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Author

Rollings, Willard H.

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Indian Land and Water: The Pueblos of New Mexico (1848-1924)

WILLARD H. ROLLINGS

One can best characterize the relations between Native Americans and the United States federal government as complex and violent. As the United States expanded across the continent, the federal government was forced to come up with a policy to deal with these people occupying the West. Important questions concerning land ownership, tribal autonomy, and citizenship arose during the nineteenth century and the United States sought to deal with these questions through special Indian legislation. In time, legislation and court decisions created a semi-consistent Indian policy. In general, this policy assumed that Indians were not citizens of the United States, yet owned their lands, and that the federal government had some responsibility to "protect" their land. As a price for this protection, many Indians were forced to give up control of their land and some internal tribal sovereignty.

Throughout the nineteenth century and into the twentieth century, a group of New Mexico Indians, the Pueblos, enjoyed a peculiar status that provided exemption from federal protection and control. This status came to an end, however, in 1913 due to a United States Supreme Court decision, and the change created considerable uncertainty in New Mexico regarding land ownership and tribal autonomy. A reaction followed in the 1920s when non-Indians and the Pueblos made new attempts to adjust to the problems which resulted. Tracing the origins of these Indians' special status,

describing the problems that arose when their special status no longer existed, and analyzing the reactions and eventual solution are the subjects of this inquiry.

When the Spanish arrived in New Mexico in the sixteenth century, they found two groups of Indians living there. One group consisted of several nomadic hunting tribes--Apache, Navajo, Ute--and the other consisted of sedentary agricultural tribes living in communal villages (pueblos). Ancestors of the Pueblo Indians had lived in the area for thousands of years. While early Pueblo population centers were located north and west of the upper Rio Grande valley, Pueblo peoples had lived in villages along the river since 600 A.D. Beginning about 1300 A.D. there was a dramatic shift in population (1). The Pueblo people began abandoning their villages along the San Juan drainage system (Four Corners region of Arizona, Utah, Colorado and New Mexico) and moving to the south and east. Some settled in the deserts of Arizona and New Mexico (Zuni, Laguna and Acoma), but most joined those already living near or along the northern Rio Grande. These people lived communally in independent city-states (pueblos) governed by secular and religious leaders.

The pueblos were small, compact villages, none larger than two thousand inhabitants, where people lived together in adobe or stone-terraced houses usually constructed around ceremonial plazas. The people farmed, used stream irrigation and grew corn, squash, beans and cotton. Although similar in many respects these Pueblos differed widely according to language and custom (2).

Among these pueblos there were five different languages: Piro, Tiwa, Towa, Tewa and Keresan. These five languages were distinct and not mutually intelligible.

When the Spanish first arrived in the sixteenth century these pueblos numbered between seventy and one hundred (3). However, destruction either by the Spanish, the Apaches or abandonment soon reduced these to about twenty. Three of these, Zuni, Acoma, and Laguna were located west of the Rio Grande River in the desert. One, Pecos, was located east of the Rio Grande along the Pecos River. The remaining sixteen--Isleta, Sandia, Jemez, Santa Ana, Zia, San Felipe, Santo Domingo, Santa Clara, Cochiti, Tesuque, Pojoaque, Nambe, San Ildefonso, San Juan, Picuris and Taos

were along the upper reaches of the Rio Grande in Central and Northern New Mexico.

The Spanish conquered these Indians by the seventeenth century. But in 1680 the Pueblos united, attacked the Spanish and drove them from the area. For twelve years these Indians were free from Spanish control, but the Pueblo coalition disintegrated and they were reconquered in a series of campaigns in the 1690s. Despite their conquest, these Indians retained their lands and their internal tribal government. The Spanish made a clear distinction between the conquered village or pueblo Indians called *Indios de los Pueblos* and the unconquered, warlike nomadic Indians who were called *Indios Barbaros*, and enacted legislation to guarantee Pueblo Indian lands and local autonomy (4).

Spanish policy toward the Pueblo Indians developed in a series of laws beginning as early as 1551. Various decrees in 1573, 1618, 1687, 1695, 1781 and 1811 established a protectorate policy (5). Pueblo Indians were wards of the King. The Spanish government guaranteed Indian title to all land used or occupied. Although there is some controversy about the nature of these grants, it is generally agreed that the grants were to the pueblo, not to the individual, and were held in common by the pueblo. Only a viceroy, governor, and captain general could grant any further lands to the Pueblos and approve any land sales made by the Pueblos (6). The Pueblo Indians were given prior rights to all water that crossed or bordered their land, and all non-Indians were forbidden to live on Pueblo lands. Furthermore, the Spanish government provided legal protection and advice for the Indians (7).

In 1821 New Mexico became a part of independent Mexico, yet Mexican Indian policy in regard to the Pueblo Indians remained consistent with former Spanish practices. However, an important change came about as a result of Mexican independence. The Mexican government granted citizenship to the Pueblo Indians. The Mexican revolutionary proclamation, the Plan of Iguala (1821), called for Indian citizenship which later was incorporated into Mexican law in 1824 (8). Despite this grant of citizenship, the Mexican government continued to follow the paternalistic policies the Spanish government had established. All Spanish laws regard-

ing the Pueblos in force prior to 1821 remained in effect, but the Mexican government was either unable or unwilling to prevent many non-Indians from encroaching upon Pueblo lands (9). By 1846 many non-Indians had settled on and were cultivating Pueblo Indian land, and these illegal seizures caused friction between Indians and Mexicans. This situation was explosive by the time the United States captured New Mexico in the Mexican-American War.

The Army of the West seized and occupied New Mexico in August 1846, under the command of General Stephen W. Kearney. Kearny established a system of government for the captured territory which included courts, judges and a legislative body. That the territory had only recently belonged to Mexico and that the war had not yet ended did not deter Kearny and his officers from establishing an American form of government. New Mexico officially became a part of the United States in 1848 by the terms of the Treaty of Guadalupe—Hidalgo. Provisions of this treaty (Section Eight) granted Mexican citizens residing in New Mexico the option of retaining their Mexican citizenship or assuming United States citizenship. Residents were given a year to apply to keep their Mexican citizenship; if they did not apply within the year they would automatically become citizens of the United States. Since none of the Pueblo Indians requested to retain their Mexican citizenship, they became, in the eyes of many, United States citizens (10). As citizens of the United States, therefore, they would have all of the traditional rights and privileges. As citizens the Pueblos were not wards of the federal government, and they did not have special federal protection. They had the right to sell or give away their land as they saw fit, and the adult males had the right to vote. This legal status stood in striking contrast to the rights and privileges granted to other tribes living within the United States: they were not citizens, but wards of the government who could not vote or dispose of their land without explicit federal permission.

Legally, then, the Pueblo Indians of New Mexico were free from federal control and protection. However, the situation quickly became confusing and ambiguous because the territorial government and federal government were not con-

sistent in their dealings with the Pueblos. In some instances they were treated as Indians in the traditional fashion, and at other times they were treated as United States citizens. Even before the approval of the Treaty of Guadalupe-Hidalgo, Kearny's territorial legislature passed a law (1847) recognizing the communal nature of the Pueblo's government and land titles, and in 1854 the legislature passed the following act:

that the pueblo Indians of this territory for the present, and until they shall be declared by the congress of the United States to have the right, are excluded from the privilege of voting at the popular elections of this territory (11).

The federal government said nothing about this law so it remained in force. It would appear that local non-Indians were attempting to ignore the laws of citizenship and to deny the Pueblos their special status. However, the territory passed other laws demonstrating New Mexicans' recognition that the Pueblo Indians were indeed distinct from other tribes within its borders. A law passed in 1853 prohibiting the sale of liquor to Indians included this provision: "that the pueblo Indians that live among us are not included in the word Indian" (12).

The federal government contributed to this confusion. In 1851 the provisions of the Indian Intercourse Act of 1834 were extended to protect and control New Mexico Indians. The Act of 1834 had been enacted to guard "uncivilized" Natives on reservations, yet the Pueblo Indians were not "uncivilized" and had not been placed on reservations. The land title was based on Spanish and Mexican title, and the United States government having never made a treaty with the Pueblo Indians had never gained title to their lands. Indian agents in New Mexico were not allowed to enforce the 1834 Act which did offer some protection, because Pueblo Indians were not classed as Indians (13). At the same time, several Indian appropriation acts provided federal money for these same "Indians." The real status of the Pueblos would remain clouded for several years.

In 1869 the federal government attempted to enforce parts of the 1834 Act and evicted a Mexican-American, Jose Juan Lucero, from Cochiti Pueblo lands. The Indian Non-Intercourse Act made the unauthorized settlement of tribal lands a federal offense. The New Mexico Supreme Court dismissed the case (U.S. v. Lucero) because the 1834 and 1851 laws did not apply to the Pueblo Indians, ". . .by the express terms of the eighth article of the treaty <Guadalupe-Hidalgo>, they <Pueblo Indians> became citizens of the United States, as they were previously citizens of the Mexican republic" (14). Furthermore, the Court maintained that no treaties had been made with the individual pueblos, and the government had not provided an Indian agent for them, clearly demonstrating that even the federal government recognized that these Peoples were distinct from other tribes:

This court, under this section of the treaty of Guadalupe Hidalgo, does not consider it proper to assent to the withdrawal of eight thousand citizens of New Mexico from the operation of the laws, made to secure and maintain them in their liberty and property, and consign their liberty and property to a system of laws and trade made for wandering savages and administered by the agents of the Indian department (15).

Three years later the United States provided an agent for the Pueblos and removed one of the grounds for the Lucero decision. Accordingly, in 1876 the government again tried to enforce the 1834 law. The government evicted a Mexican-American from the Taos Pueblo. The New Mexico Territorial Supreme Court again ruled that the 1834 law was not applicable to the Pueblo Indians. The government appealed this decision to the United States Supreme Court. Here the Supreme Court affirmed the territorial decision in U.S. v. Joseph. The Court ruled:

. . . if the pueblo Indians differ from the other inhabitants of New Mexico in holding land in common, and in certain patriarchal form of domestic life, they

only resemble in this regard the Shakers and other communistic societies in this country, and cannot for that reason be classed with the Indian tribes of whom we have been speaking (16).

The Court also declared that the Pueblo Indians were citizens of the United States and Mexico, but because rights of citizenship were not further involved, the Court refused to rule on any other restrictions of these rights. The Court decided that the appointment of an agent for these Indians was not sufficient cause to change their status. Concerning land ownership, the Court found that generally title to Indian lands was held by the United States and that Indians had no right to transfer it without government consent.

The pueblo Indians, on the contrary, hold their lands by a right superior to that of the United States. Their titles date back to grants made by the government of Spain before the Mexican Revolution, a title which was fully recognized by the Mexican government, and protected by it in the treaty of Guadalupe Hidalgo, . . . If the defendant is on the lands of the pueblo, without the consent of the inhabitants, he may be ejected, or punished civilly by a suit for trespass, . . . If he is there with their consent or license, we know of no injury which the United States suffers by his presence, nor any statute which he violates in that regard (17).

The Joseph decision established the law governing New Mexico Pueblos for almost forty years. Other rulings continued to confirm this Supreme Court decision. In 1891 the Attorney General ruled that federal laws regulating Indian traders did not apply to the Pueblos (18). In 1894 the Department of Interior ruled that laws relating to the approval of leases of Indian tribal lands did not apply to Pueblo land (19). The Pueblos' special status was reconfirmed several times. In 1905 the territorial Supreme Court of New Mexico ruled that because of the Lucero and Joseph decisions the New Mexico Pueblos would have to pay

property taxes (20). Congress intervened and passed an act that gave the Pueblos a special tax exemption (21). As a result of these decisions, many non-Indians purchased Pueblo Lands in good faith, while others, assured that the federal government could not prevent it, settled on Pueblo lands illegally.

As long as New Mexico remained a territory the federal government left much of governmental control of all New Mexico Indians to territorial officials. However, when New Mexico became a state in 1912, control and supervision shifted from Santa Fe to Washington, D. C., the Pueblo Indians began to be treated more like other Indian tribes. The first signs of this shift became apparent in 1910 prior to New Mexico's final admission to statehood.

Many people, Indian and non-Indian alike, were convinced that the Pueblo Indians needed federal protection, for without it they had lost much of their land while being denied the benefits of citizenship. Congress therefore added to the New Mexico Enabling Act of 1910 a provision that read "the terms 'Indian' and 'Indian country' shall include the pueblo Indians of New Mexico and the lands now owned and occupied by them" (22). With the approval of this Act in 1910, federal control was finally extended to the Pueblo Indians.

The constitutionality of this act was challenged in 1913. A Spanish-American, Felipe Sandoval, was arrested for introducing liquor onto the San Juan and Santa Clara Pueblos. In court Sandoval's attorney argued the Pueblos were citizens and that the provisions of the New Mexico Enabling Act purportedly applied to the Pueblos was unconstitutional because it placed special conditions on New Mexico resulting in its admission on a different basis from other states. The federal district court concurred with Sandoval and dismissed the government's case. The government appealed the decision to the United States Supreme Court. In 1913 the Supreme Court reversed the Joseph decision in U.S. v. Sandoval and declared that the Pueblo Indians were indeed Indians by race, customs and therefore government; that federal funds had been spent to improve Pueblo conditions; that Indian agents had been appointed for them; and that Congress had granted them tax

exemptions. Hereafter, Pueblo Indians had the same status as other Indians and were legally wards of the federal government (23). The Pueblos could no longer sell their land and all sales since 1848 were invalid, reverting all land and water back to them.

This decision was a great victory for the Pueblo Indians and they could now regain lost lands and water. The Sandoval decision created an uproar in New Mexico. Approximately 12,000 people on 3,000 claims were threatened with possible eviction. It did not matter to the government that some had title to the lands, for according to the decision, all alienations were void. The 3,000 claims, titled and untitled, represented only about 10 percent of the total Pueblo lands, but almost all of the available water, vital for agricultural survival, was included in those claims.

The Tesuque Pueblo's grant contained 17,471 acres of land. Of that only 457 acres were claimed by non-Indians (2.62 percent). However, of that 17,471 only 2,500 acres were irrigable. Of course the 457 acres claimed by non-Indians were out of this irrigable portion (18.2 percent). The Pueblo of San Juan had lost 3,000 of its 4,000 irrigable acres. Another Pueblo just north of Santa Fe, San Ildefonso, possessed 12,000 acres, and of this only 1,250 were irrigable, yet by 1913 this Pueblo contained less than 250 acres of irrigated land; at Nambe the Indians controlled only 360 acres of a possible 3,000 (24).

Land title in New Mexico was a complicated affair. Neither Spain nor Mexico had a system of land survey in New Mexico, and New Mexico Territory did not have one until 1856. Another complication involved the fact that many of the claims were based upon Spanish land grants. Often these grants contained vague or no longer existing boundaries. A typical deed written in 1727 described a tract of land as: "Bounded on the north by the road which comes down from Tesuque, and on the south bounded by the ditch, and bounded on the east by the lands of Tomas Martinez, an individual, and bounded on the west by the lands of Jacobo Montoya, and another individual" (25). Another read, "On the side of the town which looks toward the pueblo, 11 varas. From the road to a little cedar tree which divides the boundary of said Romero and Manuel Baca. . . ." (26). The

road and ditch referred to in 1727 did not exist in 1913; an exact boundary could not be determined. Also, the deeds between individuals could not always be verified as to whether the individuals were Indians or not, since many Pueblos had taken on Spanish names. In some instances non-Indians had purchased land in good faith from the Pueblos; the legality of these purchases was substantiated after the Joseph decision. In other instances Indian land had been leased or rented to the non-Indians and by 1913 many non-Indians conveniently forgot that they had only rented the land. Other problems arose from the peculiar nature of Spanish and Indian land practices that had no equivalent practice in United States land law. One such problem involved the Sandia Pueblo, just north of Albuquerque. Before New Mexico became a part of the United States a man named Garcia had helped the Sandia Pueblo. In return they granted him a life estate occupancy to a piece of Pueblo land. When he died his wife was allowed to remain on the Indian land until her death. Despite the fact that neither of the Garcias had children, several heirs continued to occupy the land in 1913 (27).

At Laguna in 1768 Baltasar Baca and his sons were granted a permit to graze their stock. They were specifically restricted from planting crops, building residences on the land or interfering with the Indians' use of the land, yet in 1913 the Baca family was living on the "grant" and claimed ownership (28). While these encroachments were illegal, other examples were outright thefts. In 1917 a non-Indian began extending his fence to include more Pueblo land. An Indian agent investigated the situation and confronted the man. He produced a deed he claimed was forty years old. The agent pointed out to him that the Indian officials who had signed the deed were the present officials, not ones involved in 1877. The agent returned to the Pueblo and took down the fence. The fence was soon restored by the non-Indian. When the agent again confronted the man, he produced a new deed "signed" by Indian officials who had served fifty years before (29).

Prior to the Sandoval decision, the Indian Bureau had planned to file individual suits for the Pueblos to reclaim

lost land and water. Before these suits could proceed a survey was required to show the location of the non-Indian claims against the Indian land. In 1913 the Department of the Interior had authorized such a survey. The survey, known as the Joy Survey, allowed non-Indians to make their claims and have them entered on the survey. The Joy Survey recorded only claims being made against the Pueblos; it did not substantiate them.

From 1913 until 1924 non-Indians sought every possible means to evade the consequences of the Sandoval decision, and tensions increased in New Mexico. In February of 1922 a group of Tesuque Indians tore down a fence erected by a non-Indian, E. B. Healy. Healy gathered ammunition and guns in preparation to attack the Indians. Violence was avoided only because Frances Wilson, an attorney for the Indians, intervened. In Taos Indians tore down fences and burned crops. Clearly an immediate solution to this complex situation was necessary (30).

The Secretary of the Interior, Albert Fall, a former senator from New Mexico, appointed to Harding's cabinet in 1921, asked Colonel Ralph E. Twitchell, a New Mexico scholar of Spanish history, to prepare a historical and legal report on Pueblo land titles. Fall, however, did not wait for Twitchell's report, and he asked New Mexico Senator, Holm O. Bursum, to introduce a bill to settle the controversy quickly. Bursum composed a bill that would simply confirm all non-Indian claims of title held since 1902, and he submitted the bill to Congress on May 31, 1921. Representatives of the Indian Rights Association visited Secretary Fall and protested that the bill was unfair to the Indians and asked him to reconsider. Fall agreed and allowed Bursum's first bill to die in the committee (31).

Fall received Twitchell's report in the spring of 1922. This report recommended that Congress enact special legislation to provide an exemption from the Sandoval decision. This would allow all non-Indians to remain on the disputed lands. Twitchell was not completely indifferent to the Indians' plight. He also suggested that something be done to protect Pueblo water rights and to end any further encroachments on Indian land.

Work on new legislation was postponed, however, as the Indian commissioner Charles H. Burke had left Washington for New Mexico where he met with several Indians at the Santa Clara Pueblo. He also met with Twitchell and Santa Fe attorney, A. B. Renehan, who had represented Sandoval in the Sandoval case. Renehan had also represented 155 non-Indians in a suit to settle title within the Santa Clara and San Ildefonso Pueblos' grants. These men returned to Washington and met with Secretary Fall and Senator Bursum to draw up a compromise bill (32). This bill was entitled: "A Bill to ascertain and settle claims of persons not Indians within Pueblo Indian land, land grants, and reservations in the State of New Mexico" (Senate Bill 2855), but it was known nationally as the Bursum bill.

The Bursum bill went to committee and returned to the floor for action on September 11, 1922. Senator Bursum spoke in behalf of the bill and explained why the bill was necessary, and how it was written:

An investigation was made by an agent of the Interior Department and of the Department of Justice. They investigated the whole question from the standpoint of the Government, from the standpoint of the Indians, and from the standpoint of the settlers. Finally the attorney for the settlers and the attorney for the Government met and conferred, and the hearings were held before the Commissioner of Indian Affairs and also before the Secretary of the Interior. A bill was agreed upon vesting jurisdiction in the federal court of the state of New Mexico, providing a remedy whereby title might be quieted by settlers occupying lands on various grants (33).

Bursum went on to explain that the bill simply provided the rules by which suits could be filed. On the surface the bill was just as Bursum implied. The Senate approved it and sent it to the House for action. Bursum admitted that no Indians had had direct involvement in the writing of the bill. Indeed, few Indians were even aware that the bill existed until after it had already been approved by the Senate. Once the Indians were made aware of the bill they were extremely upset, for the bill virtually confirmed all non-Indian

claims and seriously interfered with the internal Pueblo government.

To the Indians, perhaps the most damaging feature was Section 15. This section revived the Joy Survey and declared that it would be used as prima facie evidence of boundaries. The survey had only been made to show claims, not to confirm title. Other sections were equally damaging to Indian claims. Although Twitchell had urged protection of Indian water rights, the bill confirmed conditions as they existed in 1922 and stated that any further disputes would be decided according to New Mexico state law within state courts. The Pueblo Indians therefore had to recover any lost water in the unfriendly confines of New Mexico courts. According to Twitchell: "The local courts and juries have yet, in my judgment, to show where the Indian has ever received justice" (34). Furthermore, the State of New Mexico had a statute of limitations of four years on water claims, and most of the water taken from the Indians occurred prior to 1918; so according to the Bursum bill the Indians could never regain their lost water rights.

Sections Seven and Eight specified conditions whereby non-Indians could receive title to the disputed lands. Any non-Indians who could prove possession by means of a title were to be granted all they claimed. Any non-Indian who had held land since June 20, 1910, "with or without color of title," and any one who claimed land under a valid grant from either Spain or Mexico "shall be entitled to a decree in their favor respectively for the whole of the lands claimed" (35). All a non-Indian had to do was prove occupancy in order to acquire title. If the non-Indian was still unable to prove his/her title, he/she could appeal to the Secretary of the Interior and he was empowered to grant title.

The Indians did have some, although minimal, protection. Lands lost to non-Indians merely on the basis of occupancy since 1900 were to be compensated. The government was to give to the Pueblos those lands adjacent to the Pueblo equal in area and quality to those remaining in non-Indian hands. If equal land was unavailable, the Secretary of Interior would place an amount of money equal to the value of the land at an unimproved basis in the Pueblo's account. The Indians knew that irrigated land was at a premium in New Mexico, and that none was available in the public domain.

Equally important, the bill did not provide for any appropriation to pay the compensation. Any losses of land to settlers who had proof of title would not be compensated.

The bill went beyond the land issue. Section Two proposed to place all authority to deal with the Indian offenses within the federal court. Part e of Section Two allowed federal intervention into intra-tribal affairs:

All suits of a civil nature at common law or in equity, involving any question of internal affairs or the government of any said pueblos, including the right to hold offices in said pueblos in accordance with the customsions of said pueblos (36).

This gave the federal court the right to interpret Indian customs and traditions. People who might have no understanding at all of Indian culture would be empowered to interfere with tribal decisions. Despite the passage of the bill in the Senate, the Pueblos were not without defenders. John Collier, a former social worker and college teacher from the East, had lived in Taos and had been inspired by the Pueblo Indians' lifestyle and customs. He had joined with members of the Taos artist community to form a local organization to preserve, protect and revive Pueblo traditions and culture. He became aware of the bill in the summer of 1922 and began fighting its passage. John Collier was soon joined by Stella Atwood, the Chair of the Indian Welfare Committee of the General Federation of Womens' Clubs, a national womens' organization (37).

Collier and Atwood led the fight against the Bursum bill. They used their influence with various magazine publishers to launch a national campaign opposing the Bursum bill and Secretary Fall. Sunset Magazine defended the Pueblos and began to publish a series of articles in October. These articles were often written by Collier, and were highly emotional accounts. Their titles, for example: "The Pueblo's Last Stand," "Plundering the Pueblos," and "Read the Shameful Story and Blush for America" were guaranteed to elicit support for the Indians (38). The editors of the magazines distributed copies to every member of Congress and other influential government officials (39). The Santa Fe

New Mexican--owned by Bronson Cutting, a Progressive-Republican and political foe of Bursum and Fall--led the New Mexico attack. "The Indian is the most historic of all underdogs. . . . Wading through the maze of legal phraseology in this bill, we do not gather that it is giving the Pueblo Indian any the best of it" (40).

Collier worked with the Pueblos and organized their resistance. He traveled throughout the Pueblos with Antonio Luhan, a Taos Indian, and urged the Pueblos to unite to oppose the bill. At Cochiti one of the Indian leaders reminded them all of the Revolt of 1680 and said that the Pueblos must unite "as we did long ago when we drove the Spaniards out" (41). On November 5, 1922 representatives of all the Pueblos met at Santo Domingo and drafted an appeal to the American people to defeat the Bursum bill. The appeal described several attempts made by the Indians to get an explanation of the bill from government agents: "<Pueblo officials> have always been put off and even insulted. . . ." (42). The Indians closed their appeal with an emotional plea:

The Pueblos, as is well known, existed in a civilized condition before the white man came to America. We have kept our old customs and lived in harmony with each other and with our fellow Americans.

This bill will destroy our common life and rob us of everything we hold dear--our lands, our customs, our traditions.

Are the American people willing to let this happen? (43).

The Indians united to fight the bill, and decided to raise money to send a delegation to Washington to campaign in person against it.

Atwood hired a Santa Fe attorney, Francis Wilson, who had represented the government in the Sandoval case, to help defeat the bill. Wilson wrote Senator William Borah, a powerful senator from Idaho and member of the Senate Committee on Public Lands and Surveys, and described the problems involved in the bill. Borah was able to recall the bill from the House, and he called for hearings before the committee in January. Secretary Fall was outraged, and

Fall defended the bill and explained that the settlers deserved special consideration because they paid taxes and the Indians did not (44).

Fall threatened to evict all non-Indian settlers from the land. In the tense atmosphere of New Mexico mass eviction would certainly cause violence, and many were convinced that Fall wanted to do this to create a panic in New Mexico. It would make the opponents of the bill appear to be "ruthless extremists driving thousands of innocent non-Indians off their lands" (45). Collier, Atwood and Wilson asked Fall to wait and allow Congress to write a law guaranteeing justice for all participants.

Fall refused to stop, and continued his threats, but by December pressures created by the opposition to the Bursum bill were exaggerated by the Teapot Dome scandal. Fall believed he had lost all influence in the Harding administration, and feared a loss of influence at home in New Mexico. He began considering resigning from the cabinet, and never followed through with the evictions. In January the White House announced that Fall would leave office in March because of personal business reasons. However, Fall continued to support the bill and testified before both the Senate and House committee hearings.

Before the Senate committee began its hearings, Francis Wilson drew up an alternative bill. This bill was introduced by the senior Senator from New Mexico, Andrieus A. Jones. The bill, known as the Jones-Leatherwood bill, proposed a three person commission, appointed by the President with congressional approval, to examine claims and grant or reject titles. In addition the bill provided for extensive irrigation projects for the Pueblos. The Senate Committee on Public Lands and Surveys, and the House Indian Affairs Committee began hearings in January and February and investigated the situation to decide the fate of the proposed bills.

Bill opponents Collier, Atwood, Wilson, and an Isleta Indian--Pablo Abeyta--testified in favor of the Jones bill and against the Bursum bill. Before both committees Wilson pointed out the damaging sections and explained how they would destroy the Pueblo communities. Fall also testified before the committees. He explained that the bill was a just one and admitted that changes, such as use of the Joy Survey, were needed. He denounced the opponents of the bill and their public relations campaign: "if we are to have a

government, the present conditions in Soviet Russia would constitute a political paradise . . . compared to what we have here" (46). Fall also criticized the Jones-Leatherwood bill as being much too expensive and ended his senate appearance by refusing to be questioned by attorney Wilson. The House hearings which had begun after the Senate hearings were noticeably anti-Pueblo. The hearings began with a sharp attack on Atwood, reducing her to tears. Wilson took the stand, and, while explaining the harmful effects of the bill, remarked that the Indians were industrious and were worthy of help. To this, Republican Representative Homer Snyder from New York, Chairman of the House Committee on Indian Affairs, answered: "if those Indians are really thrifty, hardworking Indians, they are the first tribe or bunch of Indians that I ever saw that were" (47). Despite the animosity present on the House committee, neither the Bursum nor the Jones bill escaped committee.

In February a compromise bill (Lenroot bill) was created in the Senate Committee on Public Lands and Surveys. This bill established a Presidential Lands Board made up of three people. The board was empowered to investigate and grant title to contested lands. Settlers who possessed titled for twenty years and settlers without title who had occupied the land for thirty years were to be granted guaranteed title to their land (48). Francis Wilson gave his approval for the bill because it eliminated the objectionable provision contained in the earlier Bursum bill, and did provide, he thought, for justice for those non-Indians who had been on the land for a long time. However, Collier rejected the bill and denounced Wilson. Collier maintained that the bill still allowed Pueblo trespassers to obtain title and it did not provide any compensation for lost lands for the Indians. While the controversy raged within the pro-Indian movement in Washington, New Mexico Senator Bursum re-wrote his bill and reintroduced it in the Senate. Collier also wrote an alternative bill, and Senator Charles Curtis of Kansas submitted it for him. Collier returned to New Mexico to prevent his split with Wilson from destroying the Indian movement (49). He also returned to gather support for his bill, and arranged for another Pueblo delegation to travel to Washington to testify in behalf of his bill.

Things had changed in Washington since the Indians had last been there. Secretary Fall had been replaced by Dr. Hubert Work in March. Due to the outcry over the Pueblo

Indians, Work had created an advisory committee. This committee was composed of one hundred people--Indians, conservatives, scientists, reformers, missionaries and such notables as Bernard Baruch, Oswald Villard and William Jennings Bryan--selected to investigate Indian conditions in the United States and make recommendations (50). The committee did little concerning the Pueblo Indians and Collier was thoroughly disappointed.

Collier had better luck with the Senate Committee on Public Lands and Surveys. Attorneys for the settlers and the Indians met with the committee and drew up a compromise bill entitled the Pueblo Lands Act. The Pueblo Lands Act created a Lands Board made up of the Secretary of the Interior, Attorney General and a third member appointed by the President.

Because this board had offices in Santa Fe, the Attorney General and Secretary of the Interior were empowered to appoint assistants to take their places. The board was given the power to investigate, determine and report the boundaries of all the New Mexico Pueblos. In order to extinguish Indian title, the board would have to reach a unanimous decision. The board's findings would be filed in the federal court in New Mexico to bring suit to quiet title. Non-Indian settlers had to demonstrate their continuous adverse possession under color of title since January 6, 1902 (twenty years), supported by payment of taxes on the land. Non-Indian settlers without color of title had to demonstrate continuous adverse possession since March 16, 1889 (thirty-five years) supported by payment of taxes. If the same land had been granted to both an Indian and a non-Indian by the Spanish or Mexican government, the Indian was allowed the prior claim. Indians were to be compensated for any lost land or water, and this money had to be used to purchase land for the Pueblos, or construct irrigation projects. If the Indians did not agree with the board's findings, they could appeal the decision to the federal district court within sixty days. Non-Indians could also appeal the decision to the federal district court and could apply for compensation from the Department of the Interior. This bill was written to end the land problems in New Mexico, and to prevent any further disputes over Pueblo Land:

No right, title, or interest in or to the lands of the Pueblo Indians of New Mexico to which their title has

not been extinguished as hereinbefore determined shall hereafter be acquired or initiated by virtue of the laws of the State of New Mexico, or in any other manner except as may hereafter be provided by Congress, and no sale, grant, lease of any character, or any other conveyance of lands, or any title of claim thereto, made by any pueblo as a community, or any Pueblo Indian living in a community of Pueblo Indians, in the state of New Mexico, shall be of any validity in law or equity unless the same be first approved by the Secretary of the Interior (51).

This compromise bill passed in the Senate on May 13, in the House on June 5, and President Calvin Coolidge signed it into law on June 9, 1924. With the passage of the Pueblo Lands Act of 1924 the ambiguous special status of those lands officially ended.

The Pueblo Land Board began settling claims and soon its decisions were challenged in court. These challenges were turned back and the constitutionality of the Act was upheld (52). The Pueblo Lands Act did not end the controversy surrounding the Pueblo Indian lands as the board was to continue working well into the 1930s, yet this Act did finally provide protection for the Pueblo Indians.

The Pueblo Indians had occupied a unique place among Native Americans in the United States. As citizens they had been forced to accept the responsibilities of citizenship while being denied the benefits. The governments of both Mexico and the United States showed little understanding and concern for these people and their special situation, and as a result they were victimized and cheated throughout most of the nineteenth century. Finally in 1910, control and protection was extended to the Pueblo Indians. This change in policy caused tremendous problems in New Mexico, particularly in regard to land ownership. Initially, local politicians working under the guise of protecting the Indians attempted to deprive them of much of their land by means of national legislation.

Fortunately for the Pueblos, by the 1920s many Americans were concerned with the plight of the American Indian. These people joined with the Pueblos and demanded and eventually got fair treatment long denied to the Pueblo Indians.

NOTES

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9. Jenkins, pp. 60-61.
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11. *Ibid.*, p. 385.
12. *Ibid.*, p. 385.
13. Leo Crane, Desert Drums: The Pueblo Indians of New Mexico, 1540-1928 (Boston: Little, Brown and Company, 1928; reprinted. Glorieta, New Mexico: Rio Grande Press, Inc., 1972), p. 277.
14. United States v. Lucero, 1 N. M. 440 (1869).
15. *Ibid.*, p. 441.
16. United States v. Joseph, 94 U.S. 617, 618 (1876).
17. *Ibid.*, pp. 618-619.
18. Cohen, p. 388.
19. *Ibid.*, p. 388.
20. Territory of New Mexico v. Delinquent Taxpayers, 12 N. M. 139, 76, Pac. 316 (1904).
21. Act of 3 March 1905, 33 Stat. 1048.
22. Act of 20 June 1910, 36 Stat. 557.
23. United States v. Sandoval, 231 U.S. 28 (1913).
24. U.S. Congress, House, Committee on Indian Affairs,

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26. U.S. Congress, Committee on Indian Affairs, Hearings, p. 229.
27. Crane, p. 299.
28. Jenkins, pp. 98-99.
29. U.S. Congress, Committee on Indian Affairs, Hearings, p. 152.
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47. *Ibid.*, p. 160.
48. Philp, p. 45.
49. *Ibid.*, pp. 46-49.
50. *Ibid.*, p. 50.
51. Cohen, p. 390.
52. *Ibid.*, pp. 390-391.