

“This Is My Reservation; I Belong Here”: Salish and Kootenai Battle Termination with Self-Determination, 1953–1999

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Salish elder Dolly Linsebigler from St. Ignatius, Montana, well remembers the 1950s, when the United States attempted to terminate the Flathead Indian Reservation, where her small hometown is located. That memory is the reason why she emphasizes that the young tribal members need to learn tribal history and traditions: “The young need the chance to be able to say: ‘This is my reservation, I belong here, and I want to learn the history of my people.’” She tries to teach her children and grandchildren to pay attention to the tribal council and tribal affairs. Indian values are important to her. Linsebigler, former Flathead Culture Committee employee and current powwow committee member, believes that the Confederated Salish and Kootenai tribes have to be careful not to become terminated.¹ That Linsebigler and other members of the tribes still fear for the potential loss of federal services, benefits, programs, and treaty rights—even though termination as a federal policy itself was terminated in the course of the 1960s—is the subject of this article.

In 1953–54, the Salish and Kootenai tribes of the Flathead Reservation in western Montana successfully resisted congressional bills to terminate the trust status on their lands, federal programs on the reservation, the reservation itself, and, ultimately, the tribes themselves. In the course of the 1970s, self-determination policies replaced the forced assimilation ideology behind termination. However, increasing chances for self-determination—economic independence, political self-government, and decreased federal interference in tribal affairs—did not mean that the threat of termination disappeared from Salish and Kootenai life.

This article discusses the tribal reactions to and struggle over the issues of Indian-white conflict, factionalism, and liquidation of tribal assets. It argues

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that the battle to defeat the federal policy of termination in the 1950s, and the calls for liquidation of tribal assets coming from within the tribes in the 1970s, strengthened the tribal leadership's resolve to guide the Salish and Kootenai to greater self-determination and take control of their affairs without losing their homelands. As this Salish and Kootenai case study demonstrates, the path to increased self-determination has been neither easy nor simple but shows that a determined and capable tribal government can assert its power in reservation affairs even if it has to battle heavy opposition from outside and from within its own ranks. While the tribes had some success with moving toward self-determination before the US termination policies were initiated, the fear of being left with no treaty-based services or trust lands increased tribal efforts to take full control of their affairs. Self-determination did not mean the same thing for all the Salish and Kootenai or American Indians in general, and federal administrators and members of Congress defined it in various other ways. From this conflict and tension arose the internal Salish and Kootenai debate over termination and its meanings.²

The Flathead Reservation in western Montana is located on the western foothills of the Rocky Mountains. Traditional homelands for the Flathead and the Upper Pend d'Oreille—both of which are eastern Salish bands—and the Kootenai peoples covered what is now the entire state of Montana west of the Continental Divide. After non-Indian trappers, miners, and settlers became interested in the area in the first half of the nineteenth century, the United States government decided to move these Indian bands to a reservation out of the non-Indians' way. This task fell into the hands of Isaac Ingalls Stevens, whom the freshly inaugurated President Franklin Pierce, in March 1853, appointed governor of Washington Territory, which included western Montana. In July of 1855, Stevens met with the Flathead, Upper Pend d'Oreille, and Kootenai leaders at Council Grove, just west of present-day Missoula, Montana. On 16 July 1855, the tribal leaders reluctantly agreed to the Hell Gate Treaty, which ceded more than 12 million acres of their homelands to the US government. They signed primarily for five reasons: They believed that the government would provide them protection from the raiding Blackfeet; Stevens ambiguously promised them two reservations (a promise he knew he could not keep); the tribes would receive seemingly generous monetary payments and annual appropriations; Indians were unfamiliar with American concepts of land ownership; and both the treaty and the discussions leading to it were poorly translated.³

The treaty provided that the tribes thereafter be considered as one entity. While Flathead and Upper Pend d'Oreille have been closely related, the Kootenai are a distinct people. The federal government's policy of regarding these groups as one entity has caused tension within the reservation to this date. In 1872, President Ulysses S. Grant confirmed that the Flathead Reservation was the only reservation formed by the 1855 treaty.⁴ Since the Salish and Kootenai ratification of the 1934 Indian Reorganization Act (IRA) in 1935 (the first tribal group to do so), the tribes have officially been called the Confederated Salish and Kootenai tribes of the Flathead Indian Reservation. The IRA attempted to provide American Indian tribes with a

degree of self-determination by ending the allotment of tribal lands, reorganizing tribal governments around new constitutions formatted after the US Constitution, and instilling a revolving credit fund to encourage tribal economic programs.⁵

In 1999, the Confederated Salish and Kootenai tribes had 6,953 enrolled members. The total Indian population on the reservation was about 5,130, but only some 3,500 were enrolled members of the Salish and Kootenai tribes, the other tribal members living mostly in West Coast cities such as Seattle and Spokane. Twenty-four percent of the reservation population of 21,259 were Indians. The Flathead Reservation has 1,316,871 acres, of which 740,000 acres or 56 percent are in tribal ownership and a mere 3.1 percent are owned by individual Indians. With the exception of an 18,500-acre federal National Bison Range, the rest is possessed by non-Indians. Both the checkerboard pattern of land holdings and the fact that non-Indians form the majority population are legacies of allotment of reservation lands, which took place between 1910 and 1920.⁶ (See figs. 1, 2.)

TERMINATION POLICY PERSISTS: THE 1950s AND 1960s

After a brief respite from the assimilationist Indian policies of the late-nineteenth and early-twentieth centuries, provided by the Bureau of Indian Affairs (BIA) commissioner John Collier in the form of the IRA, federal Indian policy started to move back toward forced assimilation during World War II for several reasons. First, many congressmen argued that self-determination meant cutting Indians loose from federal interference in their personal affairs and from the federal government's supervision, whether they liked it or not. Secondly, the emerging Cold War climate inspired the rhetoric of many members of Congress, who argued that communal tribal land holdings were un-American and communistic. Thirdly, the postwar economic boom in the West initiated development of the region's resources; Indian reservations contained uranium, copper, coal, oil, timber, and other invaluable natural assets.

In January 1954, Senator Arthur Watkins (R-UT) and Representative E. Y. Berry (R-SD) introduced S. 2750 and H.R. 7319, bills to terminate the Flathead Reservation. The BIA officials had written these bills, and Billings, Montana, Area Director Paul Fickinger consulted the Salish and Kootenai leaders over the bills in the fall of 1953. The tribal councilmen objected to the bills' provisions to make the tribes pay for their own liquidation, and noted that the bills ignored the 1855 treaty entirely. The BIA and the congressmen dismissed tribal objections and proceeded with the Senate and House joint hearings on the unchanged bills in February 1954. The Salish and Kootenai tribal council sent a four-man delegation to the hearings on Capitol Hill, led by chairman Walter McDonald, after tribal elders instructed councilmen on their perspective of the bills. Pend d'Oreille elder Nick Lassaw was sure that "if they pass this bill, somebody is going to be sorry." Kootenai Ida Finley admonished: "We're not ready to be turned loose. If we are turned loose, that's all we look for is our tribal payment. When we get that, it goes for all our debts, and then we are out of money again."⁷

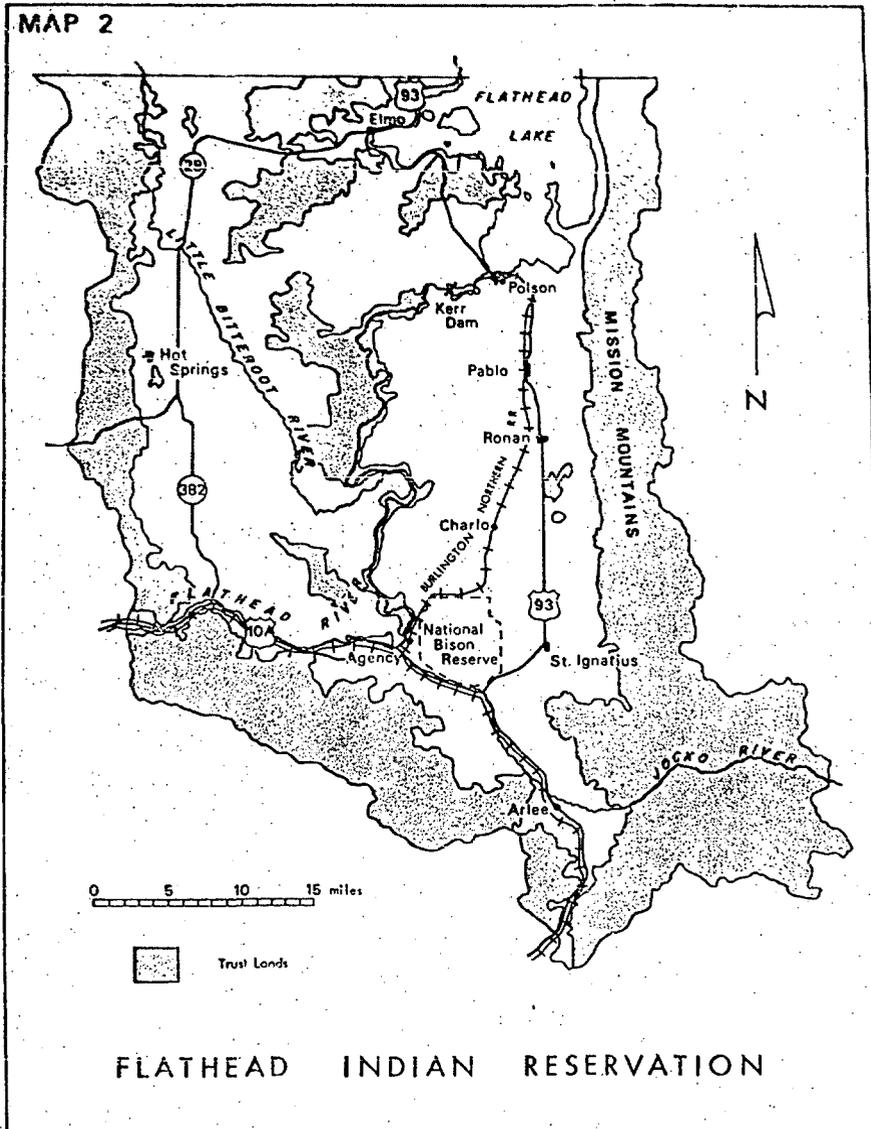


FIGURE 2. Flathead Indian Reservation (Source: Tribal Trust Lands, Flathead Indian Reservation; map provided by Ronald Trosper, Char-Koosta [Dixon, MT], microfilm edition).

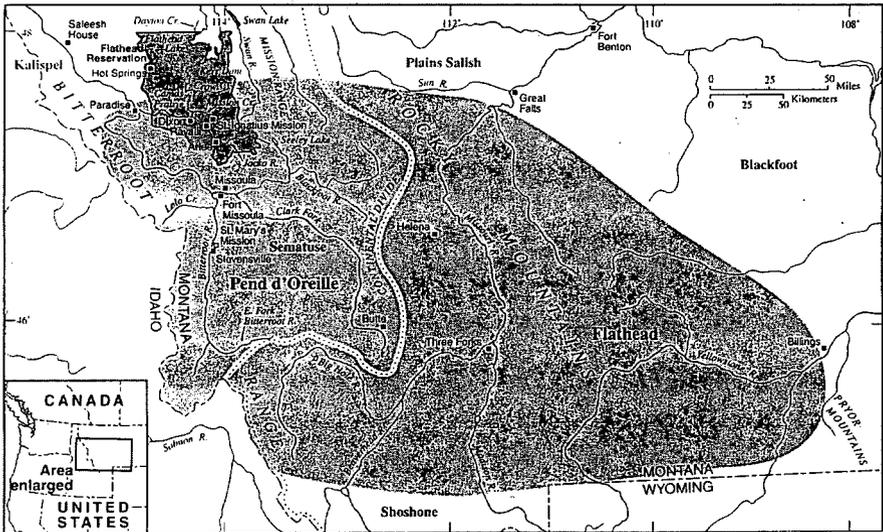


FIGURE 1. Traditional homelands of the Eastern Salish and the location of the Flathead Reservation in Western Montana (Source: Carling Malouf, "Flathead and Pend d'Oreille," in William C. Sturtevant, gen. ed., *Handbook of North American Indians*, vol. 12: Plateau [Washington: Smithsonian Institution, 1998]: 298).

In the hearings the tribal delegates repeated their objections to the bills, specifically arguing that the effects on tribal welfare, assets and rights would be tragic if the reservation were terminated. Tribal views got support from Montana's congressional delegation, Senators Mike Mansfield and James Murray, and Representative Lee Metcalf, all Democrats, and from state officials. All feared negative consequences to the taxpayers of the entire state if the Flathead Reservation was terminated and federal responsibilities for the administrative, health care, and welfare costs at Flathead were transferred to the state. The key to the bills' defeat, however, was the tribal council's determined and unified opposition, which proved that Indians did not favor the bills, despite Senator Watkins's and the BIA's claims.⁸

The lack of widespread tribal support, which refuted the claim of Senator Watkins that the plan had tribal backing, stopped the momentum of the termination policy by the end of the 1950s, but it did not disappear altogether. The 1960s were a period of civil rights struggle and an era of social and cultural change that affected federal Indian policies as well. However, the change came slowly; President John F. Kennedy's initiatives in Indian affairs were few and far between. Kennedy in fact did nothing to stop the last termination acts from taking effect because he did not want to antagonize the few remaining congressional terminationists. Thanks to senators Frank Church (D-ID), Clinton Anderson (D-NM), and Henry Jackson (D-WA), the termination issue stayed alive throughout the 1960s. Anderson was a former secretary of agriculture and a member of the Senate Interior and Insular Affairs Committee, which he chaired from 1959 to 1963. Jackson was the chairman of the same

committee after 1963. Church was elected to the senate in 1956 and had a seat in the Interior and Insular Affairs Committee, chairing its Indian Affairs Subcommittee from 1960. Church shared the 1950s view of Indian affairs as oppressive federal paternalism from which Indians should be "liberated," so they could join other minorities as "free" people.⁹

Jackson introduced a bill to terminate the Colville Reservation in Washington five times between 1956 and 1969, but without success. Church and Anderson opposed any bills to further extend the termination dates of the already agreed-upon reservations, such as Menominee, whose termination Congress previously had postponed to take place in 1961 instead of 1956, as the original bill stated. Church opposed further extension by offering his belief that termination would be beneficial to the tribe; otherwise it would not have been enacted and "the Menominee Tribe would not have approved it." Anderson argued that the Menominee requested for an extension in 1960, "so they can come back to the next Congress and ask for some more time. They do not intend to terminate."¹⁰ By the end of 1960s, Jackson was one of the few supporters of Indian assimilation left in Congress. But he had presidential ambitions and softened his views to improve his prospects in the 1972 campaign.

Ironically, the termination policy contributed to the rise of American Indian ethnic renewal in the 1960s—the opposite of what the policy makers intended to achieve. Assimilationist policies in the form of termination and relocation inadvertently promoted demographic and organizational changes that led to the rise of activism, ethnic identification, and a cultural renaissance. All these influences encouraged American Indians to negotiate changes in policy away from termination and toward self-determination. The congressional change of heart was due to the failure of termination and better organized tribal opposition to that policy.¹¹ The civil rights movement, while it never fully included American Indians, provided an example of successful methods, particularly litigation, that could be used by Indian tribes as well. From the desegregation achieved by *Brown v. Board of Education* in 1954 to the Civil Rights Act of 1964 and beyond, the success of African American challenges to racist legislation convinced many American Indian organizations, such as the National Congress of American Indians (NCAI), and individual tribes, such as the Salish and Kootenai, that they too could dispute the assimilationist policies and paternalistic administration of the BIA. But the civil rights era also had direct significance in reservations; many Salish elders remember the 1960s as a defining period in tribal life. Noel Pichette notes that the tribes' "assertiveness started in the late 1960s," in part due to the "expansion of the civil rights struggle." Pichette considers the African American leader Martin Luther King Jr. his "hero."¹²

TERMINATION REASSERTS ITSELF AT FLATHEAD, 1962–71

Before the Salish and Kootenai tribes could move toward self-determination, they had to face internal factionalism that would challenge the tribal council's resolve to strengthen the tribal membership's identity and independence. Calls from various tribal members and groups to terminate the reservation,

liquidate tribal assets, or at the very least, do something about the reservation administration have emerged periodically since termination was initially defeated in 1954.

One of the tribal factions was the Flathead-Kootenai Organization, a voluntary association consisting of enrolled Salish and Kootenai on and off the reservation. Henry Lozeau, a tribal member living in Missoula, Montana, spoke for the group in 1962, when he requested a “full-scale and immediate investigation by the United States Department of Justice and the Congress of each and every department of the administration of the Flathead-Kootenai Reservation.” Lozeau claimed, without evidence, that he represented some 60 percent of the eligible voters among the on-reservation tribal members. Lozeau argued that the poor investment returns on tribal enterprises revealed the tribal council’s incompetence in financial affairs. He further asserted that because voters were not registered, tribal elections were illegal and manipulated by the tribal council. Lozeau declared that the council was controlled by two families, whose members had enriched themselves through excessive meeting per diems, tribal loan programs, and preferences in job hiring. Finally, he complained that the minutes of tribal council meetings were released late and the minutes of committee meetings were not released at all, that the tribes’ legal fees of twenty-five thousand dollars a year were outrageous, and that enrollment procedures were “inquisitious.”¹³ Lozeau emphasized that he did not want the BIA or the Department of the Interior to make an internal investigation as this would not reveal their own “questionable practices” on the reservation. The Flathead-Kootenai Organization circulated petitions among tribal members asking for an end to the excessive spending and calling for larger per capita payments.¹⁴

Lozeau had some support among reservation residents. Robert McCrea, the tribes’ former secretary treasurer, complained about the council members’ frivolous spending, poor management skills, and self-enrichment at the expense of the tribal members.¹⁵ Salish Annie Vanderburg charged that the tribal council did not conduct tribal affairs in the best interests of full-bloods. She argued that the council members, “rather very little Indian,” acted in secrecy, deciding on investments that the people had no knowledge of and that did not bring employment.¹⁶

McDonald, the longtime council chairman, responded to these charges. He agreed that some business overhead costs were too high but acknowledged that no matter who ran the tribal businesses, accusations would fly. Even though registering voters was difficult, as tribal members moved around a lot, the council did not and could not manipulate the elections. McDonald felt that Lozeau’s accusations were directed at him and admitted that indeed he had relatives on the council and in tribal jobs. Nevertheless, McDonald denied that his family or the Morigeaus, the other political family on the reservation, had enriched themselves with tribal money: “We cattlemen that the complainer speaks about, did not get our cattle and land from the Council per diem.” He accused Lozeau of being the biggest complainer no matter what took place or who ran the tribal affairs: “Lozeau is a man who has been away from the Reservation for twenty years but still knows the answers.”¹⁷ (See fig. 3.)



FIGURE 3. Tribal Chairman Walter McDonald, 1965
(Source: Photograph by Robert Larsson, Missoulian, 11 July 1965).

While it appears that the goal of the Flathead-Kootenai Organization was increased per capita payments, it is true that some council members had large loans from the tribe. For example, while chairing the tribal council, McDonald had borrowed \$7,900 from the tribes in 1949 for building and refinancing his ranch, but he had paid the loan back by 1958.¹⁸ Lozeau had a point as McDonald in effect loaned the money to himself, and the tribal council and executive positions had had, and still have, a tendency to be held by members of the same families, arguably a case of nepotism. Still, no blatant

misconduct by council members was apparent, and Lozeau's wish for an extended investigation never took place.

Responding to Lozeau, McDonald pointed out that he and some other tribal leaders were "cattlemen." They leased land from the tribes and were therefore, to some extent, dependent on tribal resources for their livelihood. McDonald was a skillful politician; while there can be no doubt that he would have done well had the tribal assets been liquidated, he emphasized the fact that any tribal member would have kept it to himself that it was in his personal interest to keep matters as they were. Despite being personally confident of his, and the tribes', ability to survive termination, he skillfully presented the picture that the tribes indeed would, if terminated, become dependent on state and local agencies. He therefore managed to turn the tables on Senator Watkins's racist views of Indian inferiority. At the same time, while the Morigeaus and McDonalds often clashed, an outside threat in the form of termination united them, at least temporarily. The tribal council also added controls on tribal travel and expense accounts to deflect future accusations like those of Lozeau.¹⁹

Vic Charlo, a descendant of Chief Charlo, the last traditional Salish leader in the early twentieth century, was a spokesman for a group of young critics of tribal leadership who in the late 1960s looked for changes in the tribal government and in the management of tribal assets. He urged increased development and the hiring of a business manager. Charlo argued that the tribal council did not adequately represent poor Indians. His concerns started with the apparent lack of pride in Indian identity among the tribal members, as

many were trapped between two distinct cultures. Some of these “in-betweens” would no doubt feel that tribal membership provided little incentive to not cash in on their share of tribal assets. Liquidating tribal assets for individual shares seemed like a good self-determination policy to them. Reservation Superintendent Harold Roberson authorized a survey of tribal members, asking whether they would relinquish all tribal rights for five thousand dollars. Twenty percent of the respondents said yes. This figure was quite alarming and showed the weakness of the tribal government’s base. Charlo himself thought that “closing the reservation” might be the only answer to the problems. In essence arguing that no non-Indians should be allowed to live on a reservation, as the 1855 treaty stated, Charlo and his supporters kept the tribal council members on their feet, and certainly their watchful eye kept tribal leaders in check. But as tribal secretary and former BIA official Thomas “Bearhead” Swaney noted, the moderate, young Indians had to be the ones to “step up” if anything was to be accomplished.²⁰

In 1971, E. W. “Bill” Morigeau, a council member no less, started a campaign to liquidate tribal assets. To find supporters, Morigeau traveled to the West Coast, where large numbers of Salish and Kootenai had relocated during and since World War II to seek work. Two hundred off-reservation Indians appeared at one tribal meeting held at the agency in Dixon, Montana. Many of those who had promoted termination and liquidation in the 1950s were among this group of tribal members. Many were still disenchanted with the tribes because they received no benefits other than small per capita payments. They called themselves “members in name only.” Although they could vote in the tribal elections, they could not participate in the tribal loan program and were not eligible for benefits from Indian Health Services because they did not live on the reservation.²¹

While nearly one-half of the tribal membership lived outside reservation borders at the time, many maintained contacts with home and visited regularly. The considerable distance between Seattle, Spokane, and other West Coast locations and the reservation partly explained the small number of off-reservation tribal members participating in the Dixon meeting. Further, Salish elder Joe Cullooyah, who lived off the reservation for decades, asserts that “not all off-reservation residents favored termination or were heard of—few spoke their minds.”²²

Despite their initial optimism, Morigeau and his supporters failed to gain signatures from 30 percent of tribal members eligible to vote, the proportion required to move the issue to a referendum. The tribal council took a nine-to-one stand against liquidation, with Morigeau giving the only dissenting voice. The council questioned Morigeau’s motives and wanted him investigated by tribal and BIA authorities. It soon removed Morigeau from two tribal committees.²³ Thurman Trospen today calls Morigeau “a crook” who was “fired” from his council position due to fraud; he double-dipped on travel expenses. Trospen believes Morigeau pushed for litigation because of greed, wanting to have “forty thousand dollars,” the estimated value of his share of tribal assets. Trospen, who after his retirement from the United States Forest Service moved back onto the reservation and has been active in many fields

and organizations, feels that Morigeau put personal gain above tribal unity.²⁴ On the other hand, Morigeau was part of the tribal membership, who, like Charlo noted, saw little value in tribal membership and in being an Indian.

Indeed, money in the form of awards from a number of lawsuits did influence Morigeau's drive. The BIA in 1970 estimated the value of tribal assets as close to \$200 million, some \$45,000 per tribal member.²⁵ In 1967, the tribes had won their Indian Claims Commission (ICC) case concerning the 12 million acres ceded in the 1855 treaty and were awarded \$4.7 million. Three million of this was paid out to tribal members on a per capita basis, and the rest was invested in the tribal credit program and other projects.²⁶ The Salish and Kootenai also had a major court of claims case, authorized by Congress just before the ICC was established. This award came in April of 1971 for \$22 million. At the same time, an accounting claim against the BIA's fraudulent practices was settled out of court for \$6 million.²⁷

Congress had established the ICC in 1946 to evaluate tribal claims against the United States government for fraudulent treaties, mismanagement of treaty annuities and land claims, and to control and streamline the congressional process to authorize tribal claims in court. Working until 1978, the ICC handled more than eight hundred claims cases, awarding tribes nearly \$800 million. The claims process can be seen as a part of termination policy because it paid tribal claims to rid the federal government of treaty responsibilities; Watkins's service on the ICC after his senatorial career supports this interpretation. Watkins himself pointed out the significance of the establishment of the ICC by arguing that "it is a good argument for getting us out of this [Indian claims in court of claims] as quick as we can, before we get some more tribes suing us [the United States]."²⁸ Still, the ICC provided many tribes with self-confidence and financial rewards important for self-determination.

Morigeau and his supporters used these figures to advocate liquidation of tribal holdings and an equal cash payment to each tribal member. Given the sums involved, it is no wonder that many off-reservation tribal members who had severed their ties with the reservation supported Morigeau. But after meeting stiff opposition, Morigeau modified his proposal to an optional withdrawal plan that would allow retention of mineral rights and hunting and fishing privileges for those opting to take their share of tribal assets in cash. This idea did not meet with general approval either and the tribal council resisted it, citing the probable breakup of the tribes. Ray Dupuis of Polson resigned from Morigeau's liquidation committee because he could not see "buying out the Indians who want to sell and still let them have the same rights as those of us who want to remain as a member of a unified tribe."²⁹

Had Congress advocated termination in 1971, Morigeau's plan may have had a better chance to succeed. The council's unity had made the defeat of termination possible in 1954, but in 1971 the council was not unanimous on the issue, Morigeau being the dissenting voice. However, by this time the termination policy itself had been repudiated; in a special message to Congress on 8 July 1970, President Richard M. Nixon declared that forced termination was wrong because treaty obligations were solemn, the results of the policy had been harmful, and the mere threat had caused apprehension among

tribes and discouraged their efforts toward self-determination.³⁰ Congressional and federal interest to terminate reservations all but disappeared, and self-determination policies resulting in the 1975 Self-Determination Act replaced them.

TERMINATION EXITS, SELF-DETERMINATION ENTERS

The Salish and Kootenai tribes took full advantage of the new opportunities after the 1971 crisis. The first act of Salish and Kootenai self-determination came with their battle over reservation law and order with the state from the mid-1950s to the mid-1960s. Here self-determination appeared tantamount to termination and influenced by it. To extend Public Law 280 of 1953, which provided for the extension of state jurisdiction to certain Indian reservations (including reservations in Montana), the state had to amend its constitution. The Montana Constitution of 1889 stated that Indian lands remained under the absolute jurisdiction and control of the United States Congress.³¹ The Montana Supreme Court confirmed this in a 1954 decision. In 1963, the state legislature amended Montana's Revised Codes to provide wording that allowed the extension of state jurisdiction to reservations. Montana chose to extend its jurisdiction to the Flathead Reservation only due to the special nature of the situation at Flathead. The reservation population was 76 percent non-Indian, which caused problems in law enforcement and tension between tribal members and non-Indians. While in principle the state could have assumed PL 280 jurisdiction without tribal consent, it did not do so because state jurisdiction on reservations had a terminationist label. The state officials had just ten years earlier supported tribal consent on termination policy; they did not want to reverse their stand at this time.³²

To avoid the appearance of promoting termination, the tribes initially were reluctant to consent to the state's assumption of jurisdiction on the reservation. Chairman McDonald in 1957 feared that fishing and hunting rights also would be jeopardized. At a minimum, McDonald argued, "The tribes concerned should at least be granted the privilege of giving tribal consent before jurisdiction is assumed by the states."³³ However, the tribes envisioned a future with a strong Salish and Kootenai judicial system, one capable of strengthening self-determination. Before that was possible, due to the lack of state jurisdiction in the reservation, the state highway officials refused to enforce state highway laws against Indians there, which created a crisis in law enforcement on the reservation and forced the tribes to accept state jurisdiction.³⁴ Therefore, in 1959, the tribal council passed Tribal Ordinance 28-A, through which the tribes adopted the state highway code. McDonald eased tribal fears of taking a step toward termination by assuring members of the community that undertaking highway patrol duties would be too big a task for the tribes. He also was ready for the state to assume jurisdiction on a piecemeal basis if this could be achieved through mutual agreement.³⁵

The state and the Salish and Kootenai negotiated the matter and in 1964, with Tribal Ordinance 40-A, the tribes granted their consent to the limited state jurisdiction based on the 1963 amendment to the Revised Codes.³⁶ The

state assumed limited civil jurisdiction and exclusive criminal jurisdiction on the reservation. The parties had concurrent jurisdiction over misdemeanors committed on the reservation by a tribal member, and the state had jurisdiction over felonies. Montana had the responsibility of policing the reservation, but in practice left this to the tribes because it did not have adequate staff.³⁷ This forced the tribes to create a police force, which stretched the tribal resources to enforce laws and increased tribal interest in further strengthening their self-determination.

Since 1964, federal courts have several times had to determine the limits of state jurisdiction. In 1975, the tribes sought immunity from state cigarette excise taxes for their members' retail establishments. A federal district court ruled that state civil jurisdiction did not extend to the enforcement of state cigarette and licensing statutes on tribal trust land. However, tribal members' sales to non-Indians required precollection of state excise taxes.³⁸ In *Moe v. Confederated Salish and Kootenai Tribes*, the United States Supreme Court in 1976 agreed with the district court ruling and invalidated state income taxes on Indians on the reservation. The Supreme Court concluded that a "tax on Indian consumers" interfered with the personal rights of Indians.³⁹ The court therefore ruled that the tribes could not tax their members' cigarette purchases either but would have to collect excise taxes from non-Indian purchasers.

By the early 1990s, the Salish and Kootenai tribes' justice system had grown strong enough for the tribes to want to withdraw from the PL 280 pact in order to assume full jurisdiction on their reservation. This move would further advance an independent judiciary appropriate for the tribal culture. The tribes were now ready for this challenge; they had taken over many other federal responsibilities and through administrative and financial expansion they could afford the assumption of full law enforcement responsibilities in the reservation.⁴⁰ For example, over Lake County officials' objections, the state passed a law in 1993 granting the sole authority over misdemeanors with an Indian defendant to the tribes.⁴¹

The second set of actions of Salish and Kootenai self-determination involved water rights to the southern half of the largest freshwater lake in Montana guaranteed by the treaty of 1855. The tribes regulated the use of the entire length of the southern half of the Flathead Lake with the tribal Shoreline Protection Ordinance of 1977. The city of Polson, the largest predominantly non-Indian town within the reservation, challenged tribal rights to lakeshore regulation in court, arguing that tribal water rights had been extinguished in the Flathead Allotment Act of 1904, which facilitated the division of tribal property into individual parcels. The state of Montana concurred with the city, arguing that due to allotment, the tribes no longer held authority over lakeshore. While the federal district court agreed with the challenge, the Ninth Circuit Court overturned the ruling in favor of the tribes in 1982. The court ruled that the state did not have jurisdiction over Indian water rights and recognized tribal regulatory powers over non-Indians, as Congress at no time had passed water rights statutes regarding reservations. Instead, the 1855 treaty had reserved water rights to the tribes, and the Winters Doctrine, based on the 1908 United States Supreme Court decision acknowledging the

Indians' prior claim to water, confirmed them. One unfortunate result of this tribal victory was ill-feeling between the tribes and some local non-Indians. To ease tensions, the tribes provided that three non-Indians act as voting members of the seven-person Shoreline Protection Board, whose chair is nonvoting.⁴²

In 1981, the tribes sued the state in federal district court, seeking to prevent the state from taking any action to enforce the state Water Use Act of 1979, which included Indian water rights in the state adjudication program. The program ignored tribal water rights, although the state disclaimed jurisdiction on tribal rights; therefore water rights were outside state jurisdiction as well. The tribes claimed that the enforcement would deprive them of rights guaranteed by the treaty, would impair the tribes' right to self-government, and would do irreparable harm through abandoning reserved water rights and by allowing the state water laws to take precedent on tribal land. The court decision was favorable to the tribes.⁴³ The Salish and Kootenai promptly established a Natural Resources Department in 1981 and passed a Tribal Water Code that same year. According to the code, each user is required to file a plan of water use. However, the federal government hesitated to approve the plan because it would threaten the welfare of non-Indians. After additional litigation, the federal district court in 1996 ruled that the "state has no right to regulate water quality on private land" on the reservation, despite the concerns of non-Indians.⁴⁴ The issue remains highly contested.

A third issue involving tribal self-determination was the Kerr hydroelectric dam. The tribes had been unhappy with the \$240,000 yearly lease that the Montana Power Company (MPC) had been paying since 1939 after the federal government allowed the dam's construction on the Flathead River without tribal consent. When the company added a third generating unit in the 1950s, it refused to increase the lease payments because it argued that its power license did not designate the energy produced or installed capacity. The tribes disagreed.⁴⁵ The Federal Power Commission's (FPC) compromise offer for an annual lease was \$850,000 in 1966 or perhaps one-quarter of the company's annual profits at Kerr Dam.⁴⁶ The MPC refused to acknowledge FPC's authority, but it lost in court and had to pay the \$850,000 tied to inflation and the kilowatts produced per annum.

The MPC's original fifty-year lease at Kerr expired in 1980. But rather than automatically agree to continue the lease, the tribes in 1976 decided to seek the federal power license themselves. While the MPC also applied for a new license, the Federal Energy Regulatory Commission (FERC) extended licenses to the MPC on an annual basis until it could decide the case. By the 1980s, the tribes' application was compatible with President Ronald Reagan's administration policy of economic self-determination, which forced tribes to become less dependent on the federal government by drastically cutting funding for Indian affairs. However, the FERC was not ready to recognize the tribes as a potential holder of the electric utility license.⁴⁷ The tribes compromised and settled for a fifty-year joint operating license with the MPC with much improved terms. The tribes rejected the first two license offers: \$5 million a year or \$2.6 million a year plus an up-front payment of \$5,000 for each tribal member. The latter option was very popular among the tribal membership,

but the council resisted agreement and pursued the matter until it gained an annual rental payment of \$9 million a year adjusted to inflation. Today the tribes receive \$13 million a year. The terms of the lease provided that the tribes can receive title to the ownership of the dam after thirty years, in 2015. While the tribes own the land, they must pay for the dam.⁴⁸ The 1985 lease renewal agreement required the MPC to conduct fish and wildlife studies and to propose measures to reduce negative environmental effects of the dam. The tribes later sued for environmental damages caused by operations at Kerr and won a \$35 million award in 2000.⁴⁹

Tribal members recall that by 1980 the tribes were determined to gain control of the Kerr Dam. Today they are debating what to do with the dam once its ownership passes to the tribes in 2015. Should the potential profits be invested for education or be spent for tribal members' more immediate benefit? Opinions are split. Some argue that the dam should be used to restore tribal sovereignty and buy back large chunks of land.⁵⁰ In 1986, the tribal council decided not to allow construction of any more dams on the Flathead River within the reservation. It did not want the river spoiled, even if the tribes would own the sites and get all the profits.⁵¹

It is striking how successful the Salish and Kootenai tribes have been in the judicial arena regarding self-determination. Tribal members have pointed out that good lawyers could have thwarted assimilation: "If we had lawyers then, the treaty would not have been broken," and the authorization of the Kerr Dam could have been avoided. George Tunison and the Washington, D.C., law firm Wilkinson, Cragun & Barker have been very successful in championing Indian rights since the 1940s. The attorneys' role in moving the tribes toward self-determination needs to be acknowledged.⁵²

A fourth case of growing Salish and Kootenai self-determination concerned the Mission Mountain Range, which with peaks of up to ten thousand feet forms the Flathead Reservation's eastern boundary. The area has traditionally been a place for spiritual invigoration for the Salish and Kootenai. In 1958, Senator Hubert Humphrey (D-MN) and Representative John Saylor (R-PA) introduced a wilderness area bill, which proposed including existing Indian reservation roadless areas in the federal wilderness area system if the respective Indian governments consented. Chairman McDonald objected to this bill: "If [this bill] becomes law the Indians will have lost their prestige and dignity, along with their natural resources as well as their existing nature." To McDonald, the wilderness area bill hit close to home because of numerous previous invasions on tribal land by Congress and the federal government. To give up tribal property to wilderness areas appeared illogical, unacceptable, and linked to termination: the bill seemed to propose that if tribes agreed to termination they would be free from wilderness schemes or vice versa.⁵³ The Wilderness Area bill finally passed in 1964, but without provisions to include reservation areas in the federal wilderness system.

In addition to opposing land cessions for federal wilderness projects, the Salish and Kootenai tribes wanted to log the extensive timber holdings at the slopes of the Mission Range. But by the late 1960s, tribal members were disillusioned about the merits of continuous logging on the slopes; many tribal

members expressed a desire to stop timber sales because they felt that the scenic Mission Mountains were being sacrificed to the needs of local loggers, with little benefit to the spiritual needs of the Salish and Kootenai people. In 1970, Thurman proposed that the tribes designate a part of the Mission Range as a wilderness area, but the tribal council was not impressed. As the tribes were ever more unhappy with the logging procedures that started to take their toll on the slopes, the BIA placed a moratorium on all Mission logging in 1974, and Trosper kept pressure on the tribal council to elect a wilderness protection committee. Following recommendations by a University of Montana School of Forestry study, the tribal council chose to proceed with wilderness plans emphasizing aesthetics rather than commercial recreation. A tribal resolution finally created an 89,500-acre Mission Mountains Wilderness Area in 1982, reflecting tribal economic, political, cultural, and spiritual values, as well as tribal sovereignty. Later, the economic stability owed to the Kerr Dam rental has ensured that the tribes have not wanted to restart logging at Mission slopes, even if the wilderness leaves a buffer zone.⁵⁴

The success of the Confederated Salish and Kootenai tribes of the Flathead Reservation in improving their economic circumstances in the last three decades in part can be attributed to self-determination. Increased control of their own affairs has helped the tribes to develop an effective managerial strategy. Ronald Trosper, a Harvard-educated tribal member who was a board member of the tribal lodgepole-pine processing facility and worked as tribal economist in the 1980s, has noted that the success of any tribe in economic management requires control of its own resources, capital to fund investments, and management's ability to make the right decisions. The Salish and Kootenai tribes acquired control of their forest resources from the BIA and capital from a federal grant and a BIA guaranteed loan, and they hired capable managers. In this way, the tribes use their forest resources in a manner most beneficial to tribal members—creating jobs and purchasing light machinery—and still save the Mission slopes.⁵⁵

Matching the cultural standards of governmental legitimacy to the formal structure of the tribe's current government is a key to creating an environment conducive to economic development. This has been the case at Flathead. The tribes have both competent and sovereign government, a professional judicial system, and control of the reservation's key resources. All these are prerequisites for successful tribal governance in economic matters. Before American Indian tribes can achieve true self-determination and economic independence, they need to have in place effective institutions for sovereignty.⁵⁶ Allowing tribes to develop reservation resources for the benefit of the Indian population since the 1960s has made resources available to the mainstream economy as well. The path to development has therefore resided in self-determination, not in termination. As a result, tribes have gained a market price for their resources, which has reduced their dependency on federal assistance.⁵⁷ This is illustrated in the Salish and Kootenai–Kerr Dam case; although the tribes initially resisted its construction, they have adapted and now are preparing to take full control of the hydroelectric production for the tribal benefit. Some other tribes have followed a similar route, but before they have been able to do it, they have needed

greater self-determination. The end of paternalistic and assimilationist federal policies—for example, the defeat of termination—has been essential in order for this to happen.

NON-INDIAN BACKLASH TO SELF-DETERMINATION

The growth of tribal self-determination has caused insecurity among the non-Indian population on the Flathead Reservation. Many local non-Indians worried that relations between the parties would deteriorate: “The old-timers are about all gone, the new-comers are not informed and tempers are beginning to flare,” observed James Horner of Ronan in 1972.⁵⁸ One local resident had a long list of grievances against the tribes and the BIA, blaming them for the increasing tensions. He argued that those “non-Indian” tribal members who were less than half-blood got all the benefits, while the half- to full-bloods, some of whom really needed help, should have been the ones to gain.⁵⁹ Another local non-Indian, Vi Halchuk of Ronan, showed jealousy toward tribal members with a low proportion of Indian blood: “They receive free schooling, medical and dental expenses, commodities, hot lunches and they cry discrimination!” Halchuk also complained that all deeded land that Indians bought back could be put into trust and become tax-free, causing heavier tax burdens for non-Indians.⁶⁰ Others urged the dissolution of all Indian reservations in fairness to both Indians and non-Indians because “reservations have outlived their usefulness and their continued existence is bringing about inequalities to all.” To these non-Indians, the Flathead Reservation was a seedbed of “Red Power activism,” where most tribal members were of limited Indian blood receiving services tax free.⁶¹ These comments showed the unfortunate ignorance that many local residents had of tribal rights, the limitations of living on an Indian reservation, and Native American history, culture, and perspectives.

The struggle over reservation jurisdiction and resources and the limits of tribal sovereignty led to the founding of overtly racist groups, whose members claimed to be innocent victims of tribal governments’ actions. Citizens Against Discrimination, founded in 1973, evolved into Montanans Opposing Discrimination (MOD) and further into All Citizens Equal (ACE).⁶² The MOD stated that its purpose was to “prevent unjust and unreasonable discrimination against any citizen regardless of race, creed or national origin.” The MOD sought to end practices that it believed favored Indians, such as tribes charging a recreation fee on trust land. It claimed a membership of three thousand on or near the reservation. The backlash group insisted that they were forced to obey tribal ordinances that they had no voice in creating.⁶³ Salish leaders believed that racism and jealousy were the root causes of the white backlash against tribal governments: “They were comfortable thinking of the poor half-wit Indian. Now that we are taking control of our assets they are just in shock.”⁶⁴

The perspective of most non-Indian families living on the reservation has been considerably more moderate than that of the ACE. There are those who support tribal sovereignty. “Neighbors” is the name of a group of Flathead Reservation–area residents who “promote communication and cooperation

between and among tribal and non-tribal people and institutions on the reservation.” Neighbors takes a firm stand in support of tribal sovereignty. The group acknowledges that the reservation is a sovereign territory that the Salish and Kootenai Nation retained when it ceded more than 12 million acres in the 1855 Hell Gate Treaty. Neighbors supports the right of Indian tribes to decide the definition of sovereignty for legal and ethical reasons. The organization understands that the tribes with the strongest chance of cultural survival are most often those with the greatest political and economic control over their land base. Sovereignty means tribal power to enact and to enforce laws within reservation boundaries, as well as the power to define tribal membership. Neighbors argues that the minority challenging treaty obligations and tribal sovereignty “continues in the tradition of ignorance, ethnocentrism, racism and/or greed” and blocks the possibility of communication and cooperation between the Salish and Kootenai tribes and non-Indians on the reservation. Neighbors wants to remind people that living on the reservation is different because of its unique political status—it is not a state nor is it subject to state jurisdiction—and this should be acknowledged before non-Indians elect to move onto the reservation.⁶⁵

Today, those who hold discriminatory attitudes seem to particularly target those tribal members who behave in a stereotyped manner and those with the highest amount of Indian blood. Yet local and state officials deny the existence of discrimination: “There isn’t racism and sexism in Montana,” claimed Governor Stan Stephens.⁶⁶ Tension is undeniable across the Flathead Reservation, however, as tribal members testify. Derogatory comments can be overheard in stores: “Just heard one man talk about Indian people, cutting us down; I just walked out.”⁶⁷ Wearing braids can be risky: “When I see a bunch of cowboy hats, I’m not going to go in there.”⁶⁸

Many local whites do not understand why Indians have found it so difficult to conform to white mores and social values. They lack the perspective of time to understand that the Salish and Kootenai have been thrown into the white culture relatively recently. Adaptation has not been easy. In a very real sense, the fact that the Salish and Kootenai are a minority on their own reservation is bound to create tensions. It is not to be expected that non-Indians will want to adapt to a tribal lifestyle, nor is it realistic to assume that tribal members will forget their heritage and fully assimilate and integrate into the non-Indian population occupying their land.

Greater tribal self-determination has added to the conflict between Indians and non-Indians and has caused a periodic reappearance of the termination issue. Organizations like MOD and ACE certainly increase pressure to extend state power over tribal government. Tribal elder Linsebiger thinks that newcomers do not want Indians around and “want to terminate us.”⁶⁹ In recent years, the termination idea has on occasion come up from outside the tribes, mostly from state and congressional politicians, but has died out. Currently the state of Montana and the tribes are at odds over Highway 93, which passes through the reservation. This heavily traveled road has two lanes, but some of the local interests would like it to be expanded to four lanes. The tribes oppose this change. Tribal elders see this conflict as an example of why

local politicians would like to get the tribe terminated—it would remove an impediment to local development.⁷⁰ The mayor of Polson has suggested that either the reservation be abolished or non-Indian-owned land be removed from the reservation boundary.⁷¹ Montana's junior United States Senator, Conrad Burns, a Republican, has supported non-Indian majority rule and has condemned reservations as states within states. In 1995, Burns introduced a bill to give non-Indian farmers unconditional control over tribally run irrigation and power systems in the Flathead Reservation.⁷² Thurman Trosper argues that Burns's proposal to give up some tribal authority to the state could be the first step toward the eventual termination of the reservation. Burns had to withdraw his irrigation bill when Indians stormed the hearings held in Montana in protest.⁷³

CONCLUSION

The tribal leaders of the 1950s, especially McDonald, did not oppose the federal withdrawal from tribal affairs if it could be achieved without losing tribal trust lands into taxable property. Once self-determination became the federal policy, the Salish and Kootenai tribes consistently moved into a direction that led to a decreased federal presence on the reservation. Termination of sorts has come about the way that the tribes have chosen—through increased self-determination and self-governance that leaves trust lands intact. The tribes initially feared assuming control of any BIA programs, since such might be interpreted as a step toward termination.⁷⁴ But the 1975 Self-Determination Act allowed the tribes to take over and manage services for their members. When federal budget cuts in the Reagan era terminated some services and caused adaptation problems, particularly among the poor, the tribes accepted responsibility for the management of many federal programs. The 1994 Tribal Self-Governance Act gave tribes further control over the management of their affairs. Former BIA functions are now run by the tribes either directly or under contract from federal agencies. In 1999, the tribes took over the state welfare program for tribal members. The tribes also would like to take over the management of the 18,500-acre National Bison Range, set apart in the Allotment Act, but due to local resistance this has not become a reality.⁷⁵

Despite disputes over specific policies, overall the majority of the Salish and Kootenai have trusted their tribal government, which followed the tribal members' wishes in the termination battles. Emerging victorious, the tribes gained confidence and increased their self-determination as they defined it: lesser dependence on the federal government with tribal trust lands intact. In a more recent period, challenges from non-Indian reservation groups questioning tribal authority over nontribal members have made the tribes more determined to strengthen their institutions and provide more accountability in tribal government to reduce internal factionalism. The termination efforts of the 1950s, 1960s, and early 1970s provided a crucible through which the Salish and Kootenai realized that only with a strong, determined, and unified tribe led by capable officials could they reach self-determination. While the tribes had some success before termination, for example in getting

employment opportunities in the construction of the Kerr Dam, termination was a profoundly disturbing issue that placed the existence of the Salish and Kootenai peoples at stake. The government pushed through the allotment of reservation lands in the first two decades of the twentieth century without tribal consent, but the tribes were strong and determined enough to fight termination fifty years later.

Yet the idea to terminate the reservation and liquidate tribal assets has not died from within the tribes either. Some Indian people still want to see the liquidation of assets happen. They are mostly off-reservation tribal members who anticipate a sizable financial payoff, or they are among the more well-to-do. However, few tribal members seem to want termination, even if they expect it in the near future. The majority is opposed, fearing for the loss of tribal benefits and treaty rights. Thurman Trospen is pessimistic: He thinks that the reservation indeed will be dissolved because “Congress will bring it out,” as it has the ultimate authority to decide over Indian affairs with or without tribal consent.⁷⁶

NOTES

1. Dolly Linsebigler, interview with the author, Salish Longhouse, St. Ignatius, MT, 11 June 1999.

2. The Confederated Salish and Kootenai tribes of the Flathead Indian Reservation is the official title for the tribal groups that reside on this reservation. In this article, they are commonly called the *Tribes* or the *Salish and Kootenai*. See Jaakko Puisto, “We didn’t care for it’: Salish and Kootenai Battle against Termination Policy, 1946–1954,” *Montana: The Magazine of Western History* 52, no. 4 (Winter 2002): 48–63, for a more detailed discussion of the origins of termination policy, and the Salish and Kootenai reaction to and debate over the policy from 1946 to 1954.

3. Robert Bigart and Clarence Woodcock, eds., *In the Name of the Salish and Kootenai Nation: The 1855 Hell Gate Treaty and the Origins of the Flathead Indian Reservation* (Pablo, MT: Salish Kootenai College Press and Seattle: University of Washington Press, 1996), 1–2.

4. *Ibid.*, 1–2; Michael Harrison, “Chief Charlot’s Battle with Bureaucracy,” *Montana: The Magazine of Western History* 10, no. 4 (1960): 29–31.

5. A lot has been written about the Indian Reorganization Act. The latest book-length study is Elmer Rusco, *A Faithful Time: A Legislative History of Indian Reorganization Act* (Reno: University of Nevada Press, 2000).

6. James J. Lopach, Margery Hunter Brown, and Richmond L. Clow, *Tribal Government Today: Politics on Montana Indian Reservations*, rev. ed. (Niwtot: University Press of Colorado, 1998), table 11.1, 204. The Tribal Enrollment Office keeps track of births and deaths and therefore has updated enrollment figures, available upon request. Bob Bigart, e-mail to the author, 27 November 2002.

7. Minutes of Tribal Council Meetings, The Confederated Salish and Kootenai tribes of the Flathead Reservation, Dixon, MT, 7 October 1953, 2–6, and 14 November 1953, 3–4, 15 (citations); both in box 7, 1944–1960, The Files of the Confederated Salish and Kootenai tribes, Pablo, MT.

8. *Termination of Federal Supervision over Certain Tribes of Indians*, Joint Hearing before the Subcommittee on Interior and Insular Affairs, 12 parts, 83rd Congress, 2d sess., 1954, part 7, Flathead, *passim*.

9. Thomas Clarkin, *Federal Indian Policy in the Kennedy and Johnson Administrations, 1961–1969* (Albuquerque: University of New Mexico Press, 2001), 140–44; Sara E. Dant Ewert, “Evolution of an Environmentalist: Senator Frank Church and the Hells Canyon Controversy,” *Montana: The Magazine of Western History* 51, no. 1 (Spring 2001): 36–40; Donald L. Parman, *Indians and the American West in the Twentieth Century* (Bloomington: Indiana University Press, 1994), 132; Nicholas Peroff, *Menominee DRUMS: Tribal Termination and Restoration, 1954–1974* (Norman: University of Oklahoma Press, 1982), 82.

10. Amending the Menominee Termination Act: Report to Accompany HR 11813, House Report 1824, 86th Congress, 2d sess. (1960), 59, 89.

11. Joan Nagel, *American Indian Ethnic Renewal: Red Power and the Resurgence of Identity and Culture* (New York: Oxford University Press, 1996), 115–25.

12. Noel Pichette, interview with the author, Salish Longhouse, St. Ignatius, MT, 11 June 1999.

13. Henry Lozeau, Chairman, and Marlene Waylett, Secretary; Flathead-Kootenai Organization, Missoula, to Robert F. Kennedy, Attorney General of the United States, n.d. [1962], 1–11, folder 4, box 230, Lee Metcalf Papers, Collection no. 172, Montana Historical Society Archives, Helena.

14. *Ibid.*, Henry Lozeau, Chairman, Flathead-Kootenai Organization, to Lee Metcalf, United States Senator, 16 July 1962, 1; *ibid.*, Marlene Waylett, Secretary-Treasurer; Henry Lozeau, Chairman; and Nick Lassaw, Vice-Chairman, to Tribal Members, February 1962.

15. *Ibid.*, Robert A. McCrea, Dixon, to Mike Mansfield, United States Senate, 30 April 1962, 1–3; McCrea to Mansfield, 25 April 1962, folder 1, Container 133G, series X, Mike Mansfield Papers, K. Ross Toole Archives, Mansfield Library, University of Montana, Missoula.

16. Annie Vanderburg, Arlee, MT, to Lee Metcalf, 14 March 1962, 1–3, folder 7, box 240, Lee Metcalf Papers.

17. Walter W. McDonald to Jim Cannon, Area Director, Billings Area Office, Bureau of Indian Affairs, 1 October 1962, 1–6, folder 4, box 230, Lee Metcalf Papers.

18. Revolving Credit Fund 489, Walter W. McDonald, box 602, Records of Flathead Agency, Record Group 75, National Archives Rocky Mountain Regional Center, Denver.

19. Ronald L. Trosper, “Native American Boundary Maintenance: The Flathead Indian Reservation, Montana, 1860–1970,” *Ethnicity* 3, no. 3 (1976): 268–70. I thank Ronald Trosper for clarifying this argument in comments on earlier version of this article.

20. Denn Curran, “Flathead: ‘This Is Probably the Least Typical Indian Reservation in the United States,’” *Missoulian* (Missoula, MT), 20 April 1969.

21. “Off-Reservation Indians Argue for Termination,” *Missoulian* (Missoula, MT), 4 March 1971.

22. Joe Cullooyah, interview with the author, Salish Longhouse, St. Ignatius, MT, 11 June 1999.

23. Marge Anderson, “Indians Oppose Liquidation,” *Missoulian* (Missoula, MT), 23 January 1971; Jim Cotter, “Liquidation Talk Breathes New Life Into Tribe,” *Missoulian* (Missoula, MT), 18 September 1971.

24. Thurman Trosper, interview with the author, Trosper’s home, Ronan, MT, 13 June 1999.

25. Marge Anderson, "Tribal Liquidation Includes 'Intangibles,'" *Missoulian* (Missoula, MT), 16 January 1971.

26. *Confederated Salish and Kootenai Tribes of the Flathead Reservation v. United States*, docket no. 61, 17 Indian Claims Commission 703, *Decisions of the Indian Claims Commission: Findings, Opinions, Orders and Final Awards of the United States Indian Claims Commission, 1948 et seq.*, abstracted by Frances L. Horn, microform (New York: Clearwater Publication Company, 1973).

27. Gary Langley, "Problems Seen in Payment of \$22 Million," *Missoulian* (Missoula, MT), 10 May 1972.

28. *Termination of Federal Supervision over Certain Tribes of Indians*, Joint Hearing before the Subcommittees on Interior and Insular Affairs, 12 Parts, 83rd Congress, 2d sess., 1954, part 6, Menominee, 636.

29. "Dupuis Quitting Liquidation Group," *Missoulian* (Missoula, MT), 28 January 1971; "Indians Opt for Cash Settlement;" *Billings Gazette* (Billings, MT), 8 March 1971; Cotter, "Liquidation Talk."

30. Clarkin, *Federal Indian Policy*, 270–71; John Wunder, *Retained by the People: A History of American Indians and Bill of Rights* (New York: Oxford University Press, 1994), 165–73.

31. George W. Abbott, Committee Counsel, to Wesley A. D'Ewart, Member of Congress, 23 March 1954, 1–4, box 2, series 3, Wesley D'Ewart Papers, Collection 294, Merrill G. Burlingame Special Collections, Montana State University Libraries, Bozeman.

32. James P. Nugent and Margery H. Brown, "Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana: An Analysis of Tribal Government in Relation to Pre-Reservation and Reservation Life of the Principal Tribes of Western Montana" (seminar paper, School of Law, University of Montana, Missoula, 1975), 43. On tribal dilemmas and similarities between PL 280 and termination idea, see W. W. Keeler, et al, "Report to the Secretary of the Interior by the Task Force on Indian Affairs," 1961, 27–31, folder 3, box 608, Lee Metcalf Papers. The figure 76 percent is from 1999, but the number was very similar in the 1960s.

33. Walter McDonald, editorial, *Char-Koosta* (Dixon, MT), 1, no. 7 (May 1957); "Law and Order for the Indians," *Char-Koosta* (Dixon, MT), 2, no. 5 (March 1958), (quote). The *Char-Koosta* is published by the Confederated Salish and Kootenai tribes.

34. John W. Cragun, Wilkinson, Cragun & Barker, to Vic Reinemer, c/o James E. Murray, United States Senate, 30 December 1959, folder 5, box 230, Lee Metcalf Papers; Minutes of Tribal Council Meeting, Tribal headquarters, Dixon, MT, 7 April 1959.

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36. "Tribes, Counties Sign Pact," *Missoulian* (Missoula, MT), 23 May 1964.

37. John D. Crow, Deputy Commissioner of Indian Affairs, to Senator Lee Metcalf, 5 June 1972, folder 1, box 220, Lee Metcalf Papers.

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39. Russel Lawrence Barsh and James Youngblood Henderson, *The Road: Indian Tribes and Political Liberty* (Berkeley: University of California Press, 1980), 187–96.

40. The Confederated Salish and Kootenai Tribes of the Flathead Nation, "Briefing Document: PL 280 and Retrocession Affecting the Flathead Indian Reservation," February 1991, 1-3, mimeograph, Mansfield Library, University of Montana, Missoula.

41. Ron Selden, "County Vows to Oppose Salish and Kootenai Bill," *Missoulian* (Missoula, MT), 15 February 1993; Selden, "State, Flathead Tribes Start Dividing Up Duties," *Missoulian* (Missoula, MT), 22 May 1993; Lopach, Brown, and Clow, *Tribal Government Today*, 252.

42. Robert M. Perego, "Jurisdictional Aspects of Indian Reserved Water Rights in Montana and on the Flathead Reservation after Adsit," *American Indian Culture and Research Journal* 7, no. 1 (1983): 48-49, 58-62; Lopach, Brown, and Clow, *Tribal Government Today*, 180-81.

43. Perego, "Jurisdictional Aspects," 57-65.

44. *Ibid.*, 71-77; Lopach, Brown, and Clow, *Tribal Government Today*, 251 (quote).

45. "Pros and Cons of Third Unit Discussed by Chairman," *Char-Koosta* (Dixon, MT), 3, no. 8 (June 1958).

46. Federal Power Commission Press Release, 4 August 1966, folder 8, box 605, Lee Metcalf Papers.

47. Patrick Morris, "Termination by Accountants: The Reagan Indian Policy," *Policy Studies Journal* 16, no. 4 (Summer 1988): 739-40; Ronald L. Trosper, "Who Is Subsidizing Whom?" in Lyman H. Legters and Fremont J. Lyden, eds., *American Indian Policy: Self-Governance and Economic Development* (Westport, CT: Greenwood Press, 1994): 178-79; *Draft Environmental Impact Statement: Proposed Modifications for the Kerr Hydroelectric Project, Flathead and Lake Counties, Montana* (Washington, DC: Federal Energy Regulatory Commission, Office of Hydropower Licensing, 1995), 1-3.

48. Lopach, Brown, and Clow, *Tribal Government Today*, 169, 182-83; Trosper, interview.

49. *Draft Environmental Impact Statement*, 2-9; Associated Press State and Local Wire, 28 April 2000.

50. Roy Bigcrane and Thompson Smith, *The Place of the Falling Waters*, video and study guide, 3 vols. (Pablo, MT: Native Voices Public Television Workshop and Salish Kootenai College; Bozeman: Montana Public Television, 1991), part 3.

51. Don Schwennesen, "Tribes Say No to Dams," *Missoulian* (Missoula, MT), 9 May 1986.

52. Citation from Pichette, interview.

53. Diane L. Krahe, "A Confluence of Sovereignty and Conformity: The Mission Mountains Tribal Wilderness" (master's thesis, University of Montana, 1995), ii, 24, 29-37, 42, 38 (quote); W. W. McDonald testimony at the Salt Lake City hearing on the Wilderness Area Bill, *Char-Koosta* (Dixon, MT), 2, no. 12 (November 1958); Lopach, Brown, and Clow, *Tribal Government Today*, 179.

54. Krahe, "Confluence of Sovereignty," 22, 44-63, 92; Lopach, Brown, and Clow, *Tribal Government Today*, 178.

55. Ronald L. Trosper, *Indian Self-Determination and Ecological Forest Management of Lodgepole Pine on the Flathead Indian Reservation, Montana* (Flagstaff: School of Forestry, Northern Arizona University, 1989), passim. Ronald Trosper is Thurman Trosper's son.

56. Stephen Cornell, "Reloading the Dice: Improving the Chances for Economic Development on American Indian Reservations," in Cornell and Joseph Kalt, eds.,

What Can Tribes Do? Strategies and Institutions in American Indian Economic Development, American Indian Manual and Handbook, 4th series (Los Angeles: UCLA American Indian Studies Center, 1992), 19, 41, 51; Stephen Cornell, "Political Culture, Poverty, and the Future of American Indian Nations" (lecture, Arizona State University, Tempe, February 1996).

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58. James B. Horner, Ronan, MT, to Lee Metcalf, United States Senate, 2 May 1972, folder 1, box 220, Lee Metcalf Papers.

59. Jaye Johnson, Ronan, MT, to Lee Metcalf, United States Senate, 15 February 1972, folder 1, box 220, Lee Metcalf Papers.

60. Vi Halchuk, Ronan, MT, to Lee Metcalf, 21 April 1972, folder 1, box 220, Lee Metcalf Papers.

61. Donald and Carrie Jensen, Elmo, MT, to Senator Lee Metcalf, 20 April 1972, folder 1, box 220, Lee Metcalf Papers; Luana Ross, *Inventing the Savage: The Social Construction of Native American Criminality* (Austin: University of Texas Press, 1998), 63, 65.

62. Ross, *Inventing the Savage*, 60–62.

63. Lopach, Brown, and Clow, *Tribal Government Today*, 180; Parman, *Indians and the American West, 178–80* (quote); James J. Rawls, *Chief Red Fox Is Dead: A History of Native Americans Since 1945* (Fort Worth: Harcourt Brace College Publishers, 1996), 160.

64. Lucille Trospen Otter, Salish elder, quoted in Rawls, *Chief Red Fox*, 160. Otter was Thurman Trospen's sister.

65. "Neighbors Draft Position Paper on Tribal Sovereignty," 22 February 1996, 1–4, printed statement given to the author by Neighbors member Rob Sand, Charlo, MT, 12 June 1999.

66. Curran, "Flathead," 27; Governor Stan Stephens quoted in *Billings Gazette* (Billings, MT), 24 September 1990.

67. Linsebigler, interview.

68. Roy Bigcrane in Daniel W. Hart et al., *Without Reservations: Notes on Racism in Montana*, video (Bozeman: Native Voices Public Television, Montana State University, 1995).

69. Linsebigler, interview.

70. Noel Pichette, John Peter Paul, and Mike Durglo, Sr., interviews with the author, Salish Longhouse, St. Ignatius, MT, 11 June 1999.

71. Ross, *Inventing the Savage*, 70.

72. Lopach, Brown, and Clow, *Tribal Government Today*, 254.

73. Trospen, interview.

74. Trospen, "Native American Boundary Maintenance," 271; Curran, "Flathead."

75. Krahe, "Confluence of Sovereignty," 68; James David Bruggers, "Natural Resources, Economic Development and Self-Determination on Montana's Indian Reservations: The Salish and Kootenai Example" (master's thesis, University of Montana, 1987), 189; John Stromnes, "Tribes Take Over Welfare Program: Confederated Salish and Kootenai Tribes First in Montana to Replace State as Administrator of Benefits," *Missoulian* (Missoula, MT), 12 January 1999; Lopach, Brown, and Clow, *Tribal Government Today*, 249–50.

76. Pichette, interview; Trospen, interview.

A vertical bar on the left side of the page, consisting of a series of colored squares (red, orange, yellow, green, blue) stacked vertically, with a small red diamond at the top.

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