

**REPORT TO  
THE CONGRESS OF THE UNITED STATES**

**REVIEW OF  
CERTAIN ASPECTS OF THE PROGRAM  
FOR THE  
TERMINATION OF FEDERAL SUPERVISION OVER INDIAN AFFAIRS  
BUREAU OF INDIAN AFFAIRS  
DEPARTMENT OF THE INTERIOR**



**BY  
THE COMPTROLLER GENERAL OF THE UNITED STATES**

**MARCH 1961**



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON 25

B-114868

MAR 21 1961

Honorable Sam Rayburn  
Speaker of the House of Representatives

Dear Mr. Speaker:

Herewith is our report on the review of certain aspects of the program for the termination of Federal supervision over Indian affairs by the Bureau of Indian Affairs, Department of the Interior.

Our review disclosed that the Department had not proposed legislation for the termination of Federal supervision over certain Indian groups which Bureau surveys indicate to be ready for such termination, primarily because of the Department's policy not to propose termination legislation for any Indian tribe or group unless the tribe or group has clearly demonstrated that it understands the plan under which such a program would go forward and supports the plan proposed. Also, the Department has not required the Bureau to develop definite long-range programs for the termination of Federal supervision over all individual Indian groups and tribes and is relying on them to do much of the real planning for termination.

We believe that the Department's policies will not result in any significant progress in fulfilling the goal of the Congress of terminating Federal supervision over Indian affairs, as stated in House Concurrent Resolution 108 approved by the Eighty-third Congress on August 1, 1953. The Department does not agree with our views concerning the advisability of changing its policies. To accelerate the termination of Federal supervision over Indian affairs, we are recommending that the Congress enact legislation requiring the Secretary of the Interior (1) to prepare long-range termination programs for each Indian group or tribe, (2) to report annually to the Congress on the progress being made in carrying out such programs, and (3) to submit proposed legislation for the termination of Federal supervision over those tribes that the Department considers to be ready for termination but which have not consented to such action.

The multiple ownership of Indian lands which are held in trust by the Department is a serious obstacle to the orderly termination of Federal supervision. The Department generally cannot sell or partition Indian trust or restricted lands in heirship status without the consent of all heirs, and it has not been feasible to obtain consent in many cases because of the numerous fractional interests involved. We are recommending that the Congress enact legislation to authorize

B-114868

the partition or sale of inherited Indian lands pursuant to the prescribed legal action taken by any one of the competent Indians concerned. The Department agrees that there is a need for legislation to resolve the heirship problem.

This report is also being sent today to the President of the Senate. Copies are being sent to the President of the United States, the Secretary of the Interior, and the Acting Commissioner of Indian Affairs.

Sincerely yours,



Comptroller General  
of the United States

Enclosure

C o n t e n t s

	<u>Page</u>
GENERAL COMMENTS	1
SUMMARY OF FINDINGS AND RECOMMENDATIONS	3
TERMINATION LEGISLATION	6
Need for termination legislation and definite long-range termination programs	10
Termination legislation	10
Long-range termination programs	13
Recommendation to the Congress	20
Multiple ownership of Indian lands held in trust hinders termination of Federal supervision over Indian affairs	21
Recommendation to the Congress	23
SCOPE OF REVIEW	24

REPORT ON REVIEW  
OF  
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FOR THE  
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DEPARTMENT OF THE INTERIOR

GENERAL COMMENTS

The General Accounting Office has reviewed certain aspects of the program for the termination of Federal supervision over Indian affairs by the Bureau of Indian Affairs, Department of the Interior. Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

The review was made at Washington, D.C., and at selected area and agency offices of the Bureau. The scope of our review is described on page 24. The review was a follow-up of a similar review on which we issued a report to the Congress on August 8, 1958 (B-114868).

The program for the termination of Federal responsibility over the affairs of Indians is being carried out by the Bureau of Indian Affairs through various related programs and activities authorized by numerous laws. The laws apply to specific Indian groups and tribes or to activities carried out for all Indians under the jurisdiction of the Bureau. The stated fundamental objective of all Bureau programs or activities is the social and

economic advancement of the Indian people sufficient to remove their need for the supervision and services rendered under the special jurisdiction of the Bureau.

Our findings are summarized in the following section of this report and are discussed in greater detail in subsequent sections. The comments received from the Administrative Assistant Secretary of the Interior on October 14, 1960, have been considered in this report.

### SUMMARY OF FINDINGS AND RECOMMENDATIONS

The findings discussed in this report essentially confirm similar findings contained in certain of our prior reports on the Bureau's activities. In our report to the Congress, dated August 8, 1958 (B-114868), on the Bureau's administration of termination activities, we recommended that the Commissioner of Indian Affairs submit to the Department of the Interior as soon as possible proposed legislation to provide for the termination of Federal supervision over certain specific Indian tribes and groups that Bureau surveys indicated were capable of handling their own affairs. In our report to the Congress, dated November 19, 1958 (B-114868), on a review of the Bureau's programing, budgeting, accounting, and reporting activities, we recommended that the Commissioner take action to expedite the development of long-range programs for termination of Federal supervision over specific tribes and groups. Our most recent review indicates that the conditions which motivated us to make these recommendations still exist, and, in view of the Department's present policy on these matters, we are recommending amendatory legislation by the Congress. In our prior report on termination activities, we emphasized the need for legislation to solve the Indian heirship problem. Our current review indicates that this need still exists, and we are recommending that the Congress enact appropriate legislation.

#### NEED FOR TERMINATION LEGISLATION AND DEFINITE LONG-RANGE TERMINATION PROGRAMS

The Department of the Interior has not proposed legislation for the termination of Federal supervision over certain Indian groups and tribes which Bureau surveys indicate to be capable of

handling their own affairs. In addition, the Department has not required the Bureau to develop definite long-range programs for the termination of Federal supervision over all individual Indian groups and tribes.

By letter dated October 14, 1960, the Department advised us that its policy and position on termination is that no Indian tribe or group should end its relationship with the Federal Government unless such tribe or group has clearly demonstrated that it understands the plan under which such a program would go forward and concurs in and supports the plan proposed. In regard to developing definite long-range termination programs, the Department's policy is to work with the tribes and to let them do much of the real planning.

We believe that the Department's policies will not result in any significant progress in fulfilling the goal of the Congress for the termination of Federal supervision over the affairs of Indians.

We are recommending in this report that the Congress enact legislation requiring the Secretary of the Interior (1) to prepare long-range termination programs for each Indian group or tribe which will show, by years, the steps and measures that will be taken to raise the economic and social status of the Indians to a level suitable for termination of Federal supervision, (2) to report annually to the Congress on the progress being made in carrying out the termination program for each Indian tribe or group, and (3) to submit proposed legislation for the termination of Federal supervision over those tribes that the Department considers

to be ready for termination but which have not consented to such action. (See pp. 10 to 20 for additional details.)

MULTIPLE OWNERSHIP OF INDIAN LANDS  
HELD IN TRUST HINDERS TERMINATION OF FEDERAL  
SUPERVISION OVER INDIAN AFFAIRS

The multiple ownership of Indian lands held in trust by the Department is an obstacle to the orderly termination of Federal supervision over Indian affairs. The Department is generally not authorized to sell or partition Indian trust or restricted lands in heirship status without the consent of all owners. Because of the continuous subdivision of ownership of Indian lands due to death of the allottees and transfer of undivided interest in the lands to heirs and devisees, the lands have passed into multiple ownership involving numerous fractional interests. As a result, the Department is hindered in terminating Federal supervision because it cannot make a practical distribution of the fractionized lands held in trust.

We are recommending that the Congress enact legislation to authorize the partition or sale of inherited Indian lands pursuant to the prescribed legal action taken by any one of the competent owners concerned.

By letter dated October 14, 1960, the Administrative Assistant Secretary of the Interior advised us that the Department concurs that there is a need for legislation to resolve the heirship problem. (See pp. 21 to 23.)

TERMINATION LEGISLATION

Over the years, the Federal Government's Indian policy has changed from that of segregation; to allotment and disposal of Indian lands; to retention of lands and providing permanent special services; and, finally, to disposal of lands and termination of Federal supervision. The early part of the 19th century found the Indians segregated on reservations according to treaties between the Government and the tribes. The passage of the Dawes Act of 1887 (25 U.S.C. 331) implemented the policy of allotment of Indian lands. The policy of allotment was designed to assimilate the Indians into non-Indian society and to give each individual Indian a tract of reservation land. The act provided that individual Indians might receive a trust patent<sup>1</sup> from the Government for an allotment of land on the tribal reservation. At the end of a 25-year trust period, the individual Indian would assume full control of the land unless the period was extended by the President of the United States. The periods of trust applying to Indian lands have been extended from time to time by Executive order or by statute, and the trust responsibility is still in force.

The allotment policy prevailed from 1887 until the passage of the Wheeler-Howard Act in 1934 (25 U.S.C. 461), also known as the Indian Reorganization Act. This act laid the foundation for a new Indian policy designed to make permanent the Federal guardianship of the special Federal services to Indians and reasserted

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<sup>1</sup>The trust patent is evidence that the land is held in trust by the United States for the beneficial use of the Indian, usually for a definite period of time. The Indian cannot convey or encumber this land without the consent of the Secretary of the Interior.

guardianship for those Indians made landless as a result of the allotment policy. This act also provided for the purchase and restoration of lands to tribes and landless Indians.

On August 1, 1953, the Congress declared in House Concurrent Resolution 108, Eighty-third Congress, first session:

\*\*\* it is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship \*\*\*."

The termination of Federal responsibility for administering and supervising the affairs of Indians must be achieved through the enactment of legislation. General termination legislation has been introduced in the Congress, but so far none has been enacted. Although no general legislation is in force, since the passage of House Concurrent Resolution 108 in 1953, the Congress has enacted specific legislation providing methods and procedures for the termination of Federal supervision over 12 tribes and groups, and in some cases providing proposed termination dates. As a result, Federal supervision has been removed from four groups; namely, the Alabama and Coushatta Tribes in Texas, on June 23, 1955; the tribes and bands in Western Oregon, on August 18, 1956; the Paiute Bands in Utah, on March 1, 1957; and the Ottawa Tribe in Oklahoma, on August 3, 1959. The proposed termination dates for the remaining eight groups follow:

<u>Indian group and State</u>	<u>Date of act</u>	<u>Proposed termination date</u>
Menominee, Wisconsin	June 17, 1954 (25 U.S.C. 891)	April 30, 1961 <sup>a</sup>
Klamath, Oregon	August 13, 1954 (25 U.S.C. 564)	August 13, 1961
Ute, Utah		
Mixblood Utes	August 27, 1954 (25 U.S.C. 677)	August 27, 1961
Fullblood Utes		No date
Wyandotte, Oklahoma	August 1, 1956 (25 U.S.C. 791)	August 1, 1959 <sup>b</sup>
Peoria, Oklahoma	August 2, 1956 (25 U.S.C. 821)	August 2, 1959 <sup>c</sup>
Certain California Indians, California	August 18, 1958 (72 Stat. 619)	Indefinite
Choctaw, Oklahoma	August 25, 1959 <sup>d</sup> (73 Stat. 420)	Indefinite
Catawba, South Carolina	September 21, 1959 (73 Stat. 592)	Indefinite

<sup>a</sup>Extended to April 30, 1961, by the act of September 8, 1960 (74 Stat. 867).

<sup>b</sup>Termination action held up by court injunction, dated August 4, 1959, pending settlement of court case involving disposition of certain tribal property in Kansas City, Kansas.

<sup>c</sup>The Bureau informed us that it had terminated the Federal trust relationship with the Peoria Tribe. However, formal termination will not be effective until all claims of the tribe pending before the Indian Claims Commission or the Court of Claims have been finally adjudicated (25 U.S.C. 824).

<sup>d</sup>This act relates only to the disposal of tribal assets of the Choctaw Tribe and to the eventual termination of the tribe's special relationship with the Federal Government.

In addition, the Eighty-fourth Congress passed the act of July 24, 1956 (70 Stat. 626), relating to the Colville Indians of Washington, providing that the Tribe's Business Council shall submit to the Secretary of the Interior by July 24, 1961, proposed legislation for the termination of Federal supervision over the

property and affairs of the Colville Indians within a reasonable time after the submission of such proposed legislation.

NEED FOR TERMINATION LEGISLATION AND  
DEFINITE LONG-RANGE TERMINATION PROGRAMS

The Department has not proposed legislation for the termination of Federal supervision over certain Indian groups and tribes which Bureau surveys indicate to be capable of handling their own affairs. Also, the Bureau has not developed definite long-range termination programs for all individual Indian groups and tribes.

Termination legislation

Anadarko Area

During 1957, Area Office personnel surveyed all the tribes and groups under their jurisdiction and submitted reports to the Commissioner of Indian Affairs which showed that eight tribes and groups could be considered ready for termination programing. As a result, the Commissioner, in a letter dated December 24, 1957, informed the Area Director that, on the basis of these surveys and the report of a Washington representative, the Bureau considered these eight tribes and groups, on the whole, sufficiently advanced to undertake programs leading to the termination of Federal supervision.

Area Office records show that Bureau representatives contacted most of these tribes and groups during 1957 and 1958 to discuss termination programs. Three tribes and groups, namely, the Sac and Fox Tribe of Missouri (principally located in the State of Kansas), the Sac and Fox Tribe of Oklahoma, and the Citizens Band of Potawatomi of Oklahoma, indicated a desire and willingness to discuss termination legislation. The other tribes or groups with which the officials discussed the matter refused to accept parts or all of the presented proposals.

Termination legislation for the Sac and Fox Tribe of Missouri and the Iowa Tribe of Kansas, one of the eight tribes mentioned above considered to be ready for termination, was introduced in the Eighty-third Congress but was not enacted.

A Washington Office official informed us that most of the eight tribes and groups are not currently being considered for termination legislation because of the absence of tribal consent or the insistence of a tribe or group that it continue to be eligible after termination for certain special services provided by the Bureau. He explained that, in view of the Department's policy (see pp. 16 and 17) which requires the Indian tribes and groups to consent to the termination of the Bureau's trust responsibilities, the Bureau is not requesting termination legislation for those tribes which voice opposition to such legislation.

#### Billings Area

The Flathead Tribe of Montana was cited in House Concurrent Resolution 108 of the Eighty-third Congress as one of the Indian tribes which should be freed from Federal supervision and control at the earliest possible time. House bill 7319 and Senate bill 2750, providing for the termination of Federal supervision over the Flathead Indians, were introduced in the Eighty-third Congress. These bills, however, were not enacted. The Bureau has not proposed any new termination legislation for the tribe.

In response to an inquiry from the Chairman of the Subcommittee on Indian Affairs, House Committee on Interior and Insular Affairs, Eighty-fifth Congress, on the steps taken to prepare the Flathead Tribe for termination of Federal supervision, a survey

was made in October 1957 by a representative of the Bureau's Washington office. The survey report concluded that the Indians on the Flathead Reservation should have all Federal services and restrictions terminated at an early date because these Indians are fully integrated and can very well handle their own affairs.

We discussed termination proposals for the Flathead Tribe with a Washington official who stated that tribal officials are aware of the Department's policy and are opposed to any proposal for termination of Federal supervision.

#### Juneau Area

Action had not been taken to terminate Federal responsibility over the Metlakatla Indians on the Annette Islands in southeastern Alaska. The Juneau Area Office advised the Commissioner in a March 1956 survey report that this group is prepared to care for itself, with a few minor exceptions, and is considered ready for termination. The Area Office report stated that the Metlakatlas have demonstrated the ability to manage their own affairs, including successfully operating several tribal enterprises, and that their town is considered a model village in southeastern Alaska. The report stated also that Bureau supervision had gradually been terminated to the point where it was only advisory.

Although Juneau Area officials have reported that the Metlakatla Indians are ready for termination of Federal supervision, no action has been taken by the Bureau to prepare and submit termination legislation.

### Minneapolis Area

Area Office survey reports submitted to the Commissioner in December 1955 and in April, May, and June 1956 indicated that the Mole Lake and St. Croix groups and the Oneida and Winnebago Tribes of Wisconsin, respectively, could be considered ready for termination of Federal supervision through appropriate legislation. In our previous audit report on termination activities, which was issued to the Congress on August 8, 1958 (B-114868), we recommended that the Commissioner submit to the Department proposed termination legislation for these tribes and groups. In regard to this recommendation, the Department advised us on June 5, 1958, that, in view of the limited facilities of the Minneapolis Area for administering termination programs, appropriate legislation for these groups and tribes had been withheld pending congressional action on the termination bills already before it for four Indian bands in Michigan and the Indian communities in southern Minnesota, which are also under the jurisdiction of the Minneapolis office. These termination bills were not enacted.

Our follow-up review disclosed that the Department still has not submitted to the Congress proposed termination legislation for the Mole Lake and St. Croix groups and the Oneida and Winnebago Tribes. The fact that the Congress had not acted on termination proposals for certain Indian groups is not, in our opinion, adequate justification for not submitting proposed termination legislation for other groups.

### Long-range termination programs

The Commissioner issued instructions on April 12, 1956, directing Bureau field offices to develop written long-range programs aimed

at improving the economic and social status of the Indians to the end that Federal trusteeship and special services will no longer be necessary. The instructions stated that Bureau field employees were to assume responsibility for developing programs for the Indians under their jurisdiction and that they were not to wait for the receipt of specific instructions from the Washington office or for the initiation of legislation in the Congress. Our reviews have shown that many areas and agencies have made little progress in developing long-range programs for termination since the issuance of the Commissioner's instructions.

In the Phoenix Area Office we examined the latest reports submitted by the agencies, in response to the Phoenix Area Director's request, on the progress made in carrying out the Commissioner's instructions. The reports disclosed that, except for the Papago Agency, written long-range programs had not been prepared for Indian groups not covered by termination legislation. The area's reports dealt principally with past accomplishments and the handling of current problems.

In the Billings Area, we noted that no written long-range termination programs had been developed for Indians under the jurisdiction of the Blackfeet and the Fort Belknap Consolidated Agencies. The action taken by these agencies to carry out the Commissioner's directive during fiscal years 1956 and 1957 generally consisted of (1) distributing copies of the memorandum to Indian tribes, State and county officials and other interested parties and (2) holding meetings with area personnel and with members of the tribes and other groups in the area to discuss the purpose, plans,

and instructions for carrying out the Commissioner's directive. Also, the Blackfeet Agency reported, among other things, that it had cooperated with the tribe in reactivating and developing a credit program for developing economic enterprises on the reservation and had turned over or was turning over certain Bureau functions to local officials. However, our review disclosed there was little further progress by the agencies toward developing written long-range programs in fiscal year 1958.

In the Aberdeen Area, our 1957 and 1958 reviews disclosed that little progress had been made in formulating written long-range programs and that programing had not begun for many of the tribes in the area. During our 1958 review, we noted that the only formal programs being developed were the proposed program for the Lower Brule Sioux Tribe of South Dakota, which would consolidate termination of Federal supervision with the settlement of certain claims against the Government, and a proposed program at the Winnebago Agency for transferring Bureau functions to State and county governments. The Bureau's survey reports on the termination status of the area's tribes indicate that two groups, the Flandreau Santee Sioux and the Indians on the Sisseton Reservation, are considered, for the most part, ready for termination. We believe that programs designed to remove or alleviate the conditions which are delaying the termination of Federal supervision should be developed as soon as possible for these groups so as to prepare them for termination legislation.

This matter, covering the Aberdeen and Gallup Areas, was discussed in our report issued to the Congress on November 19, 1958,

on the review of programing, budgeting, accounting, and reporting activities of the Bureau of Indian Affairs (B-114868). We recommended that the Commissioner take action to expedite the development of long-range programs for termination of Federal supervision over specific tribes or groups. We stated that such programs should promote the orderly termination of Federal supervision over Indians and aid in the programing and budgeting for Bureau activities. In response to this report, the Bureau agreed that for many of the tribes written long-range programs had not been prepared. The Bureau stated that the development of programs for social and economic betterment had been extremely difficult among some of the tribal groups in that they see such programing as an implied step toward immediate termination. The Bureau stated, however, that significant progress had been made since the 1956 directive and cited the wide distribution given the Commissioner's memorandum and the numerous conferences held in which Bureau officials, Indian groups, and, in many instances, State and local officials participated. The Bureau cited also the progress made by individual tribes and groups, such as the proposed termination and rehabilitation program developed by the Lower Brule Sioux Tribe of South Dakota.

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On October 14, 1960, the Department advised us that its policy on termination is that no Indian tribe or group should end its relationship with the Federal Government unless such tribe or group has clearly demonstrated that it understands the plan under which such a program would go forward and concurs in and supports

the plan proposed. The Department stated that under no circumstances would it recommend termination of Federal responsibility for any Indian tribe until and unless the educational level of that tribe was one which was equal to the responsibilities which it was shouldering. The Department advised us also that, while individuals in the Bureau have expressed opinions concerning the readiness for Federal termination of supervision of the Indian groups and tribes mentioned in our report, the Bureau and the Department have not made a determination that the time is now appropriate for termination of Federal supervision. The Department stated also that, at such time as it and the Bureau reach a determination that these particular Indian tribes are ready for termination of special Federal services and protection, appropriate legislation will be proposed to the Congress. However, under the Department's policy, after such determinations are made, termination legislation would be proposed for only those Indian groups and tribes that have consented to termination.

In regard to developing definite long-range termination programs, the Department advised us that the Commissioner's policy, as expressed in his memorandum dated April 12, 1956, is to work with the tribes in achieving such planning and that much of the real planning must come from them. The Department also stated that its experience has demonstrated that in many instances greater progress will be made by a tribe toward the eventual goal of no longer needing Federal supervision and assistance if steps are taken one at a time, rather than attempting to develop for a reservation a complete long-range plan to result in termination.

We believe that the Department's policy of not proposing termination legislation without the consent of individual tribes or groups and of relying on them to do much of the planning for termination will not result in any significant progress in fulfilling the goal of the Congress for the termination of Federal responsibility for administering the affairs of Indians. As we pointed out above, certain Indian tribes and groups, which Bureau surveys indicate are ready for termination, are reluctant to consider and to give their consent to termination proposals. We agree that it is necessary to educate the Indians so that they will be able to shoulder responsibilities. However, for those tribes that Bureau surveys indicate are ready to assume their responsibilities, we believe that the Secretary should propose legislation for termination of Federal supervision.

We recognize that the formation of long-range programs for the termination of Federal supervision over Indian tribes, as expressed in the Commissioner's April 12, 1956, memorandum, requires the cooperation and assistance of the Indian groups themselves and that progress has been made at some locations in carrying out the Commissioner's instructions. However, our reviews have shown that many areas and agencies have not made adequate progress in developing these programs since the Commissioner's instructions were issued.

Senate Concurrent Resolution 28 and House Concurrent Resolution 165, which are identical, were introduced in the Eighty-sixth Congress, first session, to declare the sense of the Congress that the policy expressed by the Congress in House Concurrent

Resolution 108, to seek termination of Federal responsibility over Indian affairs as rapidly as possible, should be interpreted as stating a foreseeable objective. To carry out this objective, Resolutions 28 and 165 provide that the Secretary of the Interior should categorize the various Indian tribes into three groups. These three groups should consist of (1) those tribes whose members are generally recognized as having reached a state of development that would permit termination of Federal supervision within 5 years, (2) those tribes that have more complicated problems which require additional planning and preparation or whose members need further assistance to prepare them to manage their own affairs without Federal assistance within 5 to 15 years, and (3) those tribes that require longer range planning and greater preparation for future responsibilities or whose members require maximum Federal assistance to prepare for termination.

Resolutions 28 and 165 also require the Commissioner of Indian Affairs to submit annually to the Congress a specific program for each Indian tribe showing, by years, the legislative and administrative measures he proposes to institute in order to carry out the termination objectives. These two resolutions also point out that, while the Department should confer with the Indians so that they may understand any proposed plan under which a termination program would go forward, the ultimate responsibility rests with the Congress to determine the timing for any termination legislation.

Resolutions 28 and 165 were not adopted. However, an identical resolution, House Concurrent Resolution 169, has been

introduced in the Eighty-seventh Congress, first session. In view of the Department's policy, we believe that legislation containing provisions similar to those contained in these resolutions is desirable to carry out the policy the Congress expressed in House Concurrent Resolution 108. Such legislation would make it clear to the individual Indian tribes how soon they could expect the termination of Federal supervision.

#### Recommendation to the Congress

To accelerate the termination of Federal supervision over Indian affairs, we recommend that the Congress enact legislation requiring the Secretary of the Interior (1) to prepare a long-range termination program for each Indian group or tribe which will show, by years, the steps and measures that will be taken to raise the economic and social status of the Indians to a level suitable for such termination, (2) to report annually to the Congress on the progress being made in carrying out the termination program for each Indian tribe or group, and (3) to submit proposed legislation for the termination of Federal supervision over those tribes that the Department considers to be ready for termination but which have not consented to such action.

MULTIPLE OWNERSHIP OF INDIAN LANDS  
HELD IN TRUST HINDERS TERMINATION  
OF FEDERAL SUPERVISION OVER INDIAN AFFAIRS

Our review of the Bureau's reports on the status of the termination of Federal supervision of Indians disclosed that multiple ownership of Indian lands held in trust is an obstacle to such termination for 16 of the Indian groups in the Anadarko Area and for most of the tribes and groups in the Aberdeen Area.

The Department has trust responsibility over property belonging to Indians and believes that it does not have the authority to sell or partition Indian trust or restricted lands in heirship status without the consent of all competent<sup>1</sup> owners, except when one or more of the heirs is considered by the Secretary of the Interior to be incompetent. Because of the continuous subdivision of ownership of Indian lands due to deaths of the allottees and transfer of undivided interest in the lands to heirs and devisees, the lands have passed into multiple ownership, which complicates the Bureau's management and disposal of Indian trust property.

In terminating Federal supervision over Indian affairs, the Department must turn over to the Indians any money or property, including lands, held in trust for them. However, the Department cannot make a practical distribution of the land held in multiple ownership because of the numerous fractional interests involved. To illustrate, in the Anadarko Area an allotment of 160 acres of

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<sup>1</sup>A competent Indian is considered by the Bureau to be one capable of managing his own affairs, including his property. An Indian does not have to be non compos mentis or have other legal disability to be considered incompetent by the Bureau.

land had originally been made to one owner on May 6, 1892. At the time of our review, an area abstract of this allotment showed that 80 individuals owned fractional undivided interests in this land ranging from 61,425/587,865,600 to 76,204,800/587,865,600. Our review of this area's records showed that about 70 percent of the almost 1,000,000 acres of individual Indian lands under the Bureau's supervision was in multiple ownership.

The assumption by Indians of the full privileges and responsibilities of other citizens of the United States, as contemplated by the Congress in House Concurrent Resolution 108, depends largely on the termination of Federal trusteeship over Indian property, including lands. Consequently, solution of the land problem is basic to the orderly termination of Federal supervision over Indian affairs. In our report issued to the Congress on November 26, 1956, on the Bureau's administration of Indian lands (B-114868), we recommended that the Congress consider enacting legislation to authorize the Secretary to sell or partition inherited lands held under trust patent, without requiring the consent of all competent owners. There appears to be no clear authority in the Federal statutes granting the Secretary the right to make such sales. Based on our recommendation, Senate bill 2397, providing for the partition or sale of inherited interests in allotted Indian lands, was introduced in the Eighty-fifth Congress, but the bill was not enacted.

We believe that no significant progress will be made in carrying out the policy of the Congress to end the Indians' status as wards of the Federal Government until the heirship problem is

solved. Enactment of legislation similar to Senate bill 2397, which would authorize the partition or sale of inherited Indian lands pursuant to the prescribed legal action taken by any one of the competent owners concerned, would alleviate the heirship problem and would hasten and facilitate the orderly termination of Federal supervision over Indian affairs.

In his letter of October 14, 1960, the Administrative Assistant Secretary of the Interior concurred with us as to the need for legislation to resolve the heirship problem and stated that it deserves the highest priority of consideration.

#### Recommendation to the Congress

To eliminate a serious obstacle to the termination of Federal supervision over Indian affairs, we recommend that the Congress enact legislation to authorize the partition or sale of inherited Indian lands pursuant to the prescribed legal action taken by any one of the competent owners concerned.

#### SCOPE OF REVIEW

We reviewed the policies and regulations of the Department of the Interior and the Bureau of Indian Affairs concerning the termination of Federal supervision over Indian affairs for conformance with the intent of related specific acts of Congress and to identify and develop matters requiring improvement.

Our review was conducted at the Bureau's central office in Washington, D.C., and at the following five of the Bureau's ten area offices and twelve selected field locations under the jurisdiction of these five area offices:

Aberdeen, South Dakota, Area Office:  
Fort Berthold Agency, New Town, North Dakota  
Pine Ridge Agency, Pine Ridge, South Dakota  
Rosebud Agency, Rosebud, South Dakota  
Standing Rock Agency, Fort Yates, North Dakota  
Anadarko, Oklahoma, Area Office:  
Osage Agency, Pawhuska, Oklahoma<sup>1</sup>  
Kiowa Area Field Office, Anadarko, Oklahoma  
Pawnee Area Field Office, Pawnee, Oklahoma  
Shawnee Area Field Office, Shawnee, Oklahoma  
Billings, Montana, Area Office:  
Blackfeet Agency, Browning, Montana  
Fort Belknap Consolidated Agency, Harlem, Montana  
Juneau, Alaska, Area Office  
Phoenix, Arizona, Area Office  
Hopi Agency, Keams Canyon, Arizona  
Pima Agency, Sacaton, Arizona

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<sup>1</sup>Now under the jurisdiction of the Muskogee, Oklahoma, Area Office.