⁷ Ibid.; "LRDA Receives Funds to Hire Unemployed," 25 July 1975, *The Robesonian*, 9.

CHAPTER 6
DREAD SOVEREIGNS: TRIBAL AND SETTLER STATE DEVELOPMENT IN THE ERA OF *MANCARI*

In 1978, Congress reauthorized the 1972 Indian Education Act (IEA), which allocated special aid to local schools based on Native student enrollment under its provisions. With its relatively inclusive definition of Indian status and administration under the Department of Health, Education, and Welfare (HEW) rather than the Bureau of Indian Affairs (BIA), the IEA marked a departure in the language and administration of Indian affairs legislation, which increasingly targeted urban and federally non-recognized Indians. In the six years between its adoption and reauthorization, however, changes in the legal and political landscape of Native America threatened this experimental extension of federal services to a wider range of indigenous peoples. In 1974, the Supreme Court cemented the colorblind turn in Indian Country with its finding in *Morton v. Mancari* that the “political, rather than racial” nature of Indian status shielded tribal members from certain elements of antidiscrimination law. Along with the BIA’s codification of federal acknowledgment standards in 1977 and 1978, the *Mancari* decision empowered tribal governments recovering from the nadir of their power during the termination era. To protect this tenuous leverage, officials from recognized groups adopted the race-neutral language of sovereignty and citizenship to emphasize the political relationship between tribes and the federal government, which they increasingly wielded against a group of perceived enemies that included bureaucrats, ethnic frauds, and non-recognized tribes, especially the populous and influential Lumbees. During the IEA reauthorization proceedings, these officials argued that the process for determining students’ Native identities under Title IV circumvented

tribal sovereignty and highlighted inconsistencies in the administration of eligibility criteria. In response, lawmakers included a provision in the renewed act mandating that HEW conduct a study to formulate a standardized “Indian definition.”¹

When HEW solicited input from stakeholders for its Indian definition study, the National Tribal Chairmen’s Association (NTCA) submitted a strongly worded position paper that articulated the assertive, absolutist version of tribal sovereignty that was rapidly hardening into common sense in colorblind, post-*Mancari* Native America. Although some historians have characterized the establishment-aligned NTCA as “conservative” and, less politely, “arch-reactionary,” the association rivaled the older National Congress of American Indians (NCAI) in influence during the 1970s and channeled the collective political will of executives from recognized tribes, the content of which was both novel and quite liberal in its attention to law and process. On the subject of the IEA, that collective will was unambiguous. “The [IEA’s] 1972 definition of Indian,” the chairmen asserted, “was a mistake when enacted because it classified Indians on the basis of racial ancestry rather than... the unique trust relationship... [with] the sovereign Indian tribes.” Fingers to the wind amid anti-busing protests, the onset of mass incarceration, and the growing political demonization of entitlement programs, NTCA embraced the hardening distinction between racial and political Indianness both to ensure political relevance and to differentiate aid to tribes from increasingly stigmatized “welfare” programs as “earned” through treaty obligations. “Indians will not survive if they are treated merely as

¹ Position Statement of the National Tribal Charman’s (sic) Association on the Proposed Definition of Indian for the Indian Education Act,” 4 December 1979, box 1, folder “‘HEW’ definition of Indian,” Executive Director’s Office, Correspondence File 1978-1982, Records of the North Carolina Commission of Indian Affairs, State Archives of North Carolina, Raleigh, NC [hereinafter NCCIA].

another of America's disadvantaged racial minority," they warned grimly. "[T]o survive, they must *always* define themselves in terms of their unique *political identity*" (emphasis original).²

Both in Indian Country and the United States more broadly, colorblind legal and political culture nurtured a form of sovereignty that was exclusionary and, ironically, potentially racialized. (In a corollary of that irony, the growth of bureaucracy around that sovereignty produced anti-bureaucratic sentiment). NTCA's position paper excoriated the 1972 IEA criteria for having "opened the door for a new constituency of people to proclaim themselves as Indian," a veiled reference to the eligibility of students from state-recognized tribes. The chairmen complained that HEW classified these supposed newcomers as Indians "not on the basis of tribal membership, but rather on the basis of a bureaucratic decision made by a state or federal official." Arguing that this administrative discretion usurped tribes' sovereignty over enrollment and diluted the value of genuine federal acknowledgment, they warned that "if federal and state bureaucrats continue to replace tribal authority in Indian education, soon tribal authority (and, indeed, Indian culture itself) will be jeopardized." To prevent such an outcome, NTCA urged HEW to implement a definition that "recognizes that tribal membership in a federally recognized tribe is the one and only definition of Indian."³

In drafting their statement to HEW, NTCA's leaders undoubtedly imagined Lumbee Indians and their evolving complement of institutions. One source of inspiration for the chairmen's paranoid fantasies about federal "bureaucrats" was Helen Maynor Scheirbeck, a Lumbee education activist and former Office of Education employee who had helped implement

² Ibid.; Ward Churchill and Jim Vander Wall, *Agents of Repression*, 261.

³ "Position Statement of the National Tribal Charman's (sic) Association on the Proposed Definition of Indian for the Indian Education Act," 4 December 1979, box 1, folder "'HEW' definition of Indian," Executive Director's Office, Correspondence File 1978-1982, NCCIA.

Title IV under the original 1972 language. Privately, NTCA leaders suggested Scheirbeck commanded a cabal of Lumbee bureaucrats funneling assistance to North Carolina Indian organizations in defiance of federal law, an accusation based on faulty legal interpretation but also a grain of truth. By 1979, those Indian organizations included both the Lumbee Regional Development Association (LRDA) and the North Carolina Commission of Indian Affairs (NCCIA), a state government agency formed in 1971 to advocate for and coordinate funding to Lumbees and the six⁴ other federally non-recognized tribes and urban associations that maintained formal relationships with North Carolina. To counter the efforts of the National Tribal Chairmen's Association to restrict Title IV funding to federally recognized tribes, LRDA founder and NCCIA executive director Bruce Jones dispatched the chair of the commission's board, Jim Lowry, in early 1980 to testify before HEW's Committee on the Indian Definition. After citing grim statistics to impress upon the committee the importance of Title IV assistance, Lowry recounted Lumbees' long struggle to claw support from settler governments and subtly reminded its members that his people were still managing the political and educational fallout from HEW's 1970 desegregation plan:

The ironic thing is that 25 years ago, the bureaucrats [in state government] had no problem [recognizing] our Indian identity.... We had our own public schools for Indians [and] were so much *Indian* that we could not attend any state supported college or university except [then-segregated] Pembroke State College. The Indians of North Carolina have come a long way since the days of school segregation; yet, never have we stood to lose so much by... having some group in Washington say we are not [Indians].

⁴ J.P. Bullard, Jr. to Robin Shield, 27 December 1979, folder 22, box 293, NCAI records. In 1979, North Carolina's state-recognized tribes included the Lumbees, represented by the Lumbee Regional Development Association; the Coharie Intra-Tribal Council of Sampson and Harnett counties, *de facto* recognized in 1911; the Haliwa-Saponi Indian Tribe of northeastern North Carolina, recognized in 1965; and the Waccamaw-Siouan Development Association of Columbus and Bladen counties, recognized in 1971 after longstanding relations with county governments. The three state-recognized urban Indian associations were the Guilford Native American Association (Greensboro), the Metrolina Native American Association (Charlotte), and the Cumberland County Association for Indian People (Fayetteville).

Until now, there has never been a question of the eligibility of the North Carolina groups. (emphasis original).⁵

*
**

The colorblind sovereignty articulated in *Morton v. Mancari* had profound implications for intertribal politics, Lumbee political institutions, and the federal bureaucracy. Amid the flurry of Indian affairs legislation in the early to mid 1970s, executive agencies outside the BIA increasingly extended services to urban and non-recognized Indian groups, including the Lumbee Regional Development Association (LRDA) and other Lumbee-dominated organizations. The US Supreme Court decision in *Mancari*, however, threatened this tenuous backdoor recognition and intensified opposition from officials representing recognized and reservation tribes. Empowered by the Court’s emphasis on tribal membership and jealously guarding their toehold on power, recognized tribes and the intertribal organizations representing them launched racialized assaults on LRDA and Lumbees, whom they characterized as a “multi-racial group”—a dog whistle term that traded on Lumbees’ African ancestry to dispute their Indianness. This line of reasoning drew on a long tradition in American political thought that ascribed the capacity for self-government to whites and, to a lesser extent, Indians, while associating blackness with servility and dependence. At the moment in American political culture in which social welfare programs—newly available to African Americans in the post-civil rights era—became coded as “black,” tribal officials sought to characterize Lumbees and other eastern Indians as black people masquerading as Indians to supplement unearned “welfare” with funding

⁵ Jim R. Lowry, prepared testimony to the Committee on the Indian Definition, 4 January 1980, box 1, folder “‘HEW’ definition of Indian,” Executive Director’s Office, Correspondence File 1978-1982, NCCIA. The original document was rendered with typed capital letters; for clarity, the quotation has been edited to reflect standard capitalization.

earmarked for Indians, which they characterized as treaty-guaranteed historical obligations, not charity. These coded messages mimicked the evolving politics of race in America, in which attacks on nominally race-neutral social and behavioral categories substituted for open racial appeals. Opposition to integration bled into the defense of taxpayer rights and “neighborhood schools”; criminal convictions justified the increasingly large, increasingly black populations of America’s prisons; and the receipt of government assistance, actual or imagined, undergirded manifold assaults on African American electoral, social, and economic enfranchisement. The post-*Mancari* definition of Indian identity as political rather than racial—a distinction that ignored historical associations among sovereignty, nationhood, and race—emboldened tribal and intertribal officials with a veil of racelessness, even as it armed them with the exclusionary weapons of tribal sovereignty and federal acknowledgment.

As the postwar American administrative state reached maturity in the mid- to late 1970s, the battle to codify Lumbees’ legal status in the emerging colorblind order played out in the federal government’s increasingly autonomous executive agencies, as each developed competing, contingent definitions of Indian. Although *Mancari* threw federal funding for Lumbees into legal doubt, agencies outside the BIA used their discretion to bypass or reinterpret the ruling, a process that preserved limited Lumbee access to federal funding but locked them into a tenuous, contingent relationship with the federal bureaucracy. Most relied on colorblind interpretations of Indian affairs legislation that downplayed the importance of Indian status relative to nonracial standards, such as socioeconomic status or educational disadvantage. As other agencies adopted liberalized definitions of Indian status, the BIA emerged as a powerful countervailing force to Lumbees’ emerging semi-recognition, as the bureau cleaved ever more tightly to tribal sovereignty and the federal trust relationship. As federal acknowledgment

increasingly came to define legal Indian status, the BIA began to codify and crystallize standards for federal recognition, resulting in the 1978 administrative procedure for acknowledgment. Despite pervasive concerns among recognized tribal officials that Lumbees and other Eastern Indians wielded undue influence over the process, the 1978 standards locked Lumbees into their liminal status as congressionally semi-terminated but semi-recognized by bureaucratic fiat.

*
**

The final cleavage between the racial and political definitions of Indian status came in the unanimous 1974 US Supreme Court opinion in *Morton v. Mancari*. Emboldened by strengthened public-sector antidiscrimination protections in the newly enacted Equal Employment Opportunity Act, a group of disgruntled white civil servants at the Albuquerque regional office of the BIA filed suit over the longstanding practice of Indian preference under the 1934 Indian Reorganization Act. In particular, they objected to the extension of Indian preference from hiring to promotions, a grave threat to non-Native BIA careerists and all the more threatening coming from Commissioner Louis Bruce, only the second American Indian appointed to the position since Ely Parker in 1869. The plaintiffs alleged not only that the EEOA implicitly repealed the 1934 preference requirements but also that the practice constituted a broader infringement of their rights to due process and equal protection under the Fifth Amendment. In a shocking decision, the federal District Court ruled that the practice deprived non-Indian employees of property without due process and ordered a halt to its enforcement. The Supreme Court promptly issued an injunction and agreed to hear the appeal. In June 1974, the justices unanimously reversed the district court's ruling and handed down a landmark opinion that reconciled the

seemingly anomalous status of Indian tribes with the colorblind drift in both the political branches and constitutional jurisprudence.⁶

Before addressing the weightier constitutional questions in the *Mancari* case, the Supreme Court countered the appellees' statutory arguments with a firm rejection of implied repeals, a more technical conclusion that skirted Indian legal status but affected subsequent interpretations of the Lumbee Act. Writing for the unanimous court, Associate Justice Harry Blackmun breezily dismissed the claim that the EEOC had voided Indian preference, citing the judicial axiom that "repeals by implication are not favored." Blackmun further opined that specific, narrow laws like IRA could "not be controlled or nullified by a general [statute]" simply because one postdated the other. "[W]hen two statutes are capable of coexistence," the associate justice reasoned, "it is the duty of the courts, absent a clearly expressed congressional intention to the contrary, to regard each as effective." Although not as directly related to Indian law as the Fifth Amendment questions in *Mancari*, Blackmun's statutory holdings nevertheless proved influential as a distillation of the Supreme Court's longstanding hostility to implied repeals. Moreover, this portion of the opinion affected at least one area of Indian law, namely the BIA's longstanding contention that the Lumbee Act invalidated the Original Twenty-Two's rights as "half-blood" Indians under the IRA. When the bureau's interpretation finally faced judicial review, the *Mancari* opinion helped to enervate the Lumbee Act's termination clause as it applied to both the Original Twenty-Two and the LRDA's non-BIA funding.⁷

In his refutation of the appellees' constitutional claim that Indian preference represented "invidious racial discrimination," Blackmun argued that plenary power endowed Congress with

⁶ *Morton v. Mancari*, 417 U.S. 535 (1974).

⁷ *Ibid.*

the unilateral, sovereign authority to bend due process and equal protection in matters of Indian law. Invoking congressional authority “[t]o regulate commerce...with the Indian tribes” under Article I of the Constitution, the justice noted that tribes possessed a “unique legal status” that allowed the legislative branch to “singl[e] Indians out as a proper subject for separate legislation.” As the Supreme Court found in the 1886 *United States v. Kagama* decision, congressional power over tribes was unmediated and virtually free from constitutional constraints. Indeed, the *Kagama* case concerned the Major Crimes Act, which transferred jurisdiction over certain criminal cases from tribal to federal courts. At various times, plenary power justified unilateral congressional action to sever ties with individual tribes or initiate relationships with others. The Fifth Amendment, Blackmun implied, had no bearing on the Indian Reorganization Act; in matters of federal Indian legislation, Congress had no obligation to follow due process or ensure equal protection. Indeed, if statutory provisions like the IRA’s Indian preference requirements “were deemed invidious racial discrimination, an entire Title of the United States Code [governing Indian affairs] would be effectively erased and the solemn commitment of the Government toward the Indians would be jeopardized.” Plenary power enabled Congress to enact particularistic Indian legislation and simply disregard statutory or even constitutional civil rights protections.⁸

To shield Indian law from colorblind equal-protection scrutiny, Blackmun distinguished *political* Indian status, governed by the trust relationship, from racial Indian identity, a fateful logical maneuver that magnified the importance of federal recognition and papered over the historical and ideological role of race in settler-tribal relationships at both the federal and state

⁸ *Ibid.*; *United States v. Kagama* 118 US 375 (1886).

levels. Far from constituting racial discrimination, the associate justice argued, the IRA provisions were “not...a ‘racial’ preference” at all. Rather, the hiring preference applied to “Indians not as a discrete racial group, but, rather as members of *quasi*-sovereign tribal entities.” In elevating tribal sovereignty, or “quasi-sovereign[ty]” in Blackmun’s telling formulation, as the legal element enabling particularistic legislation, the justice severed racial Indianness from non-racial tribal citizenship, a strategic ploy that disregarded over a century and a half of federal conflation of race, nationhood, and sovereignty in service to shielding the trust relationship from colorblind challenge. Indeed, he specifically pointed out that the criteria for Indian preference under the IRA—blood quantum of at least a quarter and membership in a federally recognized tribe—“operates to exclude many individuals who are racially to be classified as ‘Indians,” a fateful aside that established Indians as subject to civil rights law outside the aegis of federal recognition. Although Blackmun’s political definition of Indian status was the intellectual culmination of the slow-moving colorblind turn, it was novel jurisprudence and had profound consequences throughout Indian Country.⁹

After *Mancari*, Indian offices outside the BIA crafted colorblind justifications for continued funding for LRDA from Indian appropriations, most often by citing statutory language on socioeconomic status or other nonracial categories. The original outline of this argument came in April of 1974, shortly before the *Mancari* decision, when HEW Assistant General Counsel Harry Chernock argued that the Indian Education Act provided assistance “based on educational or linguistic deficiency, not Indian status” in order to justify the eligibility of Lumbee students. This opinion increased in significance after the June 1974 Supreme Court

⁹ Ibid.

decision and as Congress continued to reauthorize Indian-specific legislation with provisions for non-recognized tribes and urban groups, such as the Native American Programs Act. In an opinion on Lumbee eligibility under NAPA, another member of HEW's legal staff, Galen Powers, cited and expanded on his colleague's nonracial standard for Lumbee eligibility. After reviewing the legislative history, Powers concluded that the primary purpose of the enactment was to renew and consolidate the functions of the OEO's Indian Desk, which provided aid on the basis of poverty. One senator had indicated that "[a] major element for the variety of Native American projects is overcoming the problems of poverty... [and] [t]he amount of basic grants to reservations is based on the number of poor residents." Crucially, Powers observed that the act extended specific benefits to Native Hawaiians, whose statutory relationship to the federal government, like Lumbees', was racially, not tribally, defined. NAPA "d[id] not provide assistance to Indians because of their status as Indians," Powers concluded, "but... because of their economic and social condition." Since Lumbees received funding "as a poverty group," neither the 1956 termination clause nor the political definition of Indian status in *Mancari* applied.¹⁰

Mancari's colorblind reformulation of Indian status also widened the rift between recognized and non-recognized tribes and stoked a trend in tribal politics toward more strident, essentialist formulations of sovereignty. As the justice implied, the protected, nonracial definition of Indianness derived not from an inherent indigenous right to self-government but from "the plenary power of Congress... to legislate on behalf of federally recognized tribes." After *Mancari* confirmed civil rights law and racial Indianness as potential vectors of

¹⁰ Galen Powers to Julia Taft, April 3, 1975 "Eligibility of Lumbee Indians for Funding under the Headstart, Economic Opportunity, and Community Partnership Act of 1974," Box 43, Helen Maynor Scheirbeck Papers.

termination, tribal officials grew defensive of their peoples' federal recognition, which they increasingly presumed to be coextensive with sovereignty. As the LRDA assumed the form of a constitutional tribal government, sovereignty hardliners increasingly contended that the organization and its Lumbee beneficiaries diluted the value of federal recognition and threatened the integrity of tribal sovereignty. In 1970, LRDA was a small, rural antipoverty association with a multiracial clientele; by 1979, the Lumbee Regional Development Association held elections, maintained an expanding tribal roll, and occasionally certified members' blood quanta. At the midway point of that development, the association entered an uncanny valley in verisimilitude to its federally recognized cousins, tribal and intertribal officials invoked the termination clause of the Lumbee Act in a well-organized campaign to curtail LRDA's relationship with federal agencies.¹¹

Concerned that even limited incorporation of Lumbees into the federal Indian affairs bureaucracy threatened to weaken the protections of tribal sovereignty, officials and allies of federally acknowledged tribes mounted a concerted opposition campaign. Between 1973 and 1980, Lumbee institutions faced a withering assault from both individual tribal governments, particularly the Eastern Band of Cherokee Indians (EBCI), and a loose alliance of regional and national pan-tribal organizations, including the National Tribal Chairmen's Association (NTCA), the National Congress of American Indians (NCAI), and the United Southeastern Tribes (USET), which represented the Eastern Cherokees and other recognized tribes in the Atlantic and Gulf South states. Armed with the Lumbee Act's termination clause, officials from these groups repeatedly protested to the federal agencies funding LRDA and other Lumbee institutions.

¹¹ Ibid.

Hardline sovereignty advocates viewed administrative efforts to include urban and non-recognized Indians in non-BIA programs as a particularly potent threat. With large migrant communities in Detroit, Baltimore, and the Piedmont cities, Lumbees came to epitomize both groups in the increasingly acrimonious intertribal political discourse. In an internal memorandum, USET member Donald Jay Solomon pointed to the transfer of ONAP from OEO to HEW's Office of Human Development, complaining that "[t]he other programs in that department are heavily weighted to benefit urban communities." This administrative proximity, he argued, "may help explain why so many urban programs were funded by ONAP." Drawing a direct link from urban to non-recognized Indians, he observed that "the government has administratively decided to expand... the use of funds beyond serving Indian reservations" and that this enlarged view of Indian status was "how ONAP justifies funding the Lumbee."¹²

In a seeming paradox, NTCA and its allies routinely demanded that federal agencies enforce termination-era legislation in order to protect recognized tribes' self-determination from the supposed threat of Lumbee inclusion. Amid clamor from colleagues and constituents, NTCA Executive Director William Youpee wrote HEW in late 1974 to demand a halt to disbursements under Title IV of the Indian Education Act, insisting that the 1956 Lumbee Act precluded federal funding from any Indian-specific set-aside. Citing the act's termination clause, he argued "that recognizing Lumbees for the purposes of Title IV... is in error" and warned that classifying Lumbees as Indians under IEA "pending request from Lumbees elsewhere" in the federal government "would compound the issue." Citing practical considerations around scarce resources, Youpee demanded that "appropriate steps... be taken administratively to put a stop to

¹² Donald Jay Solomon to Eugene Begay "RE: ONAP, Lumbee, CENA and ONAP Directorship," 2 September 1974, box 111, folder 6, NCAI Records.

diverting funds from Indians who are legally entitled to receive Title IV monies” given the “very clear language of the Lumbee Act of June 7, 1956.” In a clear reference to the efforts of Helen Scheirbeck and other Washington Group Lumbees, Youpee decried excessive bureaucratic discretion and implied that a cabal of Lumbee operators in federal agencies had administratively nullified the termination clause of the Lumbee Act. “It appears to us,” Youpee wrote on behalf of NTCA, “that persons in the Education Office who were well aware of the Lumbee status forced the issue and has [*sic*] finessed the system.” As Youpee’s strident defense of the Lumbee termination clause demonstrated, the power to exclude defined sovereignty. In the *Mancari* era, that power assumed greater and more destructive force in intertribal politics.¹³

Although NTCA consistently argued that Lumbees threatened to outmuscle smaller recognized and reservation tribes for access to scarce federal resources, their outrage stemmed less from genuine scarcity than ideological concerns. The notion that Lumbees outcompeted recognized tribes ignored both LRDA’s relative poverty and the administrative mechanics of federal funding. LRDA’s per capita ONAP funding for 1975—only seven dollars—was by far the lowest of any grantee. Under the IEA, moreover, HEW disbursed grants on a per-pupil basis, and during the program’s initial implementation, administrators fretted that too few eligible school districts, tribes, and community organizations were applying. As applications increased, funding more than doubled from \$17.8 million in 1973 to over \$57 million in 1976. Rather than an empirical claim, the argument that Lumbees diverted funds from recognized Indians was a manifestation of the anxiety that administrators outside the traditional Indian affairs bureaucracy—sometimes Lumbees themselves—were less beholden to recognized groups,

¹³ William Youpee to Stan Thomas, 1 October 1974, box 45, folder 4, NTCA Records.

ignorant of the mechanics of tribal sovereignty and jurisdiction, and threatened to return Indian affairs to termination policy.¹⁴

Although most tribal sovereignty hardliners articulated their concerns within the parameters of colorblind political culture, the traditional conflation of race and nation persisted in informing nominally political arguments. Preston Tonepahote, president of a Philadelphia-area urban Indian center representing “Indians of at least ¼ Indian blood of Federally recognized tribes,” addressed a racially charged screed to NTCA officials. He alerted the directors to the “very disheartening trend in the Eastern part of the United States” and alleging that “thousands of Blacks [were] presenting themselves as American Indians, seeking programs, monies, and every other opportunity that can be had.” In a patronizing flourish that laid bare his racial ideology, Tonepahote argued that “we don’t deny them their small amount of Indian blood,” but took issue with the emerging arguments that “blood quantum has no meaning, color has no bearing, etc.” and rhetorically mused about “how many of the Tribal chairmen would present them to their tribesmen as Indians. Black and part Indian maybe, [but] by the same token we are allowing these Blacks to present themselves as Indians with no objections.” The association president worried that the raw numbers of eastern Indians—or “thousands of Blacks,” as he characterized them—would overwhelm the political voice of federally recognized tribes demographically reduced by colonial violence, including the use of blood quantum to limit enrollment. “The funnel of monies is pointed to the East,” he warned, “and the more figures of Indian population in the East, the more robbery of Indian programs, designed for Indian country is going to take place.” Conjuring the emerging figure of the “welfare queen,” Tonepahote wrote

¹⁴ DHEW Office of Indian Education, *The Indian Education Act of 1972: Report of Progress for the Third Year of the Program* (Washington, DC: March 1976), 13.

that he “assumed that there were enough programs available for [‘blacks’] but they are attempting to use this as a vehicle to... establish themselves as American Indians.” Tonepahote’s missive was a particularly raw, unvarnished articulation of the continuing and deeply emotional connections among race, reproduction, peoplehood, and political power.¹⁵

Intertribal groups’ pressure campaign proved at least marginally effective in sowing legal doubts among administrators, which heightened the tenuousness of LRDA’s status and occasionally created delays and other frustrations. In a frantic 1974 missive to his general counsel’s office, HEW’s policy chief F.H. Hundemer wrote that his office had “received” a copy of the 1956 Lumbee Act from an unspecified source, not implausibly from NTCA. Apparently, Hundemer had been unaware of the legislation and suddenly doubted whether the act’s “language... ma[d]e those grants now in place illegal (i.e. FY 1973 awards)” and inquired whether his office should immediately cease grants to Lumbees and request repayment. He also expressed uncertainty over whether the act’s provisions also applied to “Lumbee Indians, though they may not be located in North Carolina,” by which he presumably meant Lumbees in Baltimore and other urban areas. Hundemer emphasized the urgency of his request, noting that he had suspended payment of Title IV IEA grants and ordered the postponement of grant application reviews for the upcoming fiscal year. This uncertainty apparently affected HEW programs outside the Office of Indian Education, including grants from ONAP. On March 8, the day after Hundemer wrote the general counsel, ONAP contacted LRDA to inform them that their community development grant disbursement would be delayed, ostensibly on the basis that its grant writers had missed an unspecified deadline. LRDA vigorously disputed this accusation and

¹⁵ Preston Tonepahote to National Tribal Chairmen’s Association, 28 March 1974, box 45, folder 4, NTCA Records.

furnished documentation supporting their position that their office had met all posted deadlines, suggesting that HEW's explanation was pretextual.¹⁶

Amid the pan-tribal exploitation of the Lumbee Act, the Lumbee political class convinced their representative in the US House to introduce an amendment to the 1956 law's termination clause. At a planning conference in Pembroke, Indians from both Washington and Robeson County discussed lobbying strategies for support of the amendment bill. Helen Scheirbeck, Purnell Swett, and other members of the Washington Group resolved to leverage their connections to compile evidence on the effects of the termination clause on Lumbee funding levels and bend the ears of influential legislators. The local Pembroke group assembled a list of lobbying targets to contact and supplemented it with a list of key arguments. The Pembroke leaders urged letter-writers to remind ONAP officials that Lumbees "did not receive one cent of Federal aid" before the late 1960s, and that the current level of funding from non-BIA agencies was "miniscule compared to Federal funds going to other Indian groups." Another talking point emphasized President Nixon's directive that agencies like ONAP had special responsibility for urban and "off-reservation" Indians not served by the BIA. The cleared the House of Representatives midyear but remained stuck in committee in the Senate.¹⁷

Exclusionary vitriol toward Lumbees reached a fever pitch at the contentious 1974 National Congress of American Indians convention in San Diego, as member tribes voted in a landslide for a USET-sponsored resolution withholding NCAI endorsement of the Lumbee Act

¹⁶ F.H. Hundemer to Theodore Sky, 7 March 1974, "Request of General Counsel Opinion on Indian Education Grants;" Albert Levy, "Memorandum for the Director: Office of Native American Programs, Office of the Assistant secretary of Health, Education, and Welfare for Human Development," 30 March 1974, in box 43, folder 354, Scheirbeck Papers; Donald C. Baumer, Carl E. Van Horn, Mary Marvel, "Explaining Benefit Distribution in CETA Programs," *Journal of Human Resources* 14, no 2 (Spring 1979), 171-196.

¹⁷ "Lumbee Meeting," 21 February 1974, box 43, folder 35, Scheirbeck Papers.

amendment, a blow that effectively killed the bill's progress in the Senate. Although Lumbees had participated in the NCAI since the 1950s, the organization had long relegated them to second-class representation as individuals, rather than as a tribal delegation. The pan-tribal congress maintained this tenuous compromise (in part because the dues provided badly needed revenue) until the election of Mel Tonasket, a hard-nosed Colville whose experience fighting his tribe's termination imparted him with a powerful appreciation for the importance of tribal sovereignty. Mutually suspicious of the legitimacy of non-recognized and especially eastern Indians, Tonasket and USET's Eugene Begay rallied support for a measure withholding endorsement of the Lumbee Act amendment. The text of the resolution cast doubt on "the claim by the Lumbee people of North Carolina to be 'Native Americans'" and directed the Senate to strike down the House-approved bill. After refusing to table the measure, Begay welcomed a floor debate and cast the pan-tribal assembly as a collective expression of tribal sovereignty. "The basic issue is this," he argued. "Who is an Indian who is not an Indian?" Lumbee delegate Janie Maynor Locklear pointedly reminded members of NCAI's mission "to promote the common welfare of American Indians—and we take this to mean all American Indians." After strident endorsement for the divisive measure drowned out her message of solidarity, Locklear staged a walkout of the Lumbee delegates and representatives from other non-recognized eastern tribes. Fifty-nine member tribes voted for the resolution; only three opposed it.¹⁸

¹⁸ No title, coded "Lumbee-11," *American Indian Press Association News*, no date, circa 1974, box 42, folder 343, Scheirbeck Papers.



FIGURE 6.1: MEL TONASKET SPEAKS AT THE NCAI CONVENTION IN SAN DIEGO, 1974. Courtesy of the National Museum of the American Indian and the Smithsonian Online Virtual Archives.¹⁹

The acrimony from federally recognized tribes and their advocates intensified after Congress appointed Lumbee members to the American Indian Policy Review Commission (AIPRC), a study group empowered to recommend reforms to bring the federal-tribal relationship in line with newly articulated self-determination policy. Signed into law in March 1975, the authorizing legislation specified that a select group of senators and representatives appoint a five-member, all-Indian board of commissioners, comprised of three representatives

¹⁹ Photographic image in box 591, folder 197, “Conventions: San Diego I,” NCAI Records, Smithsonian Online Virtual Archives.
< https://edan.si.edu/slideshow/slideshowViewer.htm?eadrefid=NMAI.AC.010_ref9682 >

from federally acknowledged tribes, one from the non-recognized groups, and one representing urban Indian interests. Although the congressional committee solicited input from various stakeholders in Indian Country, NTCA and other hardline sovereignty advocates objected on principle to the absence of formal decision-making power for tribal governments, and the eventual appointments seemed to confirm their fears. Among the representatives from federally recognized tribes was Ada Deer, the leader of the successful movement to reverse congressional termination of her Menominee Tribe. Young and female with a background in social work, Deer had long had a tense relationship with the older, overwhelmingly male tribal establishment, both in her own community and the pan-tribal arena, where she faced gender-inflected derision for her relatively light complexion, urban background, and educational attainment. Behind closed doors, NTCA officials also expressed dismay at the selection for the urban representative, Louis Bruce, the respected former Indian affairs commissioner of Mohawk and Oglala descent, whom the chairmen resented for joining and legitimating the Coalition of Eastern Native Americans, a Lumbee-founded lobbying group. By far the most controversial appointment, however, was Adolph Dial, the soft-spoken, long-winded Lumbee professor. After his days collecting surveys for Guy Johnson and confronting university segregation, the World War II veteran and Detroit migrant had earned a master's degree from Boston University; joined the faculty at his alma mater, Pembroke State; founded an American Indian studies program; and co-authored the first monograph-length academic history of the Lumbee people. The pan-tribal opposition stemmed primarily from the mere presence of a Lumbee on the AIPRC, but Dial generated further controversy by awarding key positions to fellow Lumbees, including attorney Betty "Jo Jo" Hunt for the task force on non-recognized and terminated tribes and Helen Scheirbeck for education. Although its final report ultimately influenced the BIA's recodification of acknowledgment

procedures and led to some incremental reforms, the AIPRC was in most ways a typical postwar special commission, designed more to create the appearance of congressional action through hearings and reports than to produce major structural change. Nevertheless, the commission and its composition generated disproportionate anxiety and debate among the pan-tribal establishment, due in part to its ostensible mission of reshaping Indian policy, but more for its symbolic value in representing American Indian people and their collective political will, a function that sovereignty-minded tribal officials argued that only their governments could fulfill.²⁰

Tribal and pan-tribal officials pointedly expressed disapproval for what they saw as Lumbees' disproportionate and illegitimate influence in Indian affairs at the 1975 NCAI convention, when President Mel Tonasket and his allies again shepherded anti-Lumbee resolutions to adoption. With strong urging from USET, delegates approved a measure reiterating NCAI's 1974 opposition to congressional recognition for Lumbees but intensified the resolution by calling on "all governmental agencies [to] cease [the] granting of funds... earmarked for Indian tribes to those organizations that are not federally recognized Indian tribes." Given NCAI's clout in Washington, the measure posed a practical threat to Lumbee non-BIA funding and evidenced the extent to which Lumbees had become a synecdoche for non-recognized Indians, particularly Eastern tribes with probable African ancestry. The delegates also approved a more symbolic and vitriolic resolution protesting the "dangerous overbalance of influence on the A.I.P.R.C. on the part of the Lumbee people... and their political supporters." In

²⁰ American Indian Policy Review Commission, *Final Report* (Washington, DC, 1977); Bruce Jones to Mel Tonasket and Charles Trimble, 19 February 1976, box 396, folder 1, NCAI; Mel Tonasket to Morris Thompson, 26 February 1976, box 396, folder 1, NCAI; Nancy Oestreich Lurie, "Ada Deer: Champion of Tribal Sovereignty" in *Sifters: Native American Women's Lives*, ed. Theda Perdue (New York: Oxford University Press, 2001), 223-242.

a dramatic exaggeration that showcased the emotional and political stakes of Lumbee involvement, one perambulatory clause posited Lumbee influence as extreme “to the extent that the Commission is serving the special interests of the Lumbees rather than American Indians.” As a remedy, NCAI called on Congress to appoint two additional commissioners to represent “the interests and perspective of the traditional land-based federally-recognized tribes” and, in a jarringly specific personal attack, demanded that “Adolph Dial be removed from the Commission.” The resolution further recommended the formation of a separate task force on federal recognition criteria with membership appointed by NCAI and NTCA, an indication of the extent to which the increasingly urgent, exclusionary post-*Mancari* project of tribal sovereignty narrowed the differences between the older, historically more inclusive congress and the reservation-aligned, para-tribal NTCA. Although both resolutions passed with overwhelming majorities, a growing minority of Indian activists expressed disgust at the divisiveness, particularly the provision singling out Adolph Dial. One Cahuilla leader denounced the AIPRC measure for targeting Dial by name, calling it “one of the most despicable resolutions ever to come out of an Indian gathering.” As a fig leaf for the nakedly exclusionary tone of the 1975 convention, Tonasket pointed out that the pan-tribal congress had also recommended federal acknowledgment for eight West Coast Indian tribes, all but one representing Pacific Northwest peoples ethnically related to the president’s own Colville Tribe. The clear messages from NCAI leadership, however, were that federal acknowledgment conditioned legitimate tribal existence, and a more inclusionary recognition policy threatened to dilute tribal sovereignty and reduce American Indians to a racial minority group.²¹

²¹ Mel Tonasket to Morris Thompson, 26 February 1976, box 396, folder 1, NCAI; Resolution No. NCAI 75-54, box 396, folder 1, NCAI; Resolution No. NCAI 75-46, box 396, folder 1, NCAI.

In its 1975 decision in *Maynor v. Morton*, a federal Court of Appeals clarified the interpretation of the Lumbee Act's termination clause and relied in part on *Mancari* to resolve the ongoing Original Twenty-Two controversy. In the long-running legal drama, a federal district judge had dismissed the complaint by Lawrence Maynor and the other surviving "half-blood" Indians. After Blackmun's opinion in *Mancari*, however, the DC Circuit Court of Appeals overturned the lower court ruling, in part because the Supreme Court ruling had not been available to the lower court. Interestingly, Judge Malcolm Wilkey's opinion turned not on the nonracial definition of legal Indian status but on the affirmation that implied repeals were disfavored. Wilkey dismissed the Department of Interior's argument that the Lumbee Act invalidated the Original Twenty-Two's claims to federal services. "To our minds," Wilkey wrote for the majority, "the key phrase [in the Lumbee Act termination clause] is '[n]othing in this act.'" He ruled that Congress had not intended to strip Indians of preexisting rights, but simply to limit any claims to federal services based on the act alone, a position he buttressed with contemporary congressional record and correspondence. In Maynor's case, moreover, both the 1934 IRA and the 1956 Lumbee Act applied, and Wilkey likewise cited Blackmun's opinion that "[w]hen there are two acts upon the same subject, the rule is to give effect to both if possible... The intention of the legislature to repeal 'must be clear and manifest.'" DOI's case, he concluded, "rests upon a repeal by implication, or inadvertence." In one elegant sweep, Wilkey both restored the federal status of the Original 22 and eviscerated the refrain that the Lumbee Act disqualified Lumbee organizations from any federal Indian funding, regardless of the

administering agency or statutory source of the appropriation. It also rendered the ongoing push for Congress to clarify the Lumbee Act's termination clause to exclude non-BIA funding.²²

In one of the most extreme cases of particularism in Indian law, the appellate court's decision required the BIA to extend services to the surviving members of the Original Twenty-Two, who numbered only eight in 1975. By the time of the ruling, the eight newly recognized "half-blood" Indians and their Tuscarora kin had largely coalesced around a new representative, Vernon "Yokes" Locklear, following the bitter feud between Howard Brooks and Carnell Locklear. His following invigorated by the victory over the BIA, Yokes Locklear wrote Commissioner Morris Thompson and submitted an itemized budget on behalf of his nascent tribal organization totaling more than \$5.9 million for housing projects, health services, food assistance, and "[o]rganization of the tribal government of self determination." He emphasized the particularly acute need for technical assistance in tribal development, noting that his council lacked a "desk, chairs, typewriters," and most other basic office supplies. To Commissioner Thompson's undoubted horror, Locklear signaled that he viewed the multi-million-dollar budget as only the beginning of Tuscarora requests for federal support. "This is the start of the Tuscarora proposal grants," he declared. Thompson, still reeling from his bureau's embarrassing legal setback, splashed cold water on the ambitious Tuscarora proposal by reminding Locklear that the ruling had not conferred acknowledgment on any tribal organization but merely restored the rights of the eight surviving half-bloods as individuals. Striking an upbeat and cooperate chord, however, he agreed to dispatch representatives to Robeson County for a meeting on "steps that can be taken towards recognition and organization as a result of the recent court decision."

²² *Lawrence Maynor v. Roger C. Morton*, 510 F.2d 1254 (D.C. Cir. 1975); John Wertheimer, *Law and Society in the South: A History of North Carolina Court Cases* (Lexington: University of Kentucky Press, 2010), 177-190.

The two sides agreed to a three-day summit in August, with the Tuscaroras responsible for conference space.

Almost immediately, the BIA agents clashed with their Tuscarora counterparts over the scope of federal obligations under *Maynor*, which the bureau intended to comply with minimally and as inexpensively as possible. For the second time in as many years, Eastern Area Director Harry Rainbolt made his way to Robeson County for a meeting with the remaining Original Twenty-Two and their Tuscarora representatives, this time with five career BIA administrators in tow. Despite Locklear's plea for office supplies and Rainbolt's previous visit with Howard Brooks, the BIA men seemed surprised at the Tuscaroras' makeshift conference room, which the commissioner had unwisely insisted they supply. Rainbolt reported that Locklear and his followers had set up camp near Maxton in "an abandoned restaurant [which lacked] adequate ventilation [and] adequate tables and chairs to accommodate the number of people." The area director used his discretion to rent a conference room in nearby Lumberton, where he and his comrades met with a contingent of "25-35 people, one of whom," Rainbolt disconcertedly mentioned, "wore a pistol on his hip at all times." After reconvening in Lumberton, the surviving members of the Original Twenty-Two and their allies presented the BIA delegation with an expansive list of demands that included both longstanding goals of the Tuscarora movement, such welfare reform and restored Indian control over the public schools, as well as new or renewed agenda items that reflected their post-*Maynor* optimism, including full recognition, tax-exempt reservation trust land, and hunting and fishing rights. The BIA agents, seemingly uncomfortable and intimidated, rejected these claims as gently as possible as they outlined the bureau's position: that the court ruling conferred status as individual Indians only to the eight surviving half-blood Indians, not full federal acknowledgment. Those beneficiaries were

guaranteed only those services specified in the Indian Reorganization Act, such as educational assistance and Indian hiring preference, although the agents allowed that the certified half-bloods “may” be eligible for certain post-1935 programs. Moreover, the BIA representatives argued that this limited individual recognition could not be passed down to the children or grandchildren, unless they descended exclusively from certified members of the Original Twenty-Two or Indians of other federally recognized tribes with sufficient blood quantum. The agents further clarified that even full siblings of the Twenty-Two were excluded from individual recognition. In response to the excitement and gun-wielding bravado of their hosts, Rainbolt and his contingent coldly articulated the bureau’s narrow, grudging plans for implementing the court order.²³

As the Tuscarora contingent’s disappointment and irritation became apparent, the BIA agents offered the IRA’s provisions on trust land as a glimmer of hope for tribal recognition. According to the agents’ interpretation of the act, the certified half-blood Indians could secure a plot of land, either by purchase or donation, and petition the secretary of the Interior to place it in trust as a reservation. Trust land, even a nominal acreage, entitled the surviving members of the Original Twenty-Two to propose a constitution under Section 16 of the IRA, which could specify enrollment criteria that included a wider segment of the Indian community. One generous-minded half-blood, speaking through an attorney, expressed a desire “to expand the 22 to include all the 41,000 Indians in eastern North Carolina through enrollment requirements.” Perhaps a bit startled, the BIA contingent speculated that “the 1956 Indians (Lumbees) would be excluded” under the Lumbee Act’s termination clause, but they failed to find a satisfactory interpretation of the ambiguous, contradictory statutes involved. Rather than engage in legal

²³ Memorandum, Area Director, Eastern Office to Commissioner of Indian Affairs, “Hatteras Tuscarora Indian (sic) of North Carolina,” 26 September 1975, box 275, folder 9, AAIA.

thought experiments about the Lumbee Act's bearing on a hypothetical Tuscarora constitution, the agents admitted that tribal organization under the IRA depended upon the secretary of the Interior, whose power to designate trust land and approve tribal constitutions was discretionary. To soften the blow, Rainbolt assured the Tuscarora delegation that he would recommend their case to the secretary.²⁴

Over the course of the contentious three-day conference, the Tuscaroras disagreed sharply about the level of trust to accord Rainbolt and his agents, eventually splitting into two camps with competing strategies on how to proceed with federal acknowledgment. The more moderate group—headed by Lawrence Maynor, the titular litigant in the appellate court case—deemed the BIA representatives generally trustworthy and favored organization under the IRA as the path to recognition. Maynor initially proposed to donate ten acres of his own property to be placed in trust, but by the final day of negotiations, he had soured on the prospects for immediate approval and withdrew the offer. Convinced that the Interior secretary would withhold approval without further Tuscarora lobbying efforts and preparation, he worried that his community would “end up with broken hearts and shattered dreams” if they acted prematurely. Maynor favored traveling to Washington to discuss the content of the proposed IRA constitution with the secretary, but the BIA agents warned that “such a meeting was most unlikely at this time.” Members of the Tuscarora delegation distrustful of Rainbolt's team and impatient with Maynor's measured approach coalesced into an opposing, more militant group. Rainbolt reported that this “group seemed to feel we were withholding information, and that we were under orders from Washington to ‘fool them and get them to sign something away.’” Members of the faction

²⁴ Ibid.

insisted that the government purchase and set aside a reservation large enough for communal ownership, and they advocated pursuing this goal either through Congress or further litigation. They suggested, not inaccurately, that the BIA offered legalistic posturing and limited concessions to blunt the momentum of the more radical Tuscarora vision for the common welfare of the Indian community.²⁵

Although the BIA eventually provided some services to the surviving certified half-bloods, bureau and Interior officials wielded administrative discretion to quarantine the juridical threat of the Original Twenty-Two's anomalous individual recognition. Some five years after Rainbolt's visit to Robeson County, several surviving half-bloods acquired three and a half acres and hired Arlinda Locklear, a brilliant young Lumbee attorney, to assist them in petitioning the Interior secretary to place the small tract in trust. Interior officials greeted the petition with apparent anxiety and began crafting a rationale for rejecting the request. In a preliminary analysis, the Interior Department Solicitor Clyde Martz braced Locklear and her clients for an adverse judgment. "As you are aware," Martz wrote, "the authority to take land in trust granted to the secretary by the [IRA] is discretionary," as was the power to approve proposed tribal constitutions. In an act of statutory interpretation contortionism, the solicitor argued that the IRA "is not an organic act... but permits reorganization of tribes with powers which they have 'by existing law.'" Contrary to the impression that Rainbolt and the BIA had offered disappointed Tuscaroras in 1975, Martz argued that the limits of the group's potential constitutional authority depended on whether and to what extent "the group is presently a sovereign group—and it is my understanding that it probably is not." As a result, the Tuscaroras' draft constitution "which

²⁵ Ibid.

includes sovereign power could not be approved.” Even if the secretary elected to place land in trust, he asserted, the beneficiaries could wield at most “[t]he powers... which might be exercised by a property owner.” Despite this confused and discouraging advisory opinion, Arlinda Locklear soldiered through the procedural obstacles to ensure due process for her clients.²⁶

The final judgment on the Tuscaroras’ trust land application revealed the BIA and Interior Department’s intent to wait out the waning jurisdictional and financial threat that Arlinda Locklear’s elderly clients posed. Late in 1980, Locklear received an unfavorable reply from Deputy Assistant Secretary for Indian Affairs Philip S. Deloria, a member of the Standing Rock Sioux with hardline views on tribal sovereignty and acknowledgment. In a revealing demonstration of his department’s reluctance to comply with the *Maynor* ruling, Deloria reminded the young lawyer that the BIA had already “spent a considerable amount of money under its housing program to build four entirely new homes and improve three others for your clients who are spread over a vast area of land.” Although Deloria certainly understood that the nominal acreage proposed as trust land was a pretext for broader Tuscarora and Lumbee enrollment under the IRA, he offered a rationale for denial predicated on the assumption that the reservation would serve only the handful of remaining certified half-bloods. He pointed out that “none [of the clients] are known to live on the specific land” in question and judged that “[t]he benefit to a few individuals seems minimal in comparison with the service obligations and jurisdictional responsibilities” related to the administration “of such a small parcel of land far removed from the existing [BIA] agency offices.” Given that Interior Department officials had repeatedly cited the *large* size of the Lumbee population as an argument against recognition, the

²⁶ Clyde Martz to Arlinda Locklear and Bruce Cunningham, 12 June 1980, box 275, folder 9, AAIA.

assistant secretary's reference to the dwindling ranks of the Original Twenty-Two was either cynical or illuminating. Much like previous and subsequent congressional invocations of plenary power to simplify the federal relationship with Indian tribes, the IRA had produced an unforeseen jurisdictional headache that Deloria and his colleagues found worrisome in both its practical and intellectual implications, namely that this small and anomalous group of half-bloods could form the nucleus of a new, undesired, and sovereign tribe. Rather than further complicate the matter with additional applications of federal sovereignty, Interior department officials opted instead simply to bide their time with the aging members of the Twenty-Two.²⁷

In communications with tribal officials, Lumbee representatives denounced pan-tribal antagonism as both naïve toadying to federal authorities and an infringement of the inherent sovereignty of non-recognized peoples. In a blistering letter to Mel Tonasket and NCAI Executive Director Charles Trimble, Bruce Jones wrote that he and his colleagues on the North Carolina Commission of Indian Affairs were “disturbed” at the twin 1975 resolutions, which he characterized as an “obvious attack on Lumbee Indian-ness [and] a wider attack on all non-Federally recognized Indian people.” After chiding the leaders for their indifference to the ongoing struggle of North Carolina’s Indians against “the legacy of official racism, educational abuse, and economic imprisonment,” Jones mocked their esteem for the federal trust relationship as a legitimating fetish by reminding them that recognition “has never been a protective talisman against oppression.” Instead, he posited that recognition status owed less to authenticity than “historical accidents” such as “whether one’s ancestors were ‘treatified’ and ‘reservationed’ by Uncle Sam.” Jones also vigorously disputed the implication that the proposed joint NCAI-NTCA

²⁷ Philip S. Deloria to Arlinda Locklear and Bruce Cunningham, 5 November 1980, box 275, folder 9, AAIA.

federal acknowledgment commission was a legitimate application of tribal authority, characterizing it instead as a usurpation of the inherent sovereignty of non-recognized groups and a capitulation to federal bureaucrats. He labeled as “pathetic” the idea that “non-Federally recognized Indians subject... themselves to a litmus test... produced, administered and evaluated by Federally recognized groups claiming the sole right to accept or reject their rightful identity.” Arguing that “Indians nationwide have been force-fed too much bureaucracy and too many inconsistent bureaucratic policies like ‘recognition,’ ‘termination,’ and ‘self-determination,’” Jones reminded Tonasket and Trimble of the federal government’s all-too-recent antagonism toward tribal sovereignty and subtly suggested that acknowledgment and termination were not opposites, but simply different strategies for settler domination. He argued that their organization’s recommendation that “all agencies and department[s] of Government pull what few plugs the non-Federally recognized Indians possess” only advanced that settler domination at the expense of Indian Country’s most vulnerable peoples. As sovereignty and self-determination grew to structure the federal-tribal relationship in new and expanded ways in the colorblind era, the administrative state wielded ever greater power to regulate Indian identity and political status. Even in attacking NCAI’s complicity in this state of affairs, Jones relied on the political and linguistic purchase of tribal sovereignty to articulate it.²⁸

Although the *Maynor* decision defanged the argument that the Lumbee Act’s termination clause applied to non-BIA funding, Lumbee eligibility continued to depend on the discretion and commonsense reasoning of federal administrators. Concerned after the 1975 NCAI resolution opposing all Indian set-aside monies for Lumbees, Bruce Jones contacted LRDA’s granting

²⁸ Bruce Jones to Mel Tonasket and Charles Trimble, 19 February 1976, box 396, folder 1, NCAI.

agencies in early 1976 to reconfirm the basis of Lumbee eligibility for federal services. He wrote first to the Department of Labor, which oversaw the CETA programs that constituted a plurality of LRDA's budget. A CETA administrator reassured the anxious commissioner that the resolutions had no bearing on his department's administration of the program. In an earnest denial of bureaucratic discretion, the DOL representative stated that "[w]e feel that the legislation has established our position for us," which was to provide training and assistance to "all unemployed and underemployed Indians and other Native Americans," including Alaska Natives, Native Hawaiians, Lumbees, and other indigenous peoples outside the aegis of tribal acknowledgment. In an interesting flourish, he reassured Jones that the department accepted Lumbees' Indianness and considered them functionally recognized despite their ineligibility for BIA services, since "it was an act of Congress that, in fact, [designated] them as Lumbee Indians."²⁹

Whereas the Labor Department relied on interpretations of statutory language, the Department of Housing and Urban Development issued a full-throated, if meandering, colorblind justification for Lumbee eligibility. After dismissing the NCAI resolutions, an assistant secretary emphasized the agency's commitment to providing "a suitable living environment for all citizens, regardless of race, religion, national origin or sex." Of course, that colorblind motto excluded the nonracial category of tribal affiliation. In recognition of the "uniqueness of [American Indian] status," HUD also regulated Indian housing authorities (IHA) and maintained procedures for "both those tribes which have sufficient powers of self-government to create their

²⁹ Constance B. Newman to A. Bruce Jones, 20 April 1976, box 3, folder "Lumbee Indians," Bradley H. Patterson Files, Gerald R. Ford Presidential Library; Pierce A. Quinlan to A. Bruce Jones, box 3, folder "Lumbee Indians," Bradley H. Patterson Files, Gerald R. Ford Presidential Library.

own authorities, and those [requiring] state-enabling legislation.” As the administrator acknowledged, however, Lumbees received HUD programming “through neither of those avenues,” since LRDA lacked the requisite “powers of self-government” and the North Carolina General Assembly had not yet legislated on Indian housing. Instead, HUD disbursed funding through the Pembroke Housing Authority, a special case in which a municipal government operated an IHA with Indian set-aside funding. The justification for this unusual exemption, the HUD secretary explained, was because “the town is recognized as the center of the Lumbee community” and presumably because the vast majority of its population and elected officials were Indians. Both the HUD and DOL replies to Bruce Jones’s queries demonstrated the precariousness of complying with both antidiscrimination mandates and the congressional and moral obligations of extending services to Indian groups, both recognized and non-recognized. That tightrope act sometimes produced confused, retrofitted, and unique legal rationales.³⁰

NTCA and USET mythologies to the contrary, LRDA continued to rank at or near the bottom in federal non-BIA funding even after *Maynor*. In May 1976, LRDA convened a director’s meeting to discuss strategies to push back amid USET’s bid protest and rising opposition in NCAI. After an LRDA application for Title IV funding was denied, its board became suspicious about the process for selecting grantees, particularly about “the mysterious ‘formula’ [for scoring grant proposals]... at ONAP and now at the Office of Indian Education.” As one LRDA official summarized, “what happened at OIE on our Title IV application is a lengthy story, but, in short, we got screwed by [the] formula.” Despite assurances from ONAP officials that no comprehensive list of grantees existed, directors also clandestinely secured a

³⁰ Ibid.

copy that suggested serious discrimination against Lumbee applicants. Particularly in proportion to its service population, LRDA received far less from the agency than similar tribal entities. Whereas the ONAP grantee received roughly \$45 per capita, the figure for the Lumbee organization was a mere seven dollars, less than half the per person expenditure for the next-lowest funded grantee. One Indian organization in Oklahoma received \$225 per capita, or just over thirty-seven times the allotment that LRDA received.³¹

Amid the crystallization of the distinction between racial Indianness and tribal citizenship after *Mancari*, HEW's rejection of a federal contract application from USET kept Lumbees in the crosshairs of increasingly strident assertions of tribal sovereignty from federally acknowledged groups. In August 1975, USET and its affiliated Tri-States Community Action Agency submitted a proposal for a grant to train forty tribal agencies in the Southeast. ONAP evaluated USET's application most favorably and initially awarded it the contract; however, in final discussions, USET made clear that it intended not to serve Lumbees, despite ONAP's clear listing of LRDA among the agencies to be served in the initial call for submissions. ONAP staff afforded USET an opportunity to retract its opposition, but its president, Howard Tommie, faced stiff pressure from his colleagues, particularly from the Eastern Band of Cherokee, and was bound by the organization's resolutions declaring federal funding for Lumbee organizations illegal. When Tommie refused to comply, ONAP retracted the roughly \$300,000 grant and awarded it to the next most qualified applicant. ONAP staff pointed out that the original solicitation for proposals had explicitly included LRDA, but they also objected to USET's singling out of a tribal agency that HEW deemed eligible on the basis of their federal recognition

³¹ Ruth Locklear to Brantley Blue, Helen Schierbeck [*sic*], and JoJo Hunt "RE; [*sic*] LRDA Response to USET's Bid Protest Re Onap," 27 May 1979, box 43, folder 349, Scheirbeck Papers.

status and, by implication, racial status. Outraged, Tommie and his fellow tribal chairmen circulated letters across Indian Country in support of their position.³²

In their subsequent bid protest, USET leadership made clear that they believed ONAP funding for Lumbees was a threat to the tribal sovereignty of their member tribes. The group's attorney, Donald Solomon, stressed the fact that USET had informed ONAP in advance about its official position that Lumbee funding was illegal under the Lumbee Act and vaguely implied that the agency's decision to ignore their position was in some way discriminatory. "[W]hen ONAP chose to design the [request for proposal] as they did," he claimed, agency officials "were charged with the knowledge that they were precluding USET from being the successful bidder." After this eye-rolling overstatement of the USET's relevance in ONAP policymaking, Solomon argued that to serve Lumbees under the terms of the contract "would be giving tacit agreement to the Lumbee people receiving grants from ONAP as well as other programs to which Indian people are eligible by reason of their status as Indians." More apocalyptically, he stated that federally recognized tribes' "most basic rights are threatened" by the "misuse of federal money intended for the benefit of Indians." The official USET position was that Lumbees were not Indians at all, but members of a "multi-racial" group and implicitly black. Backdoor recognition by federal agencies, Solomon implied, diluted the value of post-*Mancari* sovereignty and threatened to reduce all tribes to mere racial status under the colorblind regime.³³

³² Memorandum, "Decision: Comptroller. General of the United States B-1885659, Matter of: United Southeastern Tribes, Inc.," 2 Nov 1976, box 43, folder 355, Scheirbeck Papers; Mendel D. Hill, memorandum, "Contracting Officer's Statement in the Matter of Protest After Award by United Southeastern Tribes, Inc. under Contract HEW-105-76-6100," box 30, folder 15, NTCA Records.

³³ Donald J Solomon to Bruce Krasker Feb 1 1976, box 30, folder 15, NTCA Records; Donald J Solomon to Bruce Krasker, 21 April 1976 "Re: Procurement Document: HEW-105-76-6100 B-815659," box 30, folder 15, NTCA Records.

Federal officials replied with a scathing defense of their bureaucratic discretion. In a point-by-point response to USET's complaint, Paul Stone, the acting deputy assistant secretary for grants and procurement management, issued a patronizing response defending the federal government's legal position and his agency's right to interpret federal law. "The determination of what the Government requires... must ultimately rest with the Government," he wrote. The pan-tribal organization's presumption to pick and choose which terms of the contract to enforce "constitute an attempt by USET to dictate to the Government the manner in which it would obtain its requirements," which he rejected as an absurdity. "USET[']s attempts to substitute its judgment for that of the Government in regard to contractor selection [and] the scope of the work of the contract" was an example of the tail wagging the proverbial dog. The tribes that USET represented, he implied, were at best "quasi-sovereign," and USET's right to wield even that limited authority was suspect. The federal government was the ultimate sovereign, and the executive branch discharged that sovereignty in the form of policy. On a less theoretical plane, of course, such administrative discretion rested on the improbability of judicial review, but Stone understood the immense asymmetry of power at play. Although the administrator was likely quite unversed in Indian law or history, his arguments would have cheered any midcentury terminationist congressman or nineteenth-century plenary power theorist on the Supreme Court.³⁴

In a sophisticated statement of support, USET's allies at NTCA dismantled HEW and GAO's rather tortured interpretations of the byzantine statutory language in authorizing legislation for non-BIA programs. In parsing the definition of Indian for the purposes of the 1974

³⁴ Paul A. Stone to Paul G. Dembling, 12 April 1976, box 30, folder 15, NTCA Records.

Native American Programs Act (NAPA), William Youpee and Frances Ayer argued that the statutory language referenced state reservations, rather than state *recognition* as a criterion, a key part of HEW's rationale for extending services to Lumbees. "Congress knows how to say 'state' when it means 'state,'" Ayers and Youpee snapped acerbically, "and that word appears ... [only] in reference to 'State reservations.'" They pointed out that the Indian Education Act, enacted two years prior, referenced both state recognition and "groups terminated since 1940," another criterion that could plausibly have applied to Lumbees. These omissions, they argued, were indicative of congressional intent, not careless oversight.³⁵

Youpee and Ayer also targeted HEW's colorblind rationale that assistance to Lumbees hinged on economic condition, rather than Indian status. One cornerstone of the agency's argument for Lumbee eligibility was their contention that NAPA merely extended the Indian-specific provisions of the Economic Opportunity Act, among the earliest, best-established sources of federal funding for LRDA. After concluding that the Economic Opportunity Act provided assistance based on Lumbees' status as a "poverty group" rather than as Indians, HEW extended this reasoning to NAPA under the assumption that Congress had not intended to alter the law's purpose or justification. "We find irrational the application of a 'rationale' from one statute to another," the NTCA leaders opined, and cited differences in the statutory language on eligibility. Furthermore, they noted that HEW's economic condition argument contradicted the agency's alternate assertion that Lumbees qualified based on their state recognition. Youpee and Ayers accurately observed that HEW's stance on Lumbee eligibility owed more to administrative

³⁵ William Youpee and M. Frances Ayer to Bruce Krasker, "Re: Procurement Document: OHD-105-76-6100 B185659," 30 June 1976, box 30, folder 15, NTCA Record; National Tribal Chairmen's Association, "Resolution No. NTCA 5/76-4," 13 May 1976, box 30, folder 15, NTCA Records.

discretion than to congressional intent. “We believe that this is a not unintended attempt to broaden HEW’s very specific and limited congressional mandate under” NAPA.³⁶

In part as a response to the AIPRC’s final report, the BIA standardized a procedure for non-recognized tribes to petition for acknowledgment through the bureau directly, an advent that further consolidated executive branch bureaucratic control over Indian affairs. In 1977, the AIPRC published its findings, a wide-ranging compilation of problems with and recommendations for the federal relationship with tribes. The task force on non-recognized and terminated groups, which Lumbee attorney Jo Jo Hunt chaired, proposed that Congress establish an office outside the BIA structure to evaluate petitions for federal recognition based on clear, consistent standards. Although the legislative branch declined to take such action, the BIA grasped the need for a revised recognition procedure and began a period of public comment. Predictably, vested tribal and bureaucratic interests endeavored to block Lumbee access to any new process. Retired BIA administrator Stephen Feraca, whom the NCIO had earlier dispatched to Robeson County for a contentious meeting with the Tuscaroras, asserted that “[t]here are actually very few entities... which are not federally recognized, but which have historical continuity with an identifiable Indian tribe.” He recommended that professional BIA social scientists like himself identify “viable” tribes to prevent a flood of applications from “groups such as the Lumbees of North Carolina [that] do not in any sense constitute Indian tribes.” The bureau disregarded Feraca’s specific advice but honored its overall thrust when it established its Office of Federal Acknowledgment and promulgated seven criteria to be met in petitions. Some of the criteria were relatively uncontroversial, such as requirements that petitioners establish

³⁶ Ibid.

historical continuity with a tribal people, originate in a specific location, and maintain a tribal roll. Others seemed designed more as obstacles than benchmarks. For example, LRDA wrote that its directors were “perplexed over the requirement that [petitioning] Indian groups... exercise political authority” over their membership. Under the colorblind regime that had rendered exclusive institutions like Robeson’s segregated Indian schools illegal, such political authority was an outcome of federal recognition, not a precondition. The bureau also specified that tribes subject to termination legislation were ineligible without congressional repeal, a criterion that seemed aimed squarely at Lumbees.³⁷

As the BIA began a review of federal acknowledgment standards, the bureau signaled its hostility to Lumbee eligibility for Indian funding from other agencies, a position that reflected its ideological closeness to the federally recognized tribes it administered. In response to a solicitation from the General Accounting Office (GAO) for input on Lumbee eligibility under the 1974 Native American Programs Act, acting BIA commissioner Raymond Butler declined to meddle in the affairs of other offices, but he did little to conceal his belief that their actions diluted federal acknowledgment, infringed on his bureau’s role as gatekeeper to legitimate Indian status, and threatened tribal sovereignty. Drawing heavily on the logic of Mancari to lecture his GAO colleague, Butler argued that “most congressional statutes when referring to ‘Indians’ do so within a context which actually means ‘Indian Tribes,’” each of which maintained “a special political relationship with the United States based upon the Constitution, treaties and/or congressional actions” that the BIA mediated. Citing the termination clause of the Lumbee Act, the commissioner asserted that Lumbees did not share in this special relationship, from which

³⁷ American Indian Policy Review Commission, *Final Report*, vol. 1:38; American Indian Policy Review Commission, *Final Report*, vol.2: 637.

“has historically flowed special benefits and services to Indian tribes.” Although Butler acknowledged that “Congress has at times enacted legislation which provides special benefits for groups having special social and/or economic needs” and that his bureau “would not presume to judge the intent of Congress in enacting legislation...administered by other Agencies,” the commissioner subtly invoked colorblind logic to question the legitimacy of those appropriations. “In some such instances,” he dryly noted, “it seems likely the Congress intended that Indian people, *as a racial entity*, be among the special beneficiaries” (emphasis added). Although he deferred to the judgment of outside agencies’ personnel in judging the eligibility of non-recognized Indians, the commissioner opined that he and his BIA colleagues

...do believe, however, that it is incumbent upon Agencies administering ‘Indian’ programs to give close attention to this matter and not establish a relationship with such Indian groups which might unthinkingly lead to their developing a status not readily distinguished from those Indian tribes whose political relationship has been well defined. This could in the long run prove detrimental to those tribes to which the United States has special trust obligations.”

Although the barely concealed anxiety and disdain in Butler’s missive had no influence on GAO’s finding on Lumbee eligibility under NAPA, it revealed bureau careerists’ continued insistence on a small-tent approach to federal acknowledgment, as well as the legal rationale behind it.³⁸

Despite the obvious roadblocks, LRDA leadership opted to pursue the BIA’s newly standardized administrative avenue for recognition, a course of action that accelerated the association’s tribal development. Helen Scheirbeck, by then retired from public service and reinvented as a political consultant, compiled a series of voluminous reports on Lumbees’ history, outlined the group’s legal status, and made recommendations for a tribal constitution

³⁸ Raymond V. Butler to Elmer B. Staats, 22 March 1977, box 111, folder 8, NCAI Records.

based on best practices gleaned from similar Indian peoples. With the aid of a tribal development grant from the Administration for Native Americans, the successor to ONAP, LRDA launched the Status Clarification Project to aggregate information on relevant state and federal laws, as well as the Lumbee Enrollment Project, which formally registered eligible Lumbees in compliance with BIA regulations. Designed to cover an estimated 35,000 potential members, the Enrollment Project was a particularly resource intensive undertaking that proceeded slowly and generated a new bureaucratic division of LRDA, the Enrollment Office.³⁹

The transition from social welfare agency to full-fledged tribal government was also fraught with potential legal hurdles, as the LRDA directors delicately walked the hardening line between colorblind civil rights and the legal protections of federal recognition. As Dial and the other LRDA directors prepared for what they hoped was an imminent transition to tribal status, non-Indian board member, anthropologist, and LRDA founder Gerald Sider warned that the agency as it then existed failed to meet the BIA criteria for a tribal governing body, and that assuming the attributes of one could threaten its current programs. “While LRDA is the closest thing to a tribal council that the Lumbee now have,” Sider wrote in a January 1982 memorandum, he noted that the agency was not a representative government under its own articles of incorporation, the original version of which he had helped draft alongside Bruce Jones. Sider reminded his colleagues that despite recent attempts to democratize the selection of directors, the board was still “not elected by the tribe, in the specific sense of the population

³⁹ Helen M. Scheirbeck, *Continuing Work on the Development of a Tribal Roll for Lumbee Indians*, draft report, 28 December 1977 in box 40, folder 323, Scheirbeck Papers; Helen M. Scheirbeck; Abdul Khan to Ken Maynor, Bruce Jones, and Rod Locklear, 28 March 1980, box 40, folder 324, Scheirbeck Papers; Helen M. Scheirbeck, *Process for Developing Lumbee Tribal Roll*, final report, 8 May 1978, in box 40, folder 326, Scheirbeck Papers; “Lumbee Enrollment Project” in *Lumbee Regional Development Association: “A Total Community Commitment”*, informational booklet in box 4, folder “LRDA,” Executive Director’s Office, Correspondence File: 1980-1983, Executive NCCIA.

qualified to be on the tribal roll.” Rather, settlement residents attended ad hoc public meetings to nominate and select their community’s delegation, subject to confirmation by the board’s other members. Even more troublingly, LRDA was “not, by its own articles of incorporation, specific to the Lumbee.” Although most of its funding came from federal Indian set-asides and its programs served a nearly or entirely Indian clientele, neither its board of directors nor its service population was technically limited to Lumbees. “The Board of Directors is legally open to any ‘natural person,’” which explained his continued service as a director, and “the recipients of its services are not restricted to Lumbee (using Lumbee in the specific sense of people on the tribal roll.” Most concerning, Sider foresaw that LRDA’s “transforming itself into a tribal governing body might hamper its access to funding” for reasons both political and racial. “For example,” he continued, “the tax exempt status of LRDA... requires affirmation that the organization will seek no political influence, and will not attempt to influence legislation, and will abide by affirmative action requirements in hiring and dispersing [*sic*] funds. Hence this tax exempt status would have to be given up, and reapplied for on an entirely different basis—a risky procedure with on-going programs.”⁴⁰

In January of 1984, when LRDA held a referendum to authorize its directors to act as a provisional tribal government for the purposes of the federal acknowledgment petition, the sophisticated election procedures showcased the association’s administrative efficiency, tribal development, and crystallizing standards for Lumbee civic identity. A makeshift solution to the association’s legal dilemma of acting as an exclusive tribal government while operating general antipoverty programs, the referendum featured voting requirements aimed at balancing the

⁴⁰ Gerald Sider, “Federal Acknowledgment Project Petition,” 6 January 1982, box 4, folder “LRDA,” Executive Director’s Office, Correspondence File: 1980-1983, NCCIA.

association's bureaucratic impulse toward certification with the need to legitimize the results through high turnout. LRDA specified that all enrolled Lumbees over eighteen years of age were eligible and designated thirteen polling places in Robeson County and one each in neighboring Scotland and Hoke counties. As in previous tribal elections, most voting took place in historically Indian public school buildings, but other locations included newly constructed tribal infrastructure, such as the association's Pembroke headquarters and various career and community centers. To verify membership and receive a paper ballot, voters presented their official tribal enrollment cards but could also file an affidavit with the Enrollment Office. LRDA also specifically catered to the community's large migrant population by hosting nearly four weeks of in-person early voting and distributing absentee ballots to "enrolled Lumbees living outside of Robeson and surrounding counties... include[ing] Baltimore, Detroit, Greensboro, Fayetteville and any other Lumbee residential area." Absentee voting applications strictly required a "Lumbee Tribal Enrollment Number [and] Chart Number" in addition to an address, birthdate, and with other identifying information. Although voters approved the measure in the January 31 referendum, LRDA's careful preparations failed to prevent lackluster turnout, which fell short of the Enrollment Office's ten-percent target. Given the chronically low turnout in tribal elections across Indian Country, however, the figure placed the association on par with other tribal governments, albeit in an unflattering context. Particularly in comparison with the chaotic first round of elections for the board directors in 1974, marred by irregularities and

Tuscarora interference, the smooth implementation of the referendum was a triumph of administration, if not necessarily of democracy.⁴¹

Just as LRDA was beginning to consider federal recognition as a means to consolidate its status as the county's sole secular governing institution, the last vestiges of the previous system of Lumbee tribal government, the segregated Indian schools, collapsed after the county superintendent's office changed hands and a state court applied the colorblind standard in *Mancari*. For nearly a decade after HEW's initial 1970 desegregation plan, some Indian parents resisted school assignment policy and continued to send their children to traditional community schools. Under Superintendent Young Allen, whose fear of Indian political violence was well-documented, parents simply filed affidavits affirming that their children lived with relatives in another school district with the understanding that the county school administration would accept them at face value. In 1977, however, Young left for another school district and was replaced by Purnell Swett, a Lumbee and former HEW administrator. Equipped with all the professional credentials, ideological inclinations, and community legitimacy that his predecessor lacked, Swett tightened the loopholes Indian parents used to dodge the county's student assignment policies. In 1978, Swett and the school board identified a substantial pocket of such holdout parents centered around the Prospect settlement. After HEW met the superintendent's request for an exemption with a warning about civil rights stipulations for federal funding, Swett pleaded with the parents to comply with their children's school assignment. At the start of the school year, however, dozens of parents defiantly sent their children to Prospect School for sit-ins

⁴¹ Flyer, "Lumbee Tribal Members Attention! A Referendum Vote on January 31, 1984," no date, box 4, folder "LRDA," Executive Director's Office, Correspondence File: 1980-1983, NCCIA; *Lumbee Tribe of Cheraw Indians, et al., vs. Lumbee Regional Development Association, Inc.* 95 CVS 02047 (Sup. Ct. N.C. 1999).

reminiscent of early Indian resistance to desegregation. Within several weeks, the ranks of the protestors thinned to a group of thirteen cousins. The state charged Braxton Chavis, father of eleven and the ringleader of the sit-ins, and seven other parents with truancy violations.⁴²

In both the original trial and before the North Carolina Court of Appeals, Braxton Chavis and his co-defendants argued that their status as Indians exempted them not only from compliance with HEW's desegregation plan but from colorblind civil rights law more generally. Implicitly, their logic connected Indian schools to self-determination and tribal governance, a connection that neither the state judges nor Chavis's white attorney seemed to grasp. The 1964 Civil Rights Act, which at times the defendants tellingly called "Martin Luther King's law," simply "was not passed on an Indian [*sic*]," according to one parent's testimony. The law adhered only "on the black and white." In an ironic reversal of prewar segregationist logic linking black and Indian schools, a state prosecutor countered that exemptions for any racial group would embolden white parents and threaten the state's fragile progress on desegregation.⁴³

Citing *Mancari* and subsequent federal court interpretations, the panel of North Carolina appellate judges determined that, in the context of public school assignments, the parents' Indian identity was racial and not subject to the protections of the sovereign-political definition. Citing the Commerce Clause of the US Constitution, Judge Francis Marion Parker acknowledged the "unique legal status" of American Indians, but rather than emphasize the definition of political Indian status in Justice Blackmun's *Mancari* opinion, Parker focused on its distinction from racial Indianness. Although Blackmun had established that Indians could be exempt from racial

⁴² John Wertheimer, *Law and Society in the South*, 177-190; Connee Brayboy, "Indian Parents Found Guilty in Prospect Sit-in Case," *The Carolina Indian Voice*, 1 March 1979, 5.

⁴³ *Ibid.*

nondiscrimination statutes, he acknowledged that such laws could apply in other contexts, an eventuality that a federal district court in Minnesota considered in the 1978 case of *Booker v. Special School District No. 1*. In *Booker*, the Minneapolis school board attempted to concentrate Native American students in several schools in part to maximize and efficiently administer Title IV programs, a decision that ran afoul of the district's desegregation formula. The federal judges dismissed the board's argument that *Mancari* exempted Native students from colorblind legal and administrative requirements, noting that the "Supreme Court has not held that laws applying only to Indians are *never* to be deemed 'racial' classifications" (emphasis added). Because the "School Board's proposal has nothing to do with tribal membership or any quasi-sovereign interests [of tribes]," the court held, the policy was "directed toward a 'racial' group consisting of 'Indians'" and therefore in violation of the Fourteenth Amendment. In *Chavis*, Judge Parker cited the Minnesota decision in support of his conclusion that HEW's desegregation plan affected Lumbees "as it affects all county residents, as members of a racial group and, as a matter of law, they are equally subject to the plan's mandate." Also drawing on the *Booker* decision, which primarily dealt with children from acknowledged tribes, he ruled that the appellants' federally non-recognized status was irrelevant, since exemptions for Indians under civil rights law applied only in the context of tribal jurisdiction. Robeson County's public schools were not tribal institutions, Parker held. Although this legal pronouncement was technically correct, it darkly echoed the 1929 assertion of state Director of Negro Education Nathan C. Newbold that the "Indian Normal School belongs to North Carolina." In both instances, settler authorities failed to appreciate the centrality of the segregated schools to Indian

self-government, or Indian people's claim to ownership of the schools based on their historical contributions in the face of persistent county, state, and federal neglect.⁴⁴

Lumbee access to IEA funding—the community's federal lifeline for distinctive Indian education after *Mancari* and *Chavis*—also became tenuous after the conclusion of HEW's congressionally mandated Indian definition study. Amid complaints that IEA circumvented tribal authority, Congress tasked HEW with standardizing its own relatively capacious definition of Indian status, a process that reignited opposition to federal funding of unrecognized tribes and forced Lumbees into a defensive posture. In 1978, the act came up for renewal amid accusations that HEW had neither a consistent definition of Indian status nor any uniform standard for certifying the number of Native pupils in local school systems, leading to a situation wherein “some districts had greatly inflated counts, while others were shortchanging themselves,” according to OIE Deputy Commissioner Gerald Gipp. When HEW finally implemented a standardized form, it relied on individual parents to report Indian status and tribal affiliation, a procedure that tribal authorities, particularly among recognized tribes, argued diluted tribal authority over enrollment. HEW officials likewise fretted that local schools and school systems encouraged over-reporting and falsified documents to secure additional federal funding, a phenomenon over which they lacked effective oversight or enforcement mechanisms. After toying with changes to the statutory language in committee, the House declined to narrow the definition and instead required more specific data collection, provided penalties for false

⁴⁴ *Ibid.*; *State of North Carolina v. Braxton Chavis et al.*, 263 S.E.2d 356 (App. N.C. 1980); *Booker v. Special School District No. 1*, 451 F. Supp. 659 (D. Minn. 1978).

reporting, mandated annual audits of sampled programs, and most importantly empowered the Office of Education to conduct a study on its definition of Indian status.⁴⁵ Job Talk

Noting the polarized pan-tribal political climate, HEW administrators recommended no changes to the statutory language on eligibility but administratively increased tribal involvement in certification. After roughly two years of comments from tribal and local education officials, the department's top officials had determined that either restricting or liberalizing the Title IV criteria would generate undue controversy. As an acknowledgment of concerns from tribal officials, however, the Indian education staff reformulated the OE 506 form, the questionnaire used to collect data and establish student eligibility. Specifically, the new version required a "numerical identifier," usually a tribal enrollment number, as the primary means to verify Indian status. In North Carolina, however, most state-recognized tribes lacked tribal rolls altogether or enrolled only a fraction of the Indian population, both because tribes lacked the resources for large-scale enrollment efforts and because their limited benefits provided relatively little incentive for potential members to formalize their status. Concerned that the new OE 506 forms would dramatically reduce aid to Robeson County schools, Purnell Swett and Assistant Superintendent Ruth Dial protested, arguing that the racial designations on official birth certificates defined Indian status under state recognition, which the statutory language specifically accepted for eligibility. OIE agreed and from 1981 to 1986 allowed Lumbees to present state-issued vital documents in lieu of a numerical identifier, although a minority of students submitted LRDA enrollment numbers. Although LRDA had begun work on its tribal

⁴⁵ "Statement by Gerald E. Gipp, Deputy Commissioner, Office of Indian Education to Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor, US House of Representatives," 29 October 1979, folder "1979," box "Executive Director: Subject File - 1979, folder "1979," NCCIA.

roll in preparation to file for federal acknowledgment, this growing conflation of tribal status and Title IV eligibility increased the pressure to complete the project. The association directly administered some IEA programs, but its directors understood the dire necessity of Title IV funds for the county schools, given the porous boundary between LRDA and public school leadership. By 1980, the Department of Education disbursed over \$1.5 million in annual IEA grants to North Carolina schools, with roughly sixty percent earmarked for Robeson County. Only New Mexico's overwhelmingly Navajo McKinley County received more Title IV funding.⁴⁶

After OIE suddenly announced plans to phase out birth certificates in favor of stricter tribal certification ahead of the 1985-86 school year, panicked LRDA officials scrambled to complete the Lumbee tribal roll and ensure eligible students had a Lumbee tribal identification number. Unprepared for the news from Washington, Bruce Jones wrote on behalf of the state Commission of Indian Affairs to remind administrators of their longstanding recognition of birth certificates as evidence of state acknowledgment. The OIE director responded with a conditional reaffirmation of the arrangement, noting that the office would accept state vital documents only as proof of *descendancy* from an Indian parent or grandparent—an eligibility criterion under the IEA language—but not to certify students themselves as Indians. Although the director acknowledged that the law was “silent on methods of documenting membership” in state-recognized tribes and that his office therefore “accords respect to official State practices,” he

⁴⁶ US Congress, House of Representatives, Prepared statement of Ruth Dial Woods, Assistant Superintendent, Robeson County Board of Education; Purnell Swett to Gerald Gipp, 25 October 1980, in *A Resolution Concerning Eligibility Requirements for Programs under the Indian Education Act: Hearings Before the Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor*, 99th Congress, 2nd sess., 8 April and 16 June, 1986, 35-39, 40-43; Wertheimer, *Law and Society in the South*, 182; Shannon Brennan, “Indians may lose money,” *The Daily Tar Heel*, 22 January, 1980, 4.

warned cryptically that “[t]his type of documentation is always open to challenge since it is not primary evidence of student tribal membership” and “strongly encouraged” local Title IV administrators to collect “proper documentation from the Lumbee tribe,” by which he meant LRDA. Only months after the correspondence between Jones and the OIE director, however, the office further confused matters with a general notice to Title IV grantees establishing a deadline to comply with the new requirement that students provide either an enrollment number or another form of official certification from a tribal government. Concerned and confused at this admonition, LRDA and county Title IV staff scrambled to enroll the school system’s estimated nine thousand eligible students, less than a quarter of whom had tribal identification numbers. Under pressure from the BIA and ANA as well as the Department of Education, the LRDA attempted to commandeer the school district’s Title IV staff for the mutually beneficial goal of completing the Lumbee tribal roll. Although the new certification guidelines allowed tribes to certify individual students without enrollment numbers, members of the association’s Recognition Committee pointedly refused to assume the burden of processing nearly eight thousand Title IV forms and proposed instead that county school staff distribute enrollment applications, which they insisted would solve the problem permanently and more efficiently. This blurring of the already indistinct line between tribal and school authorities recalled the public schools’ role as a *de facto* component of tribal government under segregation. Vaguely citing the “potential for conflict of interest,” DoE officials halted this LRDA ploy, seemingly out of fear that such a plan would distort and cross-contaminate tribal-political, Indian-racial, and public-colorblind staff and resources. For public school employees to serve as *de facto* tribal

enrollment officers apparently represented one crossed wire too many in the already overloaded tribal-racial-educational fuse box of Robeson County.⁴⁷

⁴⁷ Prepared statement of Ruth Dial Woods, Assistant Superintendent, Robeson County Board of Education; Frank A. Ryan to A. Bruce Jones, 20 December 1985; A. Bruce Jones to Frank A. Ryan, 11 December 1985; Ryan To Jones, 20 December 1985; Frank Anthony Ryan to Purnell Swett 17 December 1985, in *A Resolution Concerning Eligibility Requirements for Programs under the Indian Education Act*, 35-9, 50-1, 52-3, 76-7.

**EPILOGUE:
THE BIOPOLITICS OF INDIAN COUNTRY**

On May 25, 1987, the “representative body” of a major Native American group adopted a tribal resolution urging the US Department of Education to halt “any effort” to alter the Indian Education Act student certification process that “would circumvent the basic right of American Indian tribes in determining who its members are.” In a fourteen-to-one vote, board members voiced decisive opposition to any role for Title IV Indian parent committees in verifying Indian status for IEA programs. Although American Indian people elected and exclusively comprised the parent committees, the officials contended that a tribe’s authority over its own membership was absolute, and to confer that power on any “constituted body...other than the tribe itself” infringed on the most basic element of sovereignty. The chairman distributed copies of the resolution to the relevant federal and nongovernmental agencies, whom he addressed in a strongly worded introductory note on official stationery with a letterhead bearing the tribe’s name: the Lumbee Regional Development Association.¹

By the late 1980s, LRDA’s mimesis of federally acknowledged tribal governance was so complete that its directors approved a resolution on the IEA that was virtually indistinguishable from the National Tribal Chairmen’s Association’s (NTCA) 1979 policy paper on the same subject. Given that NTCA had repeatedly used the language of sovereignty to bludgeon Lumbees and other non-recognized Indians, the evolving rhetoric was ironic but not logically inconsistent.

¹ Harold Deese to the Indian Rights Association, 17 August 1987, box 369, folder 123, IRA Records.

Despite apparent fear among tribal establishment figures that Lumbees were a vector for termination, LRDA representatives had objected to their exclusion from tribal sovereignty, not the principle itself. Between the late 1970s and late 1980s, LRDA assumed characteristics of the tribal regimes of care developing around Indian Country, albeit incompletely.²

The directors' hardline resolution on IEA served at least in part as a dress rehearsal for federal acknowledgment. Only months after the May 25 vote, LRDA and Lumbee River Legal Services, an affiliated law firm, submitted the long-awaited Lumbee petition to the Office of Federal Acknowledgment (OFA). A sprawling, five-hundred-page tome of genealogical charts, and historical narrative with a literal archive of supporting documents, the petition represented nearly a decade of intensive institutional effort that included the construction of a tribal roll comprising over thirty thousand members, among the largest in Indian Country. As Chairman Harold Deese acknowledged in his introductory letter to the tribal resolution, this process had transformed LRDA. "The Lumbee Tribe has spent eight years enrolling its members and conducting the genealogy and anthropological work necessary to identify who is Lumbee or is of Lumbee descent," he noted. As was increasingly the habit of LRDA officials, the chairman conflated the association with the Lumbee Tribe, an entity that did not exist in a technical, legal sense.³

In the early 1980s, as LRDA began preparing to submit its petition for acknowledgment, the association became responsible not only for delivering services, but also the less comfortable

² Ibid.; Position Statement of the National Tribal Charman's (sic) Association on the Proposed Definition of Indian for the Indian Education Act," 4 December 1979, box 1, folder "HEW' definition of Indian," Executive Director's Office, Correspondence File 1978-1982, NCCIA.

³ Connee Brayboy, *Pembroke in the Twentieth Century* (Mount Pleasant, SC: Arcadia Publishing, 1999), 86; Blu, *The Lumbee problem*, 254, fn. 8.

task of certifying and rejecting claims to Lumbee identity. Given Lumbees' persistent marginalization, officials sometimes winced at the inevitable duty of denying applications for enrollment. In 1982, a woman from California wrote to request the necessary forms for enrollment. Via her grandfather, she claimed descent from the Indian communities of Scotland and Hoke counties, both adjacent to Robeson. In accordance with Lumbee Enrollment Project procedure, the applicant filled out an application blank and submitted a genealogy chart, along with supporting vital documents. Her birth certificate revealed that the state of North Carolina considered her and her parents legally "colored" at the time of her birth in 1947. Born in Raeford, the seat of Hoke County, the woman attended high school in Raleigh, first at a segregated black facility and then at formerly white Broughton High after desegregation. Her genealogy chart revealed no obviously Lumbee surnames, although her grandfather's family name, while common among all racial groups in the Carolinas, was fairly prevalent among the nearby Catawbas and Cherokees. Her application was marginal at best, and given persistent, unfounded pan-tribal accusations that Lumbee enrollment was poorly regulated and subject to exploitation by African-American impostors, the enrollment office staff could have been forgiven for a degree of trepidation in processing an application from an out-of-state applicant listed as "colored" on vital documents. Lumbee Enrollment Project Director Ed Chavis handled her application seriously and respectfully, however. After "thoroughly researching[ing] our records of the Lumbee from Scotland and Hoke County," he informed her, "[i]t is my conclusion... that you are not eligible for membership... [i]n the Lumbee Tribe." Even after the NCAI, under new leadership, conferred full tribal membership on Lumbees in 1980, memory of the 1974 and 1975 resolutions remained fresh, and Chavis expressed empathy for the rejected applicant but cited administrative procedure and the blood quantum ideology that Lumbees had

absorbed from their regular pan-tribal interactions. “I do not doubt your Indianness,” he reassured her, “however, in order to be a member of the Lumbee Tribe at least one of your grandparents would have to be a full blood Lumbee.” If she disputed his evaluation, he urged her to take her case before the board of directors, who had the authority to process appeals and grant special dispensation to waive requirements. Only five years earlier, little concept of a Lumbee blood quantum existed, let alone a process to determine it and appeal decisions.⁴

The Lumbee Enrollment Project began documenting blood quantum in part to certify Detroit-area college students for Michigan’s Indian tuition waiver program, but its awkward initial efforts led to Lumbees’ exclusion from the program and a subsequent lawsuit. This interstate and intertribal entanglement demonstrated the association’s care for its Lumbee flock but added to its mechanisms for exclusion. In 1976, Michigan lawmakers introduced the tuition waiver bill in response to a well-publicized lawsuit against the University of Michigan, in which a professor and group of Indian students cited an 1817 land cession treaty to allege that the university had an obligation to educate Indian students free of charge. The plaintiffs lost their case but won the public relations battle, and the governor signed legislation eliminating tuition at public universities for American Indian students of at least one-quarter blood quantum, as documented by federal or tribal authorities and certified by the Michigan Commission on Indian Affairs (MCIA). When students from metropolitan Detroit’s substantial Lumbee population initially applied for benefits, LRDA struggled to document blood quantum, an unfamiliar metric of Indian identity rooted in nineteenth-century federal policy. Grappling with this outside

⁴ Ed K. Chavis to [name redacted], 5 February 1982, folder “LRDA,” Correspondence File: 1980-1983, NCCIA; facsimile certificate of birth, [birthdate redacted] 1947, folder “LRDA,” Correspondence File: 1980-1983, folder “LRDA,” NCCIA; lineage chart folder “LRDA,” Correspondence File: 1980-1983; NCCIA; Sider, *Living Indian Histories*, 268.

standard of indigeneity, the association produced strange-sounding, makeshift documents that befuddled members of the MCIA, all of whom were enrolled in federally recognized tribes and intimately familiar with federal Certificates of Degree of Indian Blood (CDIB). Issued by the Bureau of Indian Affairs, CDIBs were utilitarian, standard documents that rendered blood quantum as a fraction, often with comically precise denominators of sixteen or thirty-two. LRDA certificates, on the other hand, assigned most students uncommonly high blood degrees, often “100 percent,” and included baroque rhetorical flourishes about the bearer’s Indian status and entitlement to “all the privileges of that proud race.” Initially, the commission was lax in verifying blood quantum and cleared at least one Lumbee student for benefits. After a change in leadership in 1977, however, MCIA adopted a tougher stance on tribal documentation. Citing LRDA’s unconventional blood quantum certificates, the commissioners declared all Lumbees ineligible unless and until their tribe achieved federal recognition.⁵

After a group of Lumbee students sued MCIA and the state of Michigan, LRDA furnished documentary evidence, testimony, and a commitment to standardize its blood quantum certification procedure. In October 1980, three rejected tuition waiver applicants—Flora Locklear Mooney, Charles Chavis, and Patricia Lowrey—filed suit in the circuit court for Macomb County in suburban Detroit. To represent an estimated thirty-six “similarly situated” Lumbee applicants, the trio organized a membership association, which they incorporated as LRDA Branch #1, Michigan Chapter in honor of their tribal representatives in Pembroke. The group’s attorneys lobbed a variety of complaints against the state and its Indian affairs

⁵ Michigan Federal Tribes Education Consortium, *The Michigan Indian Tuition Waiver: An Investment in the Future of Michigan's Original People: History and Facts from a Native American Perspective* (Michigan Federal Tribes Education Consortium, 1996); David Zucchini, “Lumbee Indians: On the Outside Looking In,” *The Detroit Free Press* 21 December 1979, 1C; Edmund J. Danziger, Jr., *Survival and Regeneration*.

commission, among them the contention that the policy violated the due process and equal rights protections in the US and Michigan constitutions. Rather than test the applicability of colorblind Indianness to state legislation, however, the Michigan attorney general's office opted for a consent decree. By the time of the 1982 settlement, LRDA had already begun to compile its tribal roll, a copy of which they provided to the state's attorneys and MCIA. After a review, the state and committee agreed to accept Lumbee applicants on the condition that LRDA demonstrate that its certificates were "based upon real and substantial documentation of Indian blood quantum dating back at least as far as the mid-nineteenth century Robeson Indian Community." Over the course of the Michigan tuition waiver dispute, the association implemented a general one-quarter blood quantum requirement for enrollment.⁶

Despite these careful preparations, the progress of the Lumbee petition came to an abrupt halt in 1989, when the solicitor's office for the Interior Department declared Lumbees ineligible for the OFA recognition process until Congress repealed or amended the 1956 Lumbee Act, a unique liminal status that persisted for nearly three decades. After a brief overview of similar language affecting the Catawba and Tiwa, as well as the 1975 *Maynor* decision, Assistant Solicitor William Lavell concluded that "the [Lumbee] Act of July 7, 1956... is legislation terminating or forbidding the Federal relationship... therefore, [the OFA is] prohibited from considering the application of the Lumbees for recognition." The act made Lumbees ineligible under the 1978 BIA guidelines, which excluded terminated tribes from administrative acknowledgment, but Lavell also noted that congressional plenary power meant that the bureau

⁶ *Lumbees from Robeson, LRDA Branch #1, et al v. State of Michigan, et al.* Civil No. 80-8073-AW (Mich. Circuit Ct. 1982); Complaint for Mandamus and Other Relief, *Lumbees from Robeson v. State of Michigan*, no date, circa 1980 in box 38, folder 305, Scheirbeck Papers.

could not change this status “solely on an administrative decision.” He warned that the solicitor’s office had “concluded that, the Department would be exposed to substantial risks of litigation,” both from challenges to circumvention of the legislation and potential disputes over tribal jurisdiction in Robeson County. Lavell’s 1989 opinion remained official Interior Department policy until 2016, when Solicitor Hilary Tompkins overturned it. At the time of writing, the implications of that decision remain unclear.⁷

The federal acknowledgment process rests on an especially unvarnished application of the United States’ sovereign authority to surveil and categorize colonial subjects; however, tribal sovereignty operates under the same exclusionary principles and can enact colonial control in more insidious ways. The difference between US and tribal sovereignty is one of degree, not kind. Nation-states choose from a diverse palette of civil, military, and procedural powers to enact sovereign violence and divide favored citizen-subjects from those who would threaten their material and symbolic resources. To effect this sovereignty of sorting, the United States can marshal forms of governance both mundane and spectacular: from tax subsidies to immigration detention centers; from block grant stipulations to mass incarceration; from OFA understaffing to termination. Although tribal governments wield a narrowly delimited sovereignty with fewer exclusionary mechanisms, policing membership boundaries—the most basic function of sovereignty—comprises a proportionally greater share of tribal governance. The most focused form of this power is disenrollment, or the revocation of tribal membership. In a recent study on the growing prevalence of tribal “dismemberment,” David and Shelly Hulse Wilkins estimate

⁷ US Congress, House of Representatives, Committee on Interior and Insular Affairs, letter of William G. Lavell to Deputy to the Assistant Secretary – Indian Affairs (Tribal Services), 23 October 1989, in *To Provide Federal Recognition for the Lumbee Tribe of North Carolina*, 101st Congress, 1st sess., 26 September 1989, 203-7.

that about eighty tribes, nations, pueblos, bands, and rancherías—comprising virtually every imaginable federal acknowledgment configuration—have engaged in disenrollment, banishment from reservation lands, or both. A majority operate tribal casinos under the Indian Gaming Regulatory Act, which can incentivize tribal authorities to shrink enrollment in order to maximize per capita revenue payments and other benefits for remaining members. Other justifications include disputes over blood quantum, accusations of fraud or forgery in enrollment applications, and penalties for criminal convictions. David and Shelly Wilkins accurately identify a variety of causal factors contributing to the surge in disenrollment since the 1970s, including perverse incentives in federal Indian law, intra-tribal political dynamics, and resource availability. More systematically, however, disenrollment proceeds logically from the tribal sovereignty that emerged from the midcentury colorblind turn. If the most “basic right of American Indian tribes [is] determining who its members are,” then disenrollment represents the ultimate exercise of that right.⁸

Amid the resurgent tribal sovereignty of the 1970s, the revitalized Cherokee and Muscogee-Creek nations visited exclusionary sovereignty on their populations of “freedmen,” the descendants of the emancipated black slaves of Indian masters. Under the terms of their respective 1866 Reconstruction treaties, the Cherokee and Creek governments abolished slavery and conferred citizenship on the former slaves of their tribal members. During the implementation of the 1898 Curtis Act, federal officials enumerated freedmen on the allotment rolls; however, the application process distinguished among freedmen, racially intermarried

⁸ David Wilkins and Shelly Hulse Wilkins, “The Dismembering Explodes,” in *Dismembered: Native Disenrollment and the Battle for Human Rights* (Seattle: University of Washington Press, 2017), 67-101; Harold Deese to the Indian Rights Association, 17 August 1987, box 369, folder 123, IRA Records.

whites, and Indians “by blood”—a reflection of the racial dimensions of nineteenth-century federal Indian policy. Largely dismantled under the Curtis Act, the Creek and Cherokee governments experienced a resurgence under self-determination policy and adopted new constitutions in the 1970s. To determine citizenship, both specified lineal descent from an ancestor on the nineteenth-century allotment rolls. The 1979 Muscogee-Creek constitution restricted enrollment to descendants of Indians by blood, a stipulation that continues to exclude the present-day Creek Freedmen. The Cherokee Freedmen endured a far more complicated legal odyssey. After a period of inconsistent enforcement, the Cherokee Nation (CN) enacted a series of administrative policies and statutes in the 1980s and 1990s that restricted voting rights to citizens with federal CDIBs, for which freedmen and -women were ineligible. In 2006, a tribal court ruled that these restrictions violated the CN constitution’s enrollment provisions, which specified only lineal descent from an ancestor on the base roll without allusion to blood. Concerned that newly enfranchised black voters threatened his electoral prospects, Principal Chief Chad Smith proposed a referendum for a constitutional amendment implementing blood citizenship, which passed by an overwhelming margin in 2007. After a protracted battle in the tribal and federal courts, a US District Court ruling restored the Cherokee Freedmen to citizenship in 2017, although their legal position and civic inclusion remain tenuous.⁹

The ahistorical colorblind formulation of tribal sovereignty in *Morton v. Mancari* strengthens the colonial regulatory apparatus and justifies forms of exclusionary violence that threaten the long-term viability of indigenous peoplehood under settler rule. Paradoxically, this

⁹ Wilkins and Wilkins, *Dismembered*, 130-33; Tiya Miles, “Citizenship” in *Ties that Bind: The Story of an Afro-Cherokee Family in Slavery and Freedom* (Berkeley: University of California Press, 2006), 191-203; Caleb Gayle, The Black Americans Suing to Reclaim their Native American Identity, 2 November 2018, *The Guardian* <<https://www.theguardian.com/us-news/2018/nov/02/black-americans-native-creek-nation>>.

threat stems from the crucial, overwhelmingly positive role that tribal governments play in providing social services, employment, and representation in some of the poorest, most marginalized communities in the United States. Under colorblind US jurisprudence, sovereignty is the gossamer thread that suspends these vital material and political resources from the abyss of latter-day termination by a thousand equal protection suits. In 2000, the US Supreme Court offered a disturbing view into this colorblind chasm with its ruling in *Rice v. Cayetano*, which held that the state of Hawaii could not conduct indigenous-only elections for the Office of Hawaiian Affairs (OHA), the state agency governing land and social programs for Native Hawaiians. The court ruled that the *Mancari* standard applied neither to Native Hawaiians—who were outside the aegis of tribal acknowledgment and defined racially under federal law—nor the state-level OHA, which administered devolved, previously federal programs but lacked the plenary power of Congress. The *Rice* decision forced the state to open OHA elections to non-Native residents and raised the specter of further white co-option of colorblind legal strategies to level other “special” indigenous rights unprotected by sovereign status. In 2018, the Indian Law Resource Center released a position paper expressing concern about the creeping erosion of *Mancari* in the federal courts, as well as “actions and pronouncements” from President Donald Trump and administration officials that “indicated an intent to treat Tribes as ‘racial classifications.’” Authors Andrew Huff and Robert Coulter contend that “defending the *Mancari* decision... [is] perhaps the most urgent and important Indian law issue of our time” and critical

to protecting “the framework of federal Indian law that protects and benefits Indian tribes” from the threat of “‘reverse discrimination’ cases.”¹⁰

Given the increasingly effective weaponization of colorblind legal tools in service to white identity politics, legal advocates and American Indian studies scholars have understandably embraced tribal sovereignty as a strategic essentialism; however, that position sanitizes the complicated history of race in the federal-tribal relationship in ways that perversely legitimate the colorblind legal basis for these bad-faith equal protection arguments. The consequences of such fetishization of *Mancari*'s colorblind tribal sovereignty fall overwhelmingly on the racialized groups unshielded by its protections. Tellingly, Huff and Coulter laud the Supreme Court's opinions in *Rice v. Cayetano* and *Regents of the University of California v. Bakke* for affirming the uniqueness of *Mancari*'s protections for American Indian tribes. (In *Bakke*, the court rejected the regents' more expansive reading of *Mancari* to defend affirmative action quotas). Although necessary to shore up the levee that protects American Indians from the floodwaters of colorblindness, this indifference to the implications of *Mancari* for Native Hawaiians, Lumbees, African Americans, and other racialized peoples mirrors the exclusionary logic of the care regimes that the 1974 ruling fostered. Advocates for NCAI's anti-Lumbee resolutions in the mid-1970s framed the measures as necessary to protect the interests of recognized tribal peoples. Proponents of disenrollment and banishment claim to protect the tribal whole from threatening, marginal elements among their populations. Under settler rule, the

¹⁰*Regents of the University of California v. Bakke*, 438 U.S. 265 (1978); *Rice v. Cayetano*, 528 U.S. 495 (2000); Kauanui, *Hawaiian Blood*, 10-12, 173-9; Memorandum from Andrew Huff to Robert T. Coulter, “Re: *Morton v. Mancari*,” 3 May 2018, Indian Law Resource Center <<http://indianlaw.org/sites/default/files/Morton%20v.%20Mancari%20Memo%20May%203%202018.pdf>>; Andrew I. Huff and Robert T. Coulter, *Defending Morton v. Mancari and the Constitutionality of Legislation Supporting Indians and Tribes*, 19 November 2019, Indian Law Resource Center <<https://indianlaw.org/sites/default/files/Defending%20Morton%20v.%20Mancari.pdf>>.

exclusionary logic of tribal sovereignty delivers both legitimating indigenous consent and dissolving indigenous populations to the colonial state in exchange for modest protections from the threats that settler sovereignty itself creates. At best, tribal sovereignty and self-determination subject tribal peoples to benign surveillance from one part of the settler state in exchange for protections from other parts: under the current configuration, acknowledgment from Congress and the federal bureaucracy guards against the actions of the federal judiciary, state governments, and settler citizens. At worst, colorblind tribal sovereignty encourages forms of self-service genocide, like disenrollment, that make indigenous governments subcontractors in the Vanishing American prophecy.¹¹

The present-day Lumbee Tribe of North Carolina and its constitution are important experiments in tribal sovereignty, federalism, recognition, and the biopolitics of Indian Country. It is also the indirect successor to the Lumbee Regional Development Association. After the Interior Department's 1989 opinion that halted the Lumbee petition for acknowledgment, LRDA continued to provide services and function as the official mouthpiece for the Lumbee people. But by the early 1990s, as the Lumbee campaign for congressional recognition stalled, the strain of federal purgatory had set the association adrift. Its directors tempered their absolutist articulations of tribal sovereignty, and the organization's democratic infrastructure withered from disuse. In 1993, a rogue LRDA committee broke away, drafted a constitution, and staged an election. The association claimed to retain legitimate tribal authority under its 1984 referendum and disputed the legitimacy of the new government. After protracted litigation between LRDA and the self-declared Lumbee Tribe of Cheraw Indians produced a messy stalemate, the Lumbee

¹¹Ibid.; Wilkins and Wilkins, *Dismembered*.

people—tired of waiting for permission from the federal government—held a new election and approved the constitution that governs the current state-recognized tribal government. Although the new government has largely supplanted the LRDA, the Lumbee Tribe inherited the backchannel federal funding pathways that its predecessor forged in the 1970s and 1980s. Despite its federal recognition status, the tribe approved a \$24.2 million budget in 2018, nearly eighty percent of which derived from a Department of Housing and Urban Development program. Of course, that level of funding represents only a fraction of the spending power of some federally acknowledged tribes. The Cherokee Nation, for example, adopted an \$887 million budget for the same fiscal year; on a per capita basis, that works out to nearly seven times what the Lumbee Tribe commands. Still, the tribal government in Pembroke wields enough financial heft to project significant power in the Robeson County Indian community, a testament to LRDA innovation and the dramatic restructuring of federal Indian programs since the 1970s.¹²

Article II of the Lumbee Tribe’s constitution strikes an innovative balance between territorial jurisdiction and citizen-centered biopolitics. Under its provisions, all members, including migrants living elsewhere, must “maintain contact with the Tribe” in the Robeson County area. The article directs the council to implement statutes to codify this requirement (the current enforcement procedure involves an interview). “Failure to maintain contact” is the only grounds for disenrollment specified in the tribal constitution, although some members have been

¹² *Lumbee Tribe of Cheraw Indians, et al., vs. Lumbee Regional Development Association, Inc.* 95 CVS 02047 (N.C. Supr. Ct. 1999); Lowery, “Creating a Lumbee and Tuscarora Future,” in *Lumbee Indians in the Jim Crow South*, 251-64; Sider, *Living Indian Histories*, liii-lviii; T.C. Hunter, “Tribe Approves \$24M Budget; Locklear to Exit,” 19 October 2018, *The Robesonian*; Cherokee Nation, news release, “Cherokee Nation approves \$887M budget for fiscal year 2019,” no date, <http://cherokee.org/News/Stories/Archive_2018/20180910_Cherokee-Nation-approves-887M-budget-for-fiscal-year-2019>.

expelled for other offenses. The Lumbee Tribe engages in certain worrisome exertions of biopolitical sovereignty: it disenrolls noncompliant and marginal members, certifies blood quantum for some purposes, and even offers DNA testing. Yet the constitutional contact requirement militates against the anonymity of administrative tribal government and ensures that its massive population—with well over fifty thousand enrollees, it is the largest tribal entity east of the Mississippi River and ninth-largest overall—remains cohesive and rooted in the tribe’s place of indigeneity.¹³

The 2016 revision to the Department of Interior opinion on the Lumbee Act opened new a new avenue for the Lumbee Tribe to pursue full federal acknowledgement, but to predict the next plot twist in the already tangled federal-Lumbee relationship is a fool’s errand that I do not intend to run. Instead, I have only a few words of caution. Colorblind US law and jurisprudence is profoundly hostile to the survival of distinct indigenous peoplehood. Federal acknowledgment under the race-neutral shield of *Mancari* is the most powerful weapon in the severely limited arsenal available to indigenous peoples, but it is also a dangerous colonial technology of surveillance and violence. Despite colonial bedtime stories about always-imminent indigenous extinction, American Indians have persisted for more than two hundred and thirty years under the present US settler regime. The Lumbee and Tuscarora people of Robeson County have weathered settler contact for far longer. Still, indigeneity is fragile and its intergenerational transmission always uncertain. Continued Indian peoplehood is the legacy of elders and ancestors who sheltered it amid the colonial hail; it is not an inevitability. My own family

¹³ The official website of the Lumbee Tribe of North Carolina, “Tribal Enrollment” and “History & Culture,” <www.lumbee Tribe.com>, accessed 17 January 2019; Lumbee Constitution, 16 November 2001, accessible from <<http://www.lumbee Tribe.com/government>>.

illustrates the contingency of Indian persistence and the hostility that settler ideas and institutions pose to it. My grandmother's grandmother, Lessie Sweatt, left her proto-Lumbee or "Croatan" community in Marlboro County, South Carolina around the turn of the twentieth century as part of the great wave of Indian turpentine migration. As she, her father Malcolm, and her siblings traveled across the Deep South, their racial ambiguity followed them both for better and worse. Lessie eventually married a white man, Jim McCloud, and settled into the white, working class textile mill world of the Carolina Piedmont. Her children and their children took white spouses and waded deeper into that world, even as they retained some Indian cultural traits and relished when Grandma McCloud would self-deprecatingly describe herself as "just a plain old swamp Indian." In that world of Jim Crow, and equally so in the colorblind Sunbelt world that replaced it, whiteness was a precious commodity that my ancestors wanted for their children and descendants. Their gift is my privilege and my colonial inheritance. From this vantage point, I have endeavored to identify racialized threats to indigeneity have persisted and evolved over the long colorblind turn in the twentieth-century Carolinas and America. I offer those insights to the Lumbee and Tuscarora people in the sincere hope that, in some small way, they will help to protect and strengthen the indigenous communities their ancestors fought to give them.

BIBLIOGRAPHY

PRIMARY SOURCES

ARCHIVES AND MANUSCRIPT COLLECTIONS

Historical Society of Pennsylvania, Philadelphia, Pennsylvania
Indian Rights Association Records

National Anthropological Archives, Smithsonian Institution, Suitland, Maryland
Sol Tax Collection, Records of the American Indian Charter Convention

National Archives and Records Administration, College Park, Maryland
Record Group 0220: Records of Temporary Committees, Commissions and Boards
Record Group 12: Records of the Office of Education
Record Group 65: Records of the Federal Bureau of Investigation

National Archives and Records Administration at Atlanta, Atlanta, Georgia
Record Group 12: Records of the Office of Education

National Museum of the American Indian Archive Center, Smithsonian Institution, Suitland, Maryland
National Congress of American Indians Records
National Tribal Chairmen's Association Records

Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey
Association on American Indian Affairs Records

State Archives of North Carolina, Raleigh, North Carolina
Indian Affairs Record Group, North Carolina State Commission of Indian Affairs
Records of the North Carolina Department of Public Instruction
Records of the Office of the Governor
North Carolina Attorney General and Department of Justice Record Group

Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill
Guy Benton Johnson Papers
Helen Maynor Scheirbeck Papers
North Carolina Fund Records
Southern Oral History Program Collection
Sam J. Ervin Papers, Senate Records

University Archives, Wilson Library, University of North Carolina at Chapel Hill
Records of the Office of the President of UNC (System)
Records of the Office of the Registrar
Records of the Board of Trustees of the University of North Carolina

DIGITAL ARCHIVES AND DATABASES

Bradley H. Patterson, Jr. Files, Gerald R. Ford Presidential Library
Carlisle Indian School Digital Resource Center
Digital Collections of the Samuel Proctor Oral History Program, University of Florida
HathiTrust Digital Library
Inventory of the Earliest Existent College Catalogs, Univ. North Carolina at Pembroke
North Carolina Digital Heritage Center
Smithsonian Online Virtual Archives
Lumbee Tribe of North Carolina Official Website

NEWSPAPERS AND PERIODICALS

The Asheville Citizen-Times
Carolina Indian Voice
The Daily Tar Heel
The Daily Times-News (Burlington, NC)
The Detroit Free Press
The Dispatch (Lexington, NC)
The Greensboro News & Record
The Guardian
Jet
LIFE Magazine
Lillington News (Lillington, NC)
The Los Angeles Times
The Pittsburgh Courier
Raleigh News & Observer
The Robesonian (Lumberton, NC)
Vice
The Washington Post

LEGAL DECISIONS

Booker v. Special School District No. 1, 451 F. Supp. 659 (Dist. Ct. Minn. 1978)
Chance v. Board of Education of Harnett County 224 F.Supp. 472 (Dist. N. Car. 1963)
Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831)

Cumming v. Richmond County Board of Education, 175 U.S. 528 (1899)

Ex parte Crow Dog, 109 U.S. 556 (1883)

Flint Ridge Dev. Co. v. Scenic Rivers Assn., 426 U.S. 776 (1976)

Lawrence Maynor v. Roger C. Morton, 510 F.2d 1254 (D.C. Cir. 1975)

Lumbee Tribe of Cheraw Indians, et al., vs. Lumbee Regional Development Association, Inc. 95 CVS 02047 (N.C. Supr. Ct. 1999)

Lumbees from Robeson, LRDA Branch #1, et al v. State of Michigan, et al. Civil No. 80-8073-AW (Mich. Cir. Ct. 1982)

McLaurin v. Oklahoma State Regents, 339 U.S. 637 (1950)

Sweatt v. Painter 339 U.S. 629, 70 U.S. 848 (1950)

McMillan v. School Committee 12 SE 330 (N.C. Supr. Ct. 1890)

Morton v. Mancari, 417 U.S. 535 (1974)

North Carolina v. Chavis 263 S.E.2d 356 (N.C. App. 1980)

Rice v. Cayetano, 528 U.S. 495 (2000)

Regents of the University of California v. Bakke, 438 U.S. 265 (1978).

Sipuel v. Board of Regents of University of Oklahoma, 332 US 631 (1948)

State of North Carolina v. Howard Brooks, 287 NC 392, 215 S.E.2d 111 (1975)

United States v. Kagama 118 US 375 (1886)

Worcester v. Georgia 31 US (5 Pet.) 515 (1832)

GOVERNMENT REPORTS AND PUBLICATIONS

Advisory Commission on Intergovernmental Relations. *The Comprehensive Employment and Training Act: Early Readings from a Hybrid Block Grant* (Washington: ACIR, 1977).

Department of Health Education and Welfare, Office of Indian Education. *The Indian Education Act of 1972: Report of Progress for the Third Year of the Program* (Washington, DC: March 1976).

Department of Justice. Federal Bureau of Investigation. Charlotte (North Carolina) Field Division. Bureau File Number 157-CE-8059: Howard Alexander Brooks. Series: Classification 157 (Civil Unrest) Case Files, 1957-1978. Record Group 65. National Archives and Records Administration, College Park, Maryland.

General Education Board. *Public Education in North Carolina: A Report to the Public School Commission in North Carolina*. (New York: General Education Board, 1921).

General Services Administration. *Ratified Indian Treaties: 1722-1869*. (Washington, DC: National Archives Microfilm Publications, 1973).

Michigan Federal Education Consortium. *The Michigan Indian Tuition Waiver: An Investment in the Future of Michigan's Original People: History and Facts from a Native American Perspective*. ([Michigan]: Michigan Federal Tribes Education Consortium, 1996).

North Carolina Historical Commission, *North Carolina Manual*, edited by A.R. Newsome. (Raleigh: 1929).

_____. *North Carolina Manual*, edited by H.M. London (Raleigh: 1933).

North Carolina General Assembly. *Public Laws and Resolutions* (Charlotte: The Observer Printing House, Inc., 1931).

United States Bureau of the Census. *United States Census of Agriculture, 1950* (Washington, DC: US Government Printing Office, 1952).

US Congress. House of Representatives. Committee on Education and Labor. Subcommittee on Elementary, Secondary, and Vocational Education. *A Resolution Concerning Eligibility Requirements for Programs under the Indian Education Act*. 99th Congress, 2nd sess. (1986).

_____. House of Representatives. Committee on Interior and Insular Affairs. Subcommittee _____ on Indian Affairs. *Relating to the Lumbee Indians of North Carolina*. 84th Congress, 1st sess. (1955).

_____. House of Representatives. Committee on Interior and Insular Affairs. *To Provide Federal Recognition for the Lumbee Tribe of North Carolina*. 101st Congress, 1st sess. (1989).

_____. Joint Hearing. Senate and House of Representatives. Committees on Interior and Insular Affairs, *Termination of Federal Supervision over Certain Tribes*. 83rd Congress, 2nd sess. (1954).

_____. Senate. Committee on Indian Affairs. *Lumbee Recognition: To Provide for the Acknowledgment of the Lumbee Tribe of North Carolina*. 108th Cong., 1st sess. (2003).

_____. Senate. Committee on Labor and Public Welfare. *Hearings before the Subcommittee on Education of the Committee on Labor and Public Welfare*, 92nd Cong., 1st sess. (1971).

_____. Senate. Committee on the Judiciary. Subcommittee on Constitutional Rights. *Constitutional Rights of the American Indian*. 89th Congress, 1st sess. (1965).

SECONDARY SOURCES

Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. Palo Alto: Stanford University Press, 1998.

Agamben, Giorgio. *State of Exception*. Chicago: University of Chicago Press, 2005.

Bailey, Anna. "How Scuffletown became Indian Country: Political Change and Transformations in Indian Identity in Robeson County, North Carolina, 1865-1956." PhD diss. University of Washington, 2008.

Banner, Stuart. "Why *Terra Nullius*? Anthropology and Property Law in Early Australia." *Law and History Review* 23, no. 1 (2005): 95-132.

Blu, Karen. *The Lumbee Problem: The Making of an American Indian People*. Lincoln: University of Nebraska Press, 2001.

Boulware, Tyler *Deconstructing the Cherokee Nation: Town, Region, and Nation among Eighteenth-Century Cherokees* (Gainesville: University of Florida Press, 2011).

Britten, Thomas. *American Indians in World War I: At Home and at War*. Albuquerque: University of New Mexico Press, 1999.

_____. *The National Council on Indian Opportunity: Quiet Champion of Self-Determination* (Albuquerque: University of New Mexico Press, 2014)

Brown-Perez, Kathleen A. "A Right Delayed: The Brothertown Indian Nation's Story of Surviving the Federal Acknowledgment Process." In *Recognition, Sovereignty Struggles, and Indigenous Rights in the United States: A Sourcebook*, edited by Amy E. Den Ouden and Jean M. O'Brien, 237-62. Chapel Hill: University of North Carolina Press, 2013.

Brown, Leslie. *Upbuilding Black Durham: Gender, Class, and Black Community Development in the Jim Crow South* (Chapel Hill: University of North Carolina Press, 2008).

Browne-Marshall, Gloria J. *Race, Law, and American Society: 1607 to Present*. New York: Taylor and Francis, 2007.

- Carpenter, Daniel, *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862-1928*. Princeton, NJ: Princeton University Press, 2001.
- Cattellino Jessica. *High Stakes: Florida Seminole Gaming and Sovereignty*. Durham: Duke University Press, 2008.
- Cipolla, Craig. *Becoming Brothertown: Native American Ethnogenesis and Endurance in the Modern World*. Tucson: University of Arizona Press, 2013.
- Cobb Dan. *Native Activism in Cold War America: The Struggle for Sovereignty*. Lawrence: University of Kansas Press, 2008.
- Cohen, *A Consumer's Republic: The Politics of Mass Consumption in Postwar America*. New York: Vintage Books, 2003.
- Daniel, Pete *Dispossession: Discrimination against African American Farmers in the Age of Civil Rights*. Chapel Hill: University of North Carolina Press, 2015.
- Danziger, Jr., Edmund J. *Survival and Regeneration: Detroit's American Indian Community*. Detroit: Wayne State University Press, 1991.
- Davis, Tom. "Devotion to the People: The Legacy of Helen Scheirbeck." *Tribal College: Journal of American Indian Higher Education* 12, no. 4 (Summer 2001).
- Deloria, Jr., Vine. *Custer Died for Your Sins: An Indian Manifesto*. New York: Macmillan Publishing Company, 1969.
- _____. *Vine Behind the Trail of Broken Treaties: An Indian Declaration of Independence*. Austin: University of Texas Press, 1985.
- Deloria, Philip J. *Indians in Unexpected Places*. Lawrence: University of Kansas Press, 2004.
- Dial, Adolph L. and David K. Eliades. *The Only Land I Know: A History of the Lumbee Indians*. San Francisco: The Indian Historian Press, 1975.
- Dochuk, Darren. *From Bible Belt to Sunbelt: Plain-Folk Religion, Grassroots Politics, and the Rise of Evangelical Conservatism*. New York: W.W. Norton & Company, 2012.
- Downs Gregory, *Declarations of Dependence: The Long Reconstruction of Popular Politics in the South, 1861-1908*. Chapel Hill: University of North Carolina Press: 2014.
- Ellis, Clyde. "'There's a Dance Every Weekend': Powwow Culture in Southeast North Carolina." In *Southern Heritage on Display: Public Ritual and Ethnic Diversity within Southern Regionalism*, edited by Celeste Ray. Tuscaloosa: University of Alabama Press, 2003.

- Escott Paul D. *Many Excellent People: Power and Privilege in North Carolina, 1850-1900*. Chapel Hill: University of North Carolina Press, 1985.
- Finger, John R. *Cherokee Americans: The Eastern Band of Cherokees in the Twentieth Century*. Lincoln: University of Nebraska Press, 1993.
- Ford, Lisa. *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788-1836*. Cambridge: Harvard University Press, 2010.
- Gershenhorn, Jerry. "Hocutt v. Wilson and Race Relations in Durham, North Carolina, during the 1930s." *North Carolina Historical Review* 78, no.3 (July 2001): 275-308.
- Gerstle, Gary. "Race and the Myth of the Liberal Consensus," *Journal of American History* (September 1995): 579-86.
- Goluboff, Risa. *The Lost Promise of Civil Rights*. Cambridge: Harvard University Press, 2007.
- Gregory, James. *The Southern Diaspora: How the Migrations of White and Black Southerners Transformed America*. Chapel Hill, University of North Carolina Press, 2005.
- Gross, Ariela. "'Of Portuguese Origin': Litigating Identity and Citizenship among the 'Little Races' in Nineteenth-Century America." *Law and History Review* 25, no. 3. (Fall 2007): 467-512.
- Haines, Gerald K. and David A. Langbart. *Unlocking the Files of the FBI: A Guide to Its Records and Classification System*. Wilmington, Delaware: Scholarly Resources, Inc., 1993.
- Hämäläinen Pekka, "Introduction: Reversed Colonialism," in *Comanche Empire* (Yale University Press, 2009)
- Higginbotham, Evelyn Brooks. *Righteous Discontent: The Women's Movement in the Black Baptist Church, 1880-1920*. Cambridge: Harvard University Press, 1994.
- Igo, Sarah. "Polling the Average Populace," in *The Averaged American: Surveys, Citizens, and the Making of a Mass Public*. Cambridge: Harvard University Press, 2009.
- Johnson, Guy B. "Personality in a White-Indian-Negro Community," *American Sociological Review* 4, no. 1 (1939): 516-23.
- Johnson, Ronald A. "The Interstate Land Sales Full Disclosure Act: An Analysis of Administrative Policies Implemented in the Years 1968-1975," *Catholic University Law Review* 26, no. 2 (Winter 1977): 348-363.

- Kauanui, J. Kēhaulani. *Hawaiian Blood: Colonialism and the Politics of Sovereignty and Indigeneity*. Durham: Duke University Press, 2008.
- Kercher, Bruce. "Native Title in the Shadows: The Origins of the Myth of *Terra Nullius* in Early New South Wales Courts." In *Colonialism and the Modern World: Selected Studies*, edited by Gregory Blue, et al., 100-119. New York: M.E. Sharpe, 2002.
- Klarman, Michael. *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality*. New York: Oxford University Press.
- Kneebone, John Thomas. *Southern Liberal Journalists and the Issue of Race, 1920-1944*. Chapel Hill: University of North Carolina Press, 2018.
- Korstad, Robert and James Leloudis. *To Right These Wrongs: The North Carolina Fund and the Battle to End Poverty*. Chapel Hill: University of North Carolina Press, 2011.
- Lassiter, Matthew D. *The Silent Majority: Suburban Politics in the Sunbelt South*. Princeton, NJ: Princeton University Press, 2007.
- _____. "The Suburban Origins of Colorblind Conservatism: Middle-Class Consciousness in the Charlotte Busing Crisis," *Journal of Urban History* 30, no. 4 (May 2004).
- Leloudis James L. *Schooling the New South: Pedagogy, Self, and Society in North Carolina, 1880-1920*. Chapel Hill: University of North Carolina Press, 1996.
- Lewis, Oscar (1969). "Culture of Poverty." In *On Understanding Poverty: Perspectives from the Social Sciences*, edited by Daniel P. Moynihan, 187-220. New York: Basic Books.
- Link, William A. *The Paradox of Southern Progressivism, 1880-1930*. Chapel Hill: University of North Carolina Press, 2018.
- Lowery, Malinda Maynor, *Lumbee Indians in the Jim Crow South: Race, Identity, and the Making of a Nation*. Chapel Hill: University of North Carolina Press, 2010.
- Lowery, Malinda Maynor. "Telling Our Own Stories: Lumbee History and the Federal Acknowledgment Process" *American Indian Quarterly* 33, no. 4 (Fall 2009): 499-522.
- Lurie, Nancy Oestreich. "Ada Deer: Champion of Tribal Sovereignty." In *Sifters: Native American Women's Lives*, edited by Theda Perdue, 223-242. New York: Oxford University Press, 2001.
- Maynor, Malinda. "Finding Wisdom in Places: Lumbee Family History." In *Indigenous Diasporas and Dislocations*, edited by Graham Harvey and Charles D. Thompson, Jr., 156-67. Burlington, VT: Ashgate, 2005.

- _____. "People and Place: Croatan Indians in Jim Crow Georgia, 1890-1920." *American Indian Culture and Research Journal* 29, no. 1 (2005): 37-63.
- Meyer, Stephen. "Adapting the Immigrant to the Line: Americanization in the Ford Factory, 1914-21." *Journal of Social History* 14, no. 1 (Autumn, 1980): 14-70.
- Mihesuah, Devon Abbott. *Natives and Academics: Researching and Writing about American Indians*. Lincoln: University of Nebraska Press, 1998.
- Miles, Tiya. *Ties that Bind: The Story of an Afro-Cherokee Family in Slavery and Freedom*. Berkeley: University of California Press, 2006.
- Miller, Douglas K. "Willing Workers: Urban Relocation and American Indian Initiative, 1940s-1960s." *Ethnohistory* 60 no. 1 (January 2013): 51-76.
- Nagel, Joane. *American Indian Ethnic Renewal: Red Power and the Resurgence of Identity and Culture*. New York: Oxford University Press, 1997.
- Nelson, William. *The Fourteenth Amendment: Political Principle to Judicial Doctrine*. Cambridge: Harvard University Press, 1998.
- Novak, William. "The Administrative State in America." In *The Administrative State*, edited by Armin von Bogdandy et al. New York: Oxford University Press, 2017.
- Oakley, Christopher Arris. "When Carolina Indians Went on the Warpath: The Media, The Klan, and the Lumbee Indians of North Carolina." *Southern Cultures* 14 no. 4 (Winter 2008): 55-84.
- _____. *Keeping the Circle: American Indian Identity in Eastern North Carolina, 1885-2004*. Lincoln: University of Nebraska Press, 2005.
- Povinelli, Elizabeth A. *Economies of Abandonment: Social Belonging and Endurance in Late Liberalism*. Durham: Duke University Press, 2011.
- Sánchez, George J. *Becoming Mexican American: Ethnicity, Culture, and Identity in Chicano Los Angeles, 1900-1945*. New York: Oxford University Press, 1995.
- Smith, Gerald L. *A Black Educator in the Segregated South: Kentucky's Rufus B. Atwood*. Lexington: University Press of Kentucky, 2015.
- Sosna, Morton. *In Search of the Silent South: Southern Liberals and the Race Issue*. New York: Columbia University Press, 1978.
- Sugrue, Thomas. "Reassessing the History of Postwar America." *Prospects* 20 (Fall 1995): 493-509.

- _____. *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit*. Princeton, NJ: Princeton University Press, 1996.
- Ticktin, Miriam I. *Casualties of Care: Immigration and the Politics of Humanitarianism in France*. Berkeley: University of California Press, 2011.
- Tyson, Timothy *Radio Free Dixie: Robert F. Williams and the Roots of Black Power*. Chapel Hill: University of North Carolina Press, 2009.
- Vargas, Zaragosa. *Proletarians of the North*. Berkeley: University of California Press, 1993.
- Wall, Wendy. *Inventing the "American Way": The Politics of Consensus from the New Deal to the Civil Rights Movement*. New York: Oxford University Press, 2007.
- Wallenstein, Peter. "Higher Education and the Civil Rights Movement: Desegregating the University of North Carolina" in *Warm Ashes: Issues in Southern History at the Dawn of the Twenty-first Century*, edited by Winfred B. Moore, et al. Columbia, South Carolina: University of South Carolina Press, 2003.
- White, Richard. *The Middle Ground: Indians, Empires and Republics in the Great Lakes Region, 1650-1815*. New York: Cambridge University Press, 2010.
- Wilkerson, Isabel, *The Warmth of Other Suns: The Epic Story of America's Great Migration*. New York: Vintage Books, 2011.
- Wilkins, David E. and Shelly Hulse Wilkins. *Dismembered: Native Disenrollment and the Battle for Human Rights*. Seattle: University of Washington Press, 2017.
- Wilkins, David E. and Heidi Kiiwetinepinesiik Stark. *American Indian Politics and the American Political System*. Rowman and Littlefield Publishers, 2010.
- Williams, Robert F. *Negroes with Guns*. Detroit: Wayne State University Press, 1962.
- Witgen, Michael. *An Infinity of Nations: How the Native New World Shaped Early North America*. Philadelphia: University of Pennsylvania Press, 2013.