

THE EFFECTS OF COALITION BUILDING ON PUBLIC LAW 93-531:
THE NAVAJO AND HOPI LAND SETTLEMENT ACT OF 1974

by

James Joe Davis, Jr.

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Final approval and acceptance of this dissertation is contingent upon the candidate's submission of the final copies of the dissertation to the Graduate College. I hereby certify that I have read this dissertation prepared under my direction and recommend that it be accepted as fulfilling the dissertation requirement.

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ABSTRACT

This dissertation presents a case study of policy formation this is intended to illuminate certain key features of the Federal-Tribal relationship. The federal law under examination is Public Law 93-531: The Navajo and Hopi Land Settlement Act of 1974. The federal law represents an effort to resolve a long-standing land dispute between members of the Navajo and Hopi Tribes. Federal intervention was viewed necessary by some people/groups since the tribal governments could not come to a resolution about land possession, surface/subsurface rights, and general land usage of the disputed area. Case study research is used to frame the study, while coalition politics explores and analyzes the issues of policy formation and policy resolution.

I conclude that coalition politics occurred at different levels in the policy environment, while effecting each coalition partner differently. The study provides a multi-level analysis, which considers the involvement of Federal and Tribal governments.

CHAPTER 5

HISTORICAL BACKGROUND OF PUBLIC LAW 93-531

The purpose of this chapter is to provide some background information about Public Law 93-531, otherwise known as the Navajo-Hopi Relocation law. The Relocation law obligated a select group of Navajos and Hopis to be removed, if they were living on the wrong side of a court-ordered property line. Before the passage of the law there were a number of proposals considered by Congress that dealt with the land controversy. These proposals differed in scope and outlined how each tribal group was to be treated. The adopted proposal, Public Law 93-531, was unique in that it called for the partition of the 1882 Reservation and the relocation of thousands of Hopi and Navajo people. Before the Relocation law was enacted both tribes, under the supervision of the Secretary of Interior managed the area. All public and private activities on the 1882 Reservation, such as construction, grazing of livestock, or commercial usage required the consent of both tribal governments and the Secretary of Interior. It was a difficult condition to work under, because both tribal governments favored development of the area, but they were unwilling to grant the other permission to pursue their projects. The end result was limited development of the area and economic impoverishment for its people.

Historical Review of Land Dispute

This section provides a historical context for the legislative process, and describes how the participants identified and brought about essential resources to reinforce their land claims. The inclusion of this material is necessary to establish an understanding of

the Relocation law and why some people/groups felt the law was a necessary event. As such, this section will analyze these earlier political events by focusing on: a) the legislative history; and b) the key participants. The analysis will begin with a review of the legislative record, which is followed by information about the policymakers.

The period under review starts by describing the creation of the 1882 Reservation. The 1882 Reservation is a specific area that both the Hopi and the Navajo Tribes have fought to keep under their possession. Notably, District Six was created from the 1882 Reservation in 1891 by military officials, who walked off approximately sixteen miles of land in each direction from the Hopi village of *Mishongnovi*. The creation of District Six was based on the Hopis' objection of Navajo intrusion onto Hopi farming fields and grazing areas (Hasgood, 1993: 4). Accordingly, District Six was established for the purpose of giving the Hopis their own area that would be free of Navajo intrusion. Despite this contrivance, a reculant Navajo presence in the region continued to trouble the Hopis, which continued due to limited federal involvement. The federal government did not take a firm stand against the Navajo until the 1960s when their entrenchment became clear. District Six was excluded from the Relocation law and it remained with the Hopis.

1882 Executive Order

A survey of legislative records indicates that Public Law 93-531 is in response to the federal government seeking to resolve conflicting land claims between the Navajo and Hopi Tribes. The origin of the land dispute is rooted in an Executive Order issued in 1882. On December 16, 1882, President Chester A. Arthur signed into law an Executive Order that established a 2.5 million acre reservation (hereafter called the 1882

Reservation) surrounding the Hopi mesas for use by the Hopis and “such other Indians as the Secretary of the Interior may see fit to settle thereon” (Partition of Navajo and Hopi, 1973: 13).¹ At the time of its creation approximately 300 to 600 Navajos lived within the borders of the newly created reservation. More importantly, the purpose of the 1882 Executive Order was to create for federal agents the necessary authority to remove two Anglos that were creating “mischief” among the Hopi Indians (Redhouse, 1985: 5). Federal officials wanted these outsiders removed from the 1882 Reservation, because they were interfering with the Government’s policy of compulsory education of Indian children. To facilitate their removal, the federal agents needed the necessary authority to carry out their plan. Thus the need for the 1882 Executive Order became clear. Although later, some mention was made about Navajo encroachment onto Hopi areas, these complaints went unanswered. Importantly, the Executive Order did not give the Hopis exclusive rights to the 1882 Reservation, nor did the pronouncement stipulate the legal standing of the Navajos that remained on the 1882 Reservation (Goodman and Thompson, 1975: 407).

The 1882 Reservation incorporated a large part of *Tutsqua*, the native country of the Hopi. Notably, the boundary lines of the 1882 Reservation were created in haste and with little concern for those who had to live with its conception. One writer indicated the borders of the 1882 Reservation were contrived with “geographic neatness in mind” as opposed to “needful purposes” of the Hopis (Kammer, 1980: 28). As such, creation of the 1882 Reservation neglected the existing settlement patterns of the Navajo and Hopi, and cast aside the cultural significance of the lands held by the Natives.

Inside the 1882 Reservation, Navajo settlements comprised of small family units

¹ U.S. Government officials indicated that the 1882 Reservation was created for the purpose of removing non-Indians that were causing problems for the local Indian agent at Second Mesa (Whitson, 1985: 375).

that were scattered throughout the entire region. Over the centuries Navajo families would concentrate in small clusters near the home of the maternal grandmother. A typical Navajo settlement would include a hogan, livestock corral, and a small storage shed. Navajo families would establish customary rights to the estate by continually working the land, and in time, the governing kinswomen would transfer land management responsibilities to family members. In contrast, the Hopis lived in small villages whose occupants were organized by an elaborate clanship structure, and their livelihood was based on agriculture. Hopi life revolved around the community and brief excursions from the village involved those of trade or religious pilgrimages. Generally, members of the Navajo and Hopi Tribes lived without conflict, unless their immediate surroundings were disrupted by the other, such as trespassing of Hopi religious shrines or the abduction of Navajo animals.

Furthermore, the 1882 Reservation disregarded the Native lifestyles and encouraged antagonism by requiring them to share and remain in a common area. By legislative fiat the two tribes were pitted against each other as Navajo herdsman were forced to compete with Hopi farmers for the same tract of land. Because of their livelihood the Navajos required a much larger area for their herds compared to the farming needs of the Hopi. Navajo expansion, due to their increasing population, caused them move onto what they thought were vacant lands. Clearly the exclusion of the Navajos from the 1882 Reservation was not the primary objective of the Executive Order, although subsequent legislative amendments have barred them from laying claim to and settling in areas of District Six.²

Navajo occupancy of the 1882 Reservation became apparent to the federal

² Officially, District 6 was created in 1936 from the 1882 Reservation for the exclusive use of the Hopi, because of the constant intrusion of Navajo livestock into Hopi fields. The boundaries of District 6 resembled those established by the 1891 Parker-Keam line (Clemmer, 1995: 235).

government by the late 1880s. Due to the close proximity of the Navajo Treaty Reservation to the 1882 Reservation, the presence of the Navajo became abundant and irrepressible. Growth rates of the Navajo Tribe steadily increased after the federal government's debacle at Fort Sumner, as the Navajos returned to their former areas, which created severe environmental concerns for the Hopis and other neighboring Native tribes.³ The Fort Sumner experiment was a plan conceived by the federal government to reshape the livelihood of the Navajo and a means to instill American values.⁴ During their captivity, the Navajos fought the indoctrination of American values, but they selectively adopted some non-Navajo practices such as western clothing and formal education. The returning Navajos believed that they could reoccupy those areas that they once lived on before their incarceration at Fort Sumner. Nevertheless, the Hopis viewed the Navajos' actions as an imposition of their territory, and they complained to the local Indian agent located at Keams Canyon subsequent to the creation of the 1882 Reservation.⁵ The federal government represented by Hopi agent George W. Parker tried to address the encroachment issue, but he was discouraged by the unwillingness of the U.S. Army to take action against the Navajo since the U.S. thought the Navajos would respond with violence should they be moved (Kammer, 1980: 30). This possibility of violence was

³ In 1868, U.S. enumeration show that about 300 Navajos lived in the 1882 Reservation, compared to 600 in 1888 (Aberle, 1993: 158). Navajo growth occurred because of their displacement by Anglo settlers in New Mexico, which forced them to the western half of their Reservation. One source also attributes their growth to their rich livestock base, which provides them food, clothing, and other necessities (Ibid., p. 157).

⁴ This rapid Navajo growth followed the death of over 2,000 persons at Fort Sumner (Locke, 1986: 382). At Fort Sumner the Navajos were poorly kept and lived in over-occupied quarters that were under constant attack by local Indians. In addition, the Navajos were forced to share their incarceration with Mescalero Apaches, who were one of their regional enemies. Shortages of food and firewood were a constant condition during their captivity.

⁵ In 1882, U.S. soldiers were twice sent to the 1882 Reservation to deal with groups of "trespassing" Navajos. Instead of removing the Navajos from the area, the military incursion was one of Navajo admonishment, and in the end, the Navajos remained on the 1882 Reservation. Furthermore, Hopis have consistently made issue of Navajos violating their space, which were reported in 1818 to Spaniards (Spicer, 1989: 213).

supported by the hundreds of Navajos living near Hopi settlements and the U.S. inability to protect the Hopis, if the need arose.

Other Indian agents issued a number of administrative orders to settle the matter, but these administrative efforts failed and Navajo imposition continued in the area. As a result, the Navajos held onto Hopi lands essentially rejecting the authority of the Hopis and the federal government. To prevent a Navajo-Hopi confrontation, the Department of Interior along with traditional Indian leaders from both tribes established a boundary line that separated the two tribes into their own particular areas; importantly the boundary line honored existing settlement patterns of the day. The new border, referred to as the “Parker-Keam line”, designated some 600,000 acres for Hopi use and enclosed the major Hopi settlements on the mesas (Locke, 1986: 466). The division was pertinent to the 1882 Reservation only. The outermost Hopi community of *Moencopi* was not included in the newly defined area. The establishment of about 600,000 acres in 1891 were exclusively named Hopi land and later became known as the “sixteen-mile limit”.⁶ Unlike earlier efforts of land partitioning, the Parker-Keam line was established with the cooperation of both Hopi and Navajo leaders and honored by most tribal members.

However, full observance of the intertribal boundary did not occur as some Navajos continued to violate the agreement by trespassing onto the Hopis’ side of the line. Several infractions were submitted to the local Indian agent, but the Navajo violators were not held accountable for their actions. Not until 1944 were the Navajos held responsible for their violations by the federal government, which led to their permanent eviction from a certain area on the 1882 Reservation.⁷ Nonetheless, the

⁶ It is important to note that one source contends the “sixteen-mile limit” was created despite Hopi dissension against its establishment. Specifically, some Hopis felt they were appeasing non-Hopi demands by surrendering aboriginal lands to the Navajo. See, Report to the Hopi Kikmongwis & Other Traditional Leaders on Docket 196 & the Continuing Threat to Hopi Land and Sovereignty (1974). Pg. 56. In addition, *Moencopi* was not included in the proposed land arrangement.

⁷ Hasgood documented that over 1,000 Navajos were moved from District 6 in 1944. See Revive

intertribal agreement facilitated by Indian agent Keams stood in practice and principle for the most part, until 1958 when legal claims were filed by the Hopi against the Navajo.

After 1882, other U.S. administrators considered moving the Navajos from the 1882 Reservation, but these officials chose not to do so because they lacked the cooperation of influential Navajo leaders. In addition, they did not want to be caught up in the division of opinions among congressional and bureaucratic personnel. Their division of opinion and conflict was based on personal views of the land issue, which in turn prevented resolution of the land dispute. For example, the Navajos were permitted to stay on the 1882 Reservation based on a written "implication" of the Secretary of Interior, while at the same time, another Bureau of Indian Affairs' directive endorsed dividing the land between the two tribes.⁸ While doubt and indecision delayed the leaders and policymakers, Navajo land acquisition by way of other Executive Orders and congressional land grants continued to occur, and by 1934, the Navajo Reservation landlocked the Hopi villages.⁹ At the same time it was clear to the local tribes that the Navajos had established themselves as permanent residents of the 1882 Reservation. Through the 1920s and 1930s, the Commissioner of Indian Affairs acknowledged the Navajos' rights to remain on the 1882 Reservation by way of implied consent of the Secretary's discretion to settle Indians on the reservation (Partition of Navajo and Hopi, 1973: 13). A clear written statement from the Secretary of Interior did not emerge until 1946, when the Navajos' land rights were finally affirmed by the U.S. (Clemmer 1996: 239). Thus, the Navajos secured contemporaneous rights in the 1882 Reservation, which

the Dine' Way: Dine Evictees of District Six Jado, Arizona (1993). Eugene L. Hasgood.

⁸ On two occasions (1891 and 1911) federal officials entertained proposals of dividing the 1882 Reservation between the two tribes, but chose not to proceed (Aberle, 1993: 158).

⁹ During the period 1868-1934, Havens (1995) found that Navajo land mass increased 4 1/2 times its original size, which occurred while other tribes were losing their lands at an alarming rate (p. 173). In 1930, about 3,300 Navajos lived on the 1882 Reservation, compared to 1958 when 8,800 Navajos lived in same area (Clemmer, 1996: 237).

allowed them to remain there until their occupation was legally challenged in 1958 (Ibid., p. 13).

The absence of a land title created a quandary for both Indian tribes and the federal government. More specifically, the unresolved issue of tribal mineral rights gave rise to the immediacy of establishing ownership of the 1882 Reservation. In 1958, Public Law 85-547 was approved and it authorized the chairmen of both Indian tribes and the U.S. Attorney General to begin legal proceedings to define land rights to the 1882 area. Thus, the 1958 law enabled the Navajo and the Hopi governments to institute or defend a legal action against the other “to determine the respective rights and interests of parties to the 1882 lands and to quiet title¹⁰ to the lands” (Aberle, 1993: 160). To rule on the land claims, the law empowered a three-judge panel of the U.S. District Court in Arizona. Accordingly, in 1960, the Hopi Tribe sued the Navajo Tribe for the entire expanse of the 1882 Reservation declaring the Navajos were newcomers to the area and they had never “settled” the land. On the other hand, the Navajos defended their place and claimed that they lived in the region for several generations. Essentially the Hopi government wanted to establish legal rights to the 1882 Reservation, in which case, a lawsuit was necessary to facilitate this goal.

The Hopis were successful in securing specific acreage within the 1882 Reservation, however, the same court ruling also limited their possession to particular lands. Healing v. Jones (1962) was the Federal District Court case that: 1) established District Six, an area of 650,000 acres, for the Hopis; 2) determined the Navajos and the Hopis held joint, undivided and equal rights and interests in the 1882 Reservation (later to be called the Joint Use Area); and 3) indicated the court was without jurisdiction to

¹⁰ Quieting of title is a legal term that “determines all adverse claims to the property in question....such a suit is usually the result of various individuals asserting contradictory rights to the same parcel of land” (Gifis, 1975: 168).

partition this common area of lands, this power was reserved only for Congress (Schifter and West, 1974: 76).¹¹ Healing did not solve the tribal land dispute because ownership of the land remained open, although the case attempted to establish a joint reservation between the two tribes. Dissatisfied with the Healing judgment, the Navajo government appealed the lower court's decision, but the appellate court upheld the original findings.

On the other side, the Hopis continued to seek exclusive ownership of the land and they sought the involvement of the U.S. Congress to aid their cause.¹² To effectuate congressional action, the Hopi government authorized their legal counsel John Boyden to sue the Navajo Tribe over the surface rights to the Joint Use Area, because of the Navajos considerable land usage as compared to the Hopis. In addition, Navajo domination of the Joint Use Area violated the "equal rights" clause of Healing. In October 1972, a federal court judge validated the Hopis' claim of Navajo dominance and ordered the Navajos to reduce their usage of the Joint Use Area by 85 percent (this percentage applied to Navajo livestock). In addition, the court prohibited the construction of new buildings by the Navajo people (any new construction in the Joint Use Area required the consent of both tribes) (Whitson, 1985: 378). This court order restricted Navajo land use and controlled all physical development. In order to achieve complete Navajo removal from the area, additional congressional action would be necessary as Healing found that Congress was the only governmental entity authorized to do so. Thus, the court decision brought Congress into the forefront to serve as policymakers for the land dispute, which eventually led to Public Law 93-531.

¹¹ For a detailed account of Healing, see "Healing v. Jones: Mandate For Another Trail of Tears?" (1974) R. Schifter and W. R. West.

¹² Clemmer writes that traditional Hopis opposed granting the U.S. courts the power to decide land issues, since the Hopis believed they were stewards of the land and the courts lacked authority (Clemmer, 1995: 239).

Background of Relocation Law

The creation of Public Law 93-531 involved many influential personalities and public figures that brought numerous competing interests to the legislative process. Through their participation in the legislative process, several of these individuals determined the ebb and flow of the law, while others shaped the very scope of the policy by defining the parameters from which the law operated. This process of shaping occurred through a number of channels: the official status and/or authority held by participants; their personal and professional relationship with key members of the Native communities; and the level of understanding of the land dispute. These intangible resources were unevenly distributed among the participants and were used according to their needs. As such, certain individuals or groups possessed more resources than others, in the form of finance, media exposure, and Native and non-Native support.

This section of research identifies and discusses these individuals and provides their background information. These individual policymakers are selected based on their perspectives, positions, and objectives to Public Law 93-531. Each policymaker has demonstrated some influence on the law and has helped shaped the final product. Thus, these individuals have distinguished themselves from other marginal policy participants. By providing these personal profiles, we will become familiar with these key individuals and the important roles they played in the outcome of Public Law 93-531. Moreover, this section of this dissertation discloses their biases and reveals whom they favored in the land dispute. This part of the study outlines personal information only.

The Policymakers

Peter MacDonald

In 1973, Peter MacDonald served his first four-year term as an elected leader of the Navajo Tribe, and was reelected to office four additional terms until his final removal from office in 1989. MacDonald's early experience in tribal affairs began with the Office of Navajo Economic Opportunities (ONEO), which he successfully directed for five years.¹³ Before returning to the Navajo Reservation in 1963, MacDonald was employed by Hughes Aircraft as an electrical engineer, working on the Polaris Missile project in California. Unlike other Navajos of his generation, MacDonald was able to experience life beyond his native land and through these external experiences, he became more aware of the social and political problems restricting his people. Specifically, the Navajo people lacked a viable economy, and were troubled with the debilitating problems associated with chronic unemployment.¹⁴ Because of his understanding of the business world and his broad experience, MacDonald was recruited by then-Navajo Chairman Raymond Nakai. Nakai appointed MacDonald to direct the Office of Navajo Economic Opportunities. By directing ONEO, MacDonald understood the importance of financial support from the federal government in sustaining the tribal bureaucracy. Over time he learned to maneuver these valuable federal resources and built himself a sizable political base, which launched him into the Navajo political scene in 1970.¹⁵

¹³ ONEO was a federally funded program, which was a result of the Economic Opportunity Act. Created in 1965, ONEO aided the Navajos in designing and implementing programs to industrialize their land.

¹⁴ The 1930s witnessed severe impoverishment of the Navajo, because of the Collier Plan, which authorized a livestock reduction against Navajo livestock owners. This policy was enacted due to overgrazing of the reservation. The act limited the number of livestock a Navajo could own, thereby impacting their personal wealth, food supply, and general security.

¹⁵ Since MacDonald managed ONEO, he was able to direct the awarding of federal projects to particular Navajo reservation communities, thereby securing critical support during election years. Politically, MacDonald was seen as a moderate, which appealed to a large section of the tribe. Navajo

In 1970, MacDonald challenged Nakai for leadership of the Navajo Tribe. MacDonald won the election in a convincing fashion as the results showed MacDonald capturing 60 percent of the 18,335 eligible votes compared to Nakai's 12,134 or 40 percent (Navajo Nation FAX, 1988: 21). After the 1970 election, MacDonald won reelection to the Chairman's office in 1974, 1978, and then 1986. Over the years, MacDonald established personal contacts outside the Navajo Reservation that helped him acquire significant political power in the Native American world (Iverson, 1980: 239). Because of this broad acceptance of the Native world, MacDonald became a recognized spokesman for Indian country. Much of his national appeal was due to his public criticism of federal Indian policy and his inspiring messages of exercising Native sovereignty. His rhetoric often complimented the "Indian Power" slogan of the time.¹⁶ For example, MacDonald sought to improve and increase the economic status of the Navajos. In 1975, MacDonald became instrumental in creating the first Native based energy organization--Council of Energy Related Tribes (CERT)--designed to maximize tribal profits earned from nonrenewable energy resources. CERT organized tribes to collectively act in the production and sale of mineral resources to maximize mineral profits for Native tribes. In MacDonald's view, CERT had the potential to evolve into the Native version of Organization of Petroleum Exporting Countries (OPEC) (MacDonald 1993: 230).

To this end CERT hired former Iranian energy minister, Ahmand Kooros, to teach CERT members techniques to bargain with American energy companies (Ibid., p. 230). Kooros' training proved to be valuable as the Navajos were successful in renegotiating a

voters favored MacDonald's approach toward economic development; however, they wanted the development to be managed by the tribal government and not the U.S. (Iverson, 1980: 239).

¹⁶ Indian Power is defined as a "patriotic Indian fight for freedom--freedom from injustice and bondage, freedom from patronization and oppression, freedom from what the white man can not and will not solve" (Josephy, 1971: 2).

higher royalty return with El Paso Natural Gas Company in 1977. In the beginning, CERT started with an association of 25 tribes, which gradually increased to the current membership of 57 tribes (Wilkins, 1999: 167). In spite of the increased membership, some CERT members were ineffective members because of the political climate and their treaty status. As noted, the political climate of a given period refers to the political preferences of those that control government, or regional pressures exerted by local politicians. As a result, the tribes are on the receiving end of the policy process. A tribe's treaty status could slow or impede the flow of business among public and private sectors, because of liability issues, legal jurisdiction, and loan securities. Due to these conditions, each CERT member was affected differently depending on their tribal resources and expertise. Consequently, each tribe has a unique relationship with the U.S., as some are bound by treaties, executive orders, or congressional law. Because of the different legal arrangements, each tribe is treated differently based on their relationship with the U.S. Government. To this end, treaty tribes (i.e. tribes bound by treaty with the U.S.) occupy a precarious position because of uncertainties impacting their treaty relationship. Factors influencing their treaty arrangements are state rights, the federal government, and social/political pressures. At any moment, a change in one of these arenas could cause serious disturbance or turmoil for treaty tribes.

MacDonald's tenure as Navajo chairman was troubled with several allegations of ethical misconduct. Because MacDonald held considerable control over the Navajo government and its personnel, he was accused of abusing power, along with several charges of fraud and improprieties.¹⁷ He was able to avoid criminal prosecution on these

¹⁷ 1976/77 MacDonald was investigated for financial irregularities and the mishandling of federal funds. In February of 1977, MacDonald was accused of using the mail to defraud the Tucson Gas & Electric Company of \$7,916, and filing a fraudulent income tax return for 1973 (MacDonald, 1993: 204). The case did not go to court and the presiding federal judge issued a verdict of acquittal (Kammer, 1980: 132). In 1987, Pat Chee Miller and John Paddock testified to the Senate Select Committee that they gave MacDonald gifts and money to secure tribal contracts for their businesses (see Jay Rayner, Weekend

earlier charges, but in time MacDonald was caught for his criminal involvement and he was discharged from public office in the late 1980s.

In 1989, MacDonald was removed from public office, because of his participation in a land scheme that involved bribes and kickbacks.¹⁸ Incriminating information was brought to light by an investigation conducted by a Senate Committee that considered MacDonald's involvement in the purchase of the Big Boquillas Ranch. According to committee testimony, MacDonald made arrangements to receive up to \$750,000 for getting the ranch purchase through the legislative branch (Rose, 1989). Eventually, MacDonald was discovered and found guilty in a Navajo court as well as a federal court on several counts of bribery, instigating a riot, fraud, racketeering, extortion, conspiracy, and ethics violations.¹⁹ He was sentenced to 14 years in a federal prison. MacDonald was released from prison on January 20, 2001 for health reasons after serving seven years of his sentence. Currently, he is a private citizen and no longer active in tribal politics; MacDonald resides in Tuba City, Arizona.

Abbott Sekaquaptewa

Abbott Sekaquaptewa served as Hopi chairman for twelve years with his last term ending in 1983. Sekaquaptewa came from a family of five children, a family that produced several distinguished community leaders in their own right.²⁰ Abbott was self-

Guardian, Aug. 29-30, 1992, pp. 4-7).

¹⁸ MacDonald coordinated the purchase of the Big Boquillas Ranch, a tract of land covering 491,000 acres, in northern Arizona. A Senate Select Committee exposed MacDonald's secret ties to Bud Brown and Tom Tracy, owner's of Tracy Oil and Gas, who sold the ranch to the Navajos minutes after the owners inflated the purchase price by \$7 million. Investigators found that MacDonald received private payment from Brown and Tracy, only after MacDonald facilitated the land purchase from the tribal council.

¹⁹ Following his removal from office, MacDonald and his supporters were charged with conspiring to overthrow the Navajo government. Two deaths resulted from this incident. See The Last Warrior, p. 315.

²⁰ Emory Sr. and Helen Sekaquaptewa raised some remarkable children who have made their marks on Hopi history (see Kammer, 1980: 73). Wayne, owner and editor of Hopi tribal newspaper. Emory Jr. was the first Indian from Arizona to receive an appointment to West Point, the U.S. military school. Emory

educated and reportedly an ardent reader. Before his rise to tribal leadership, Sekaquaptewa worked for his Hopi people in a number of mid-level positions in the Hopi government, serving on the Hopi Council in the 1950s, and later, as the Director of Hopi Community Action Program. Another position he held during the relocation period was serving as Chairman of the Hopi Negotiating Committee; this group of tribal representatives was responsible for meeting with the Navajo land delegation to establish boundaries to the disputed area. He chaired over this committee for a number of years.

Sekaquaptewa was described as a person of strong character, a man that held a deep passion to serve his Hopi people. One writer portrayed Sekaquaptewa as a person that “burn[ed] with a commitment to Hopi ethnicity and a passion for unremitting vengeance against the Navajo” (Kammer, 1980: 73). He firmly believed that removal of the Navajo people was necessary to preserve the Hopi way of life and culture. In his words, “Unless things are done to protect the Hopi as Hopi, the Navajo Tribe will swallow up the Hopi Tribe. And it’s only a matter of time. Hopi society will become part of the Navajo society. There will be no more Hopi society. It’s like throwing ten gallons of white paint into 180 gallons of blue paint. It’s going to look real blue by the time you get through fixing it up. That’s the reality” (Benedek, 1999: 39). Commenting on the Navajos’ appropriation of Hopi culture, “There were not many Navajos in the area (Black Mesa), as far as we know until about 150 years ago....our shrines have become their shrines. Our beliefs have become their beliefs....non-Indians come in and swallow that hook, line, and sinker, like it was always that way....” (Ibid., p. 41). Some observers suggest that Sekaquaptewa’s unwavering determination was honed during his childhood struggles, namely those challenges related to his physical disability.²¹ His physical

Jr. ended his military career early, because of reoccurring health problems. In spite of these problems, Emory Jr. earned a law degree from the University of Arizona, and he later joined the university’s department of the anthropology.

²¹ As a child, Sekaquaptewa was stricken with a severe form of arthritis that restricted his physical

condition, in short, fostered a strong desire to battle the obstacles of life and it fueled his determination to make a difference.

Despite this handicap, Sekaquaptewa emerged as a strong person, a man that mirrored his family's independence of the traditional Hopi way of life. For example, the Sekaquaptewa family were members of the Church of Latter Day Saints and not followers of the Hopi way; they were ranchers and not farmers; the Sekaquaptewa children readily embraced professions uncommon to most Native people. Collectively these activities made the Sekaquaptewas stand apart from other Hopi families, which brought about accusations of the Sekaquaptewas being too "*Bahana*"²² or "white" (see Sekaquaptewa, *Me and Mine*, 1969; Kammer, 1980: 73). Anthropologist Richard Clemmer believes that the Sekaquaptewas (like other Christian Hopis) were outside the traditional Hopi world, and consequently, they were forced to prove themselves through other social institutions that were open to them (Benedek, 1999: 145).²³ Thus, the tribal government became an outlet to voice their beliefs and a stage to engage in those things important to themselves and the Hopi people.

Abbott Sekaquaptewa excelled in the non-Hopi world, and eventually, he evolved into one of the leaders of the "progressive" group of Hopis. Unlike the traditional Hopis, the progressive Hopis adopted the tribal government and used it toward the benefit of employment and federal programs. The traditional group rejected the authority of the

mobility making him reliant on a walking cane.

²² *Bahana* is a Hopi word that refers to white people or Euro-Americans. To be "*Bahana*" is the adoption of white traits, qualities, and beliefs over those of the Hopi people.

²³ Some Christian values conflicted with the Hopi way, for example, Hopi religion encouraged rain and fertility ceremonies; priestly rituals; permanent shrines; medicine societies. These practices were different from those of Christianity. The Mormons, however, welcomed the Hopis believing them to be the descendants of the Lamanites (see the *Book of Mormon*). As such, the Mormons were willing to work with the Hopis and attempted to establish economic and political ties with them. To this end, some Natives adopted Mormonism, while others ignored them. The Sekaquaptewas converted to Mormonism and established a lifelong relationship with church members, including Helen Udall, the mother of Morris Udall.

council and viewed them as federal agents of usurpation. During the 1960s and the 1970s, the Hopi Tribe was divided into these two political factions. In 1979, Abbott Sekaquaptewa passed away.

Barry M. Goldwater

Barry M. Goldwater, a Republican Senator from Arizona, served in the U.S. Senate during the years 1953-65 and 1969-87. Goldwater came from a pioneer merchant family that originated from Prescott, Arizona. The Goldwater family was continually involved in state and local politics beginning in the 1878.²⁴ In the early 1950s, Barry Goldwater began his own political career as a Phoenix council member; next, he unseated then-Senator Ernest W. McFarland in the election of 1952.²⁵ Goldwater's creed of local self-government, states' rights, and the decentralization of bureaucratic power, resonated well with the voters of Arizona. In time, Goldwater became a leading spokesman for conservatism, which culminated in his losing bid for the Presidency in 1964.

Over the years, Goldwater was viewed by congressional members as an "expert" on Indian affairs. On Indian related matters, his colleagues would often yield to him, because of his close proximity to the Natives, his continuous service on Indian-related issues, and his senior position in the U.S. Senate.²⁶ His exposure to Native people came from years of traveling around Indian country in his home state and establishing friendships among them. In fact, for a number of years, the Goldwater family owned a

²⁴ Morris Goldwater, the uncle of Barry, was involved in Arizona territorial politics and he was elected to the state legislature, county board of supervisors, and mayor of Prescott. The year 1878 marked the first election win for Morris. Morris became a central figure in Prescott and he became a major influence on his nephew (Iverson, 1997: 5).

²⁵ The 1950s witnessed major changes for the state of Arizona. Before the election of 1952, no Republican served in the state senate, and only eleven Republicans held seats in the state's House of Representatives (Iverson, 1997: 75). After 1952, Arizona elected a Republican governor and senator.

²⁶ Goldwater served on the Senate's Indian Affairs, Department of Interior committees during 1948-50.

trading post at Navajo Mountain, located on the Navajo Reservation. Goldwater would visit the trading post during his early years, and found great enjoyment in photographing the Navajos and their land. It was during these years that Goldwater developed a fondness for the Navajo people. Many Arizonans recognized Goldwater as a notable amateur photographer.

As for the Hopis, Goldwater's association with them began early in his life and he continued due to his interest in collecting kachina dolls. Reportedly, Goldwater owned a private collection of 437 kachinas, which were donated to the Heard Museum of Phoenix in 1968 (Iverson, 1997: 172). His admiration of the Hopis led him to join a group of white men called the "Smoki", who imitated Hopi dances with imaginary dance movements, while dressed in custom made Native regalia. The Smoki dancers were criticized by Hopis and non-Hopis for their "moronic attempt to be funny...a thoroughly offensive, objectionable and indefensible exhibition of bad taste" (Iverson, 1997: 164). Because of changing times and views about Native traditions, the Smoki dancers were pressured to stop their performances and they refocused their attention toward establishing a museum dedicated to Native people at Prescott. Goldwater believed he was honoring the Hopis by preserving a piece of Indian culture, despite the negative publicity he received from his affiliation with the Smokis (Ibid., p. 162). During his senatorial tenure Goldwater consistently spoke highly of Native people, always referring to them in lofty terms--more moral, more devout, more respectful of tradition (Ibid., p. 167).

Goldwater's views of the Navajo and the Hopis were different. Anthropologist Clemmer writes, "Even though Goldwater had enjoyed his relationships with individual Navajos, he had not formed the same kind of bond with the Navajos in general as he had with the Hopis....Within the vast Navajo reservation of Arizona, Goldwater traveled

widely but could not possibly have known the area in the same depth nor forged the kind of friendships he had at Hopi nor focused the same degree of attention on the nature of Navajo history and culture” (Iverson, 1997: 175). This unfamiliarity of the Navajos emerged during the formation of Public Law 93-531. Clearly Goldwater sympathized with the Navajos, but he supported the Hopi position of dividing the land from the beginning. Occasionally, Goldwater would side with the Navajo elders that were slated for removal, but he was committed to carrying out the Relocation law. He felt that the Hopis were in the right despite the Navajos’ claim of using idle Executive Order lands. Goldwater exclaimed the “Hopis had been there first (northern Arizona), thus they have first claim” (Ibid., p. 179). In 1976, he voiced his belief of the land dispute, “My feeling has always been that the Hopis are probably 95 percent right and the Navajos about 5 percent” (Ibid., p. 179). In 1982, Goldwater characterized the Hopis as “a poor tribe, a small tribe, while the Navajo Tribe is the biggest in the nation, and, by far the wealthiest” (Ibid., p. 180). His beliefs were firm and they remained consistent over time. Not surprisingly, Goldwater’s obstinate character often collided with the strong will of Chairman Peter MacDonald and therefore, interfered eventually with the plans of the Navajo leader.²⁷

At the time, Goldwater was Arizona’s senior senator and received institutional benefits from his colleagues during the authorship of Public Law 93-531. For example, senators who were unfamiliar with Native affairs often relied on Goldwater’s knowledge and experiences, and they would vote according to how Goldwater cast his vote. This practice of cue voting gave Goldwater significant clout in building support for a

²⁷ Goldwater and MacDonald constantly fought over relocation policy to the point that each of one felt personally insulted by the other person’s comments. Eventually this personal struggle evolved into a public feud, which was played out in the national media. Issues of partisan bickering were apparent, along with intentional governmental investigations of MacDonald initiated by Goldwater (See Kammer, 1980: 130).

particular piece of legislation. On another occasion, Goldwater helped fellow Arizona Senator Paul Fannin create a Republican bloc in the Senate Interior Committee that countered Navajo legislative efforts (Kammer, 1979: 7). It was during Goldwater's first term in the 1950s that he sought to address the land dispute (Ibid., p. 178). Barry Goldwater passed away in May 1998.

Dennis W. DeConcini

Dennis W. DeConcini was a Democratic Senator from the state of Arizona that served during 1977-95. During his tenure in office, DeConcini was viewed by some observers as a supporter of the Navajos, especially those Navajos that were affected by relocation policy (Kammer, 1980: 166). On a number of occasions, DeConcini tried to overturn the Relocation law by proposing alternative plans that would have kept the Navajos on the land. After the Relocation law was passed, however, DeConcini became involved in the administration of the law to ensure fair treatment of the relocatees. On one occasion, he attempted to restrict the authority of the Relocation Commission, by not allowing one commissioner employed by another governmental agency to receive financial compensation from the Relocation Commission.²⁸ DeConcini wanted all commissioners to devote their full attention to the administration of the law. In 1978, DeConcini proposed amendments to Public Law 93-531, which introduced the concept of "life estate", the plan recommended that those individuals living on the wrong side of the partition line would remain on the land with their dependents for the life of the head of household. They were, however, required to move once the head of household died. DeConcini believed this temporary delay would give the younger Navajos time to prepare for their eventual removal, while allowing the older Navajos to remain there undisturbed.

²⁸ The commissioner was Hawley Atkinson, who was employed by the Relocation Commission and Maricopa County (see Kammer, 1980: 181).

The DeConcini amendments were meant to “...soften the blow...[and to] help the old ones” (Kammer, 1980: 160). The DeConcini proposal passed both Houses, but President Carter²⁹ vetoed the plan.

On July 5, 1980, DeConcini and Morris Udall came together to sponsor another amendment (Public Law 96-305) to Public Law 93-531, a proposal that transferred to the Navajos up to 250,000 acres of Bureau of Land Management land; it authorized the Secretary of Interior to place into trust an additional 150,000 acres for the Navajos; restricted the Navajos from acquiring land on the Colorado strip in Arizona; and the law permitted up to 120 life estates (Report and Plan: Navajo & Hopi Indian Relocation Commission, 1981: 294). The DeConcini and Udall amendments was intended to make life a little easier for those caught under the jurisdiction of Public Law 93-531.

The end results of the amendment were to prevent the Navajos from acquiring federal land located on the Colorado strip. In essence, the proposal shifted the Navajo land acquisition to another area, while offering an alternative to those Navajos that refused to move off Hopi land. The DeConcini and Udall proposal was approved and signed into law July, 1980.

Morris K. Udall

Morris K. Udall was a member of the Arizona House of Representatives from 1969-91. He came from a Mormon pioneer family that was active in Arizona politics since 1899. Udall came to Congress by winning the seat previously held by his older brother, Stewart, who was appointed by President John F. Kennedy to Secretary of Interior. During Morris Udall’s tenure in the House, he developed a reputation as a

²⁹ Carter objected with two provision of the DeConcini bill: 1) the proposal gave both houses of Congress the right to veto recommendations of the Federal Relocation Commission; 2) the bill gave elected officials a chance to serve on the relocation commission (Kammer, 1980: 167).

workaholic, a defender of environmental issues, and an advocate of campaign finance reform.

Udall's admiration of the Native people is well documented. During his legislative career, he guided a total of 184 bills through Congress, which included the American Indian Religious Freedom Act, and the 1989 Native American Graves Protection and Repatriation Act (Carson and Johnson, 2001: 201). One Native lobbyist praised Udall saying, "Mo's influence went way beyond the bills introduced....Bills to strike at the heart of Indian treaty and other rights never saw the light of day during Mo's chairmanship. Mo sat on those anti-Indian bills, often in the face of heavy pressure from some of his colleagues to move on them" (Ibid., p. 205). Udall chaired the House Interior Committee. Because of his closeness to both tribes, Udall decided not to actively involve himself in the debate of the Owens Bill (i.e. the Relocation Law). In 1974, he voted against Public Law 93-531, although he believed the law represented a fair solution to an extremely difficult problem (Ibid., p. 206). In the end, he was torn between the federal government's relocation policy as an equitable solution and his commitment to the Native tribes.

As a result, he co-authored a proposal with Arizona Senator John McCain that sought to create a Navajo-Hopi land swap; a Navajo payment of \$300 million in mineral royalties; and the Hopis to provide acreage to sixty-two Navajos remaining on lands awarded to the Hopi (Ibid., p. 206). The Udall-McCain proposal was rescinded once he found out it lacked the support of the Hopi Chairman, Senator Goldwater, and the Reagan administration. At the end, a federal court mediated the concerns of the Navajo resisters by encouraging the Hopis to authorized 75-year leases to them. One source reported Udall felt the Relocation law was "not perfect, but it's fair..."; and on the question if Congress would reconsider the law, he remarked, "I doubt that anyone is going to want to

open this can of snakes again.” (Kammer, 1980: 171 & 219).

Despite his belief, Udall later realized the law was not the best solution, and he co-authored the 1980 Amendments, which sought to mitigate the damages, caused by the original law. Specifically, the amendments addressed: 1) Securing more land for the Navajo from the Bureau of Land Management; 2) Limiting Navajo land selection to areas near the Navajo reservation, which exempted the Arizona strip from consideration; 3) Creating life-estates for those relocatees that desired to remain on the land (to be eligible, one had to be over 49 years of age).

Udall realized that the Relocation law was an extremely difficult measure. Udall is described as wrestling over the removal policy, because his mother was a personal friend of Helen Sekaquaptewa, the mother of Chairman Abbott Sekaquaptewa. Additional pressure was exerted on Udall by the Navajos, who had the support of the Democrats and organized labor. These two factors, the Democrats and the Union, were necessary components to further Udall’s presidential aspirations in 1976 (Udall sought his party’s nomination for the White House in 1976). In the end, Udall did not engage himself in the floor debate of the Owens Bill, and was said to have told Sam Steiger, “I can’t help you, but I won’t hurt you” (Kammer, 1980: 116). Morris Udall resigned from Congress in 1991 and passed away in December 1998.

Sam Steiger

Sam Steiger, an Arizona Republican, served in the House of Representative from 1967-77. During his term of office, Steiger developed a reputation as a conservative legislator that opposed the federal bureaucracy, and legislation that regulated strip-mining and control land use (Kammer, 1980: 94). His strong independent character made him stand out from other legislators and it earned him an image of a congressional maverick.

In 1976, Steiger ran for the U.S. Senate, but was unsuccessful in his bid.

Steiger sponsored a bill (H.R. 5647) that defined the scope of the succeeding relocation policy known as Public Law 93-531. The Steiger Bill, as it was known, proposed dividing the 1882 Executive Order Reservation between the Navajo and Hopi Tribes, and removing persons living on the “wrong side” of the proposed property line. It also determined subsurface rights to be held in a joint, equal, undivided ownership administered by both tribes. The Steiger Bill was introduced to the House of Representatives in 1970, and congressional hearings were held in 1972. It passed the House with the prodding of Steiger, but the proposal died in the Senate. Moreover, the bill made Indian removal a viable policy option for Congress. Steiger believed his proposal would restore order in northern Arizona and prevent future violence from occurring on the Joint Use Area. Several clashes occurred between tribal members due to the impoundment of Navajo livestock by the Hopis after the Hopis caught them grazing in District Six. These heated incidents occurred before the Steiger Bill hearings.

Steiger supported removal of the Navajos from Hopi areas within the 1882 Reservation. Because of his uncompromising views he was seen as an enemy of the Navajos. He also fueled the anti-Steiger feelings by casting the Navajos as “intransigent marauders, who deserved to be punished and removed from the land they had taken from their poor small neighbors” (Benedek, 1992: 152). Commenting on his bill, Steiger believed it was “excessively generous” to the Navajo; however, his proposal did not provide adequate provisions to compensate those that were required to move off the land (Kammer, 1980: 95). On the other hand, the Hopi chairman applauded Steiger stating, “[Steiger] deserves the highest compliment in his courage in continuing to fight in behalf of the Hopis...” (“Hopi Victory,” 1974). Steiger was perceived by the Navajos as part of

the Hopis' campaign to discredit the Navajos' land claims. Navajo historian Brugge (1994) believes the Steiger Bill failed, because it demonstrated the Hopis' "fervor for retribution" against the Navajo (p. 216). Opposition of the Steiger Bill came from the Navajo government, Democrats, Navajo/Hopi activists, and organized labor.

Lloyd Meeds

Lloyd Meeds, a Democratic member of the House of Representatives from the state of Washington served from 1965-79. Meeds proposed a bill that directed the Navajo and Hopi governments to negotiate and arbitrate a solution to the land dispute. Accordingly, the Meeds Bill (H.R. 7679) instructed the tribes to negotiate for a period of six months with the help of federal mediators. The proposal required tribal negotiation teams to present their cases before a three-member Navajo-Hopi Board of Arbitration (hereafter called the Board). Through amicable dialogue it was hoped that the two groups would come to an agreement over the land dispute. If the talks failed, however, then each tribe was required to submit their best "last offer", and from these two offers, the most fair and reasonable one would be chosen by the Board. The Board reserved the right to modify the "last offer" to assure a fair and equitable settlement. This final proposition, then, must be approved by the U.S. Attorney General for its constitutionality, and receive the support of Congress.

In 1977, Meeds felt the Navajos had a very close relationship to the land and they should remain on it (Kammer, 1980: 111). His bill, H.R. 7679, failed to leave the House Subcommittee on Indian Affairs as it separated along partisan lines with the Republicans supporting the Hopi position and the Democrats standing behind the Navajo (Ibid., 109).

The Meeds Bill had the greatest chance for a pro-Navajo decision, according to

Navajo Tribe attorney Richard Schifter. Schifter believed that Chairman Peter MacDonald should have concentrated on getting this proposal through Congress, because if approved, the Navajos increased their chances of getting more than half of the Joint Use Area from the federal arbitrators (Kammer, 1980: 115). Of course, this belief was premised on the Hopis rejection of any overture offered by the Navajo. Nonetheless, MacDonald's limited focus on the Lujan proposal and his untimely switch toward the Meeds Bill came much too late. In the end, Hopi supporters made great strides to overcome MacDonald.

Manuel Lujan

Manuel Lujan, a Republican member of the House of Representatives from New Mexico who served from 1969-88. Lujan co-sponsored a bill (H.R. 7716) with Arizona Congressman John B. Conlan that authorized the Navajos to pay the Hopis for their interest in the 1882 Executive Order Reservation with money borrowed from the U.S. (Brugge, 1994: 227). The Navajos favored this proposal and it received significant play from them, because it eliminated any discussion of removal from the 1882 Reservation. Lujan felt the land dispute was the result of a series of inconclusive and ambiguous federal actions beginning with President Chester Arthur's creation of the 1882 Executive Order Reservation (Kammer, 1980: 5). He firmly supported the Navajos, and voiced his thoughts to that effect, "I still believe that the solution imposed by the legislation in 1974 is a bad solution. When people have to be moved from places where they were born and raised, it is not an equitable solution, so far as I am concerned" (Ibid., p. 214). The Lujan Bill did not receive serious attention in congressional committee, because the Owens Bill captivated Congress as a solution to the land controversy. Consequently, the Lujan Bill was dismissed. In December 1989, Lujan was appointed by President George W. Bush

as U.S. Secretary of Interior.

Wayne Owens

Wayne Owens, a Utah Democrat House member who proposed the framework of relocation policy. The Owens Bill (H.R. 10337) authorized a District Court to draw a boundary line for the Joint Use Area, dividing the land between the Hopi and Navajo Tribes. Accordingly, some 243,000 acres would be transferred to the Hopis along with *Moencopi*, a Hopi village located near the Navajo community of Tuba City, Arizona. The law stipulated that the Secretary of Interior would remove those Indians found on the “wrong side” of the line and return the land to the appropriate Indian tribe. To accomplish this task, \$28 million was committed for its implementation.

A second amendment to the Owens Bill was sponsored by Senators Goldwater and Fannin, which delegated the responsibility of land distribution to a federal court, and not the Secretary of Interior. It was called the “Settlement Act of 1974”. The other legislative provisions remained the same. This change was adopted and became part of the Public Law 93-531.

James Abourezk

James Abourezk served in the U.S. Senate from the state of South Dakota. He was chair of the Subcommittee on Indian Affairs during the initial phase of relocation legislation. Abourezk opposed relocation policy and he wanted the Navajos to remain on the land. To this end, Abourezk drafted his own bill (S. 3724) that would: 1) Authorize a judicial partitioning of the Joint Use Area (hereafter called JUA); 2) Transfer *Moencopi* area to the Hopi Tribe; 3) Award life estates to Navajos born within the JUA or allowed the Navajos to remain on the JUA for a period equal to their previous occupancy, that is

the time before Public Law 93-531 (Lapahie, 1999). In Abourezk's view, he felt relocation policy was repugnant, and the passage of Public Law 93-531 was an act of "replacing human beings with livestock" (Kammer, 1987: 127). Abourezk stated "basically, Congress has no interest in Indians" (Benedek, 1999: 151).

Paul Fannin

Paul Fannin, an Arizona Republican Senator who served from 1965-77. Fannin supported dividing the 1882 Executive Order Reservation between the Navajo and Hopi Tribes. He was an ally of Barry Goldwater and worked within the congressional committee system to advance their case for Navajo removal. To this end, Fannin co-sponsored legislation with Goldwater that did not allow the Navajos any financial compensation for the losses from relocation. This version was not accepted.

John Boyden

John Boyden, served as General Counsel for the Hopi Tribe beginning in 1951. Before his appointment, he began his private work with the Hopis in 1938. Boyden was responsible for providing legal advice to the Hopi Tribe during the relocation of the Navajos, and he is credited for getting the Hopis' possession of the 1882 Executive Order Reservation. John Boyden passed away in 1980.

Norman Littel

Norman Littel, served as General Counsel for the Navajo Tribe from 1947-66. Littel came to work with the Navajo Tribe from Virginia, but before coming he served as Assistant Attorney General Littel under President Roosevelt.

Conclusion

This section of the dissertation examined the history of the Navajo and Hopi land dispute and found the issue is rooted in several sources. First, the ambiguous wording of the 1882 Executive Order failed to specify exclusive ownership of the reservation lands. Because of this imprecise language and lack of action the Navajos were allowed to remain on the 1882 Reservation with the Hopis. Second, the rapid growth of the Navajos quickly engulfed the Hopi villages and limited the Hopis' access to the land. Furthermore, the competing livelihoods of the Navajo and Hopi people intensified the land dispute, which were opposing means of subsistence. Finally, the federal government's continual failure to address the land dispute created lasting social and political problems that were felt for years to come.

Views of who owned the land differed. The Navajos felt they owned the land based on their physical occupation of it. On the other hand, the Hopis argued ownership based on aboriginal rights that preceded the arrival of the Navajo. Since the tribes could not agree on how to settle these differences, the land dispute required federal intervention. To this end, Public Law 93-531 was created, which authorized a federal court to determine complete ownership of the land. Major issues that were settled by the law were: 1) establishing surface/subsurface rights of the disputed area; and 2) the removal of Navajos/Hopis from the disputed area.

The major policymakers of the legislative process were Navajo Chairman Peter MacDonald, who adopted the land controversy as his own personal fight. Hopi Chairman Abbott Sekaquaptewa and Senator Barry Goldwater of Arizona, who both challenged MacDonald. In the end, the Sekaquaptewa/Goldwater alliance proved too much for MacDonald to overcome as he lost to them in Congress. What did

Sekaquaptewa/Goldwater do to defeat MacDonald? Were the voices of the traditional people considered? If so, were their concerns incorporated in the Relocation law? These issues will be explored in greater depth in the next chapter.

CHAPTER 6

PUBLIC LAW 93-531: THE FINAL SETTLEMENT

The analysis of Public Law 93-531 uses the coalition model discussed in Chapter One. We will examine the legislative process and the key individuals who impacted policy formation. Coalition politics is used to better understand the passage of the Relocation law and how the policy became adopted. To this end, the study will illuminate the group linkages and the related associations. Some of these linkages and associations were briefly mentioned in the preceding chapter under the biographical section; however, a more in-depth analysis will be covered in this section.

The analysis will begin by examining the legislative record to see who entered the legislative process and what type of resource(s) was shared with their coalition partners. Key resources that helped unite these parties/interests are: 1) time; 2) information; 3) financial resources; 4) resourceful supporters; and 5) effective legislative relationships. Coalition politics makes use of these resources so policy options can come about as well as policy adoption. The amount of resource(s) a group commits to a particular project is a decision that group(s) must make. Reasonable and efficient use of these resources can help a coalition in the legislative process such that greater resources alone do not determine the outcome alone. For example, how much time and financial resources a group spends canvassing legislators varies according to the relevance and importance of the issue. Each resource should be utilized to maximize its effectiveness in achieving the group's goal. Of course, the more resources a group brings to the legislative process, the more influential they are relative to their opposition. The mere possession of resource(s), however, does not guarantee a victory in the legislative process. Thus, resources should be perceived as tools that can help the participant(s) arrive at their chosen objective.

The Relocation law was influenced by a number of people. First, the Chairmen of the Navajo and Hopi Tribes, Peter MacDonald and Abbott Sekaquaptewa. Each person represented their tribe with vigor and strong leadership, which did not allow for compromise with the other. In addition, they were supported by Congressmen who were divided according to partisan loyalties on the land dispute--the Republicans supported the Hopis, and the Democrats supported the Navajos. Because of this division, each legislative proposal has a particular partisan tag attached to it based on their personal viewpoint. Therefore, each proposal will be further examined after reviewing the Healing case, the legislative record, and the Union connection.

As such, this study will consider these factors in evaluation of the legislative process relative to the Navajo-Hopi land dispute. By focusing on these factors, an understanding of the resource and process will develop. For example, the input of the Native traditionalists of both tribes will be considered based on the type of information they provide, and the resources provided by their supporters. The usefulness of a resource is judged on whether or not the resource advances the group's objective. Supporters of the Navajo faction will be similarly evaluated and they will be compared to those of the Hopi group. Before examining the legislative record, however, some attention will be directed toward recognizing how these Native tribes dealt with communal use of the homeland and its resources in the past.

More specifically, particular tribal members were restricted to an agreement they executed with each other in the early 1850s.¹ The intertribal agreement, called a *tiponi*, regulated the relationship and understanding between those Navajos that occupied Hopi lands upon their return from Fort Sumner, New Mexico. It was an agreement sanctioned by both tribal leaders and is held in high regards in those communities. The *tiponi* is very

¹ One source stated the time of agreement was executed in 1850, although the Navajos were released from captivity after signing the 1868 Treaty (Clemmer, 1996: 234).

special, it did not bind every Native, but was significant to those who knew of its existence and meaning. This lack of awareness was a source of friction between both Navajo and Hopi people, which intensified over time.

The Traditional Agreement - The *Tiponi*

Hopi oral history describes an agreement made with particular groups of Navajo returning from military imprisonment at Fort Sumner, New Mexico. After arriving back to their homeland, several groups of Navajo sought to establish settlements on areas held by the Hopis of First Mesa; but before they could settle there, customary practice required them to secure permission from Hopi village leaders since the land belonged to them. After consulting with the village elders of *Walpi*, the Navajos were granted permission to settle there provided they lived in peace and refrained from pillaging the Hopis. The Navajos agreed to those terms and they commemorated the event by creating a sacred talisman, which was highly regarded by both tribes. There was no exchange of monetary compensation, rent, or written lease agreement. Navajo leaders presented the Hopi *kikmongwis* with a “*tiponi*” or medicine bundle that served as a spiritual charter of their occupation of *Walpi* land.² It was unconditionally accepted by the Hopi *kikmongwis*. Essentially, the *tiponi* obligated the Navajos to keep their promise of peace, and if they failed to honor their words, then the Hopis could demand for their immediate removal from the area. Clearly the *tiponi* was an instrument to be honored and respected. Moreover, the agreement established a lasting social relationship between the two tribes,

² The *tiponi* is a ceremonial object consisting of objects wrapped in rawhide and topped with feathers. It is said to “[contain] spiritual power which authorizes action and protects like a guardian spirit” (Clemmer, 1995: 233). It is used to validate a sacred agreement made between two or more tribes and is believed to be a living object of their agreement.

while marking the westernmost boundary of Hopi territory.³

Duke Pahona, First Mesa Crier Chief, was the last person to have possession of the *tiponi*, and he was reportedly the last Hopi to understand its complete oral history (Clemmer, 1995: 233). During his lifetime, Pahona served as a custodian of the *tiponi*, and he occasionally disclosed it to remind his fellow kinsmen of the earliest Navajo-Hopi agreement and to revisit the Navajos' pledge of peace. In fact, Richard Clemmer writes that during a congressional hearing in 1957, Pahona took the *tiponi* to a Senate hearing at Washington, D.C. He shared the story of its origin and sought to educate the congressional members of the indigenous agreement.

Pahona was considered to be a "traditional" Hopi. He made his viewpoints known to a national audience expressing his opposition to forced relocation, and his concerns as a Hopi person.⁴ Pahona felt the tribes should be allowed to resolve their differences through meetings held between tribal elders, who knew and respected the significance of the *tiponi*. The importance of the *tiponi* is that it represents a mutually honored intertribal agreement, which allows for a positive working relationship between the two tribes, even though it was not a fully regarded Native pact. To this end, some traditional Hopis believed that the Navajos violated the *tiponi* during the 1960s, and as a result, they felt their removal from Hopi lands was justified (Clemmer, 1995: 239). A significant number of traditionalists, however, held that no violation of the *tiponi* occurred and the removal policy of the Hopi government should be ignored (Mails, 1997: 118-22). An ongoing issue for the Hopi Tribe at this time was regarding which group of Hopis--the pro-Navajo traditionalists, the anti-Navajo traditionalists or the progressive

³ This stone landmark is located near modern-day Ganado, Arizona.

⁴ Pahona died from black lung in 1977.

Hopis--would have their political preferences expressed over the other. Some pro-Navajo traditionalists were helping their Navajo neighbors by openly opposing the Hopi government. This group, led by female *kikmongwi* named Mina Lansa of *Oraibi*, aligned themselves with traditional Navajos, and their sympathizers. On the other hand, the progressive Hopis acknowledged the authority of the tribal government and supported the removal of the Navajo from the areas awarded to the Hopi Tribe pursuant to Public Law 93-531. The spokesperson for the progressive faction was Hopi Chairman Abbott Sekaquaptewa. These two groups repeatedly conflicted with each other, and they further confused the uninformed non-Native community with contentious messages of Navajo removal or continuance of the status quo. Consequently, non-Natives questioned who the “real” Hopis were and what was their position concerning the Relocation law.

The intermingling of Hopis and Navajos has certainly occurred over the centuries and has been represented in marriages and preserved in both tribes’ age-old traditions such as song and dance. For a person of mixed Navajo and Hopi ancestry, it is difficult to separate the two worlds, unless that person was raised favoring one tradition over the other. Although they are unique in their own right, these tribes have certain things in common, which makes their relationship symbiotic.⁵ Because of this extensive history, the land dispute did not affect most Natives of the region, but it evolved into a heated dispute between outsiders, politicians, and their lawyers. Consequently the media coverage captured the tribal leaders posturing against the other to increase support from their tribal members. For example, Navajo Chairman Peter MacDonald was criticized for his uncompromising nature, which some Navajos felt cost them additional land lost to the Hopis (Benedek, 1999: 155). His hardness of opinion is well documented. On several

⁵ The Hopis and Navajos have historically relied on each other to provide foods, fabric, medicine, and other physical needs. Moreover, the two tribes have intermarried over the centuries and have populated the area with children from these unions. In fact, the Navajos have acknowledged this growth in their people and have designated a tribal clan after these people.

occasions, during the shaping of the Relocation law, the traditionalists made reference to the *tiponi* and recalled the meaning it symbolized between the tribes. The reason for this recall was to draw attention to the *tiponi* and reignite its purpose for the preservation of the tribes. In the present-day, however, it is debatable whether or not the Hopi traditionalists still carry the same level of influence in the Hopi community. As for the *tiponi*, its immediate possessor and location are unknown.

The Hopi Traditionalists

The traditionalists are a group of Hopis that were bound by their commitment to the Hopi way and their vigorous allegiance to maintain the Hopi culture and livelihood. As a result, they defined their existence according to Hopi culture, history, and daily life of which was passed down through oral instruction (Clemmer, 1996: 181). According to Hopi tradition, their lifestyle was established by *Massau*, a supernatural deity, who instructed the Hopis how to live and care for the land, while protecting those living things they shared creation with. Traditional Hopis wanted to share this message with the outside world, and thus appointed key individuals to impart this wisdom to the larger society.

The main spokesperson of the group, Thomas Banyacya, has been credited for helping establish the Hopi conservative movement in 1948. Banyacya was well versed in Hopi traditions and a member of the Water-Coyote clan, despite not being initiated into a traditional Hopi men's society⁶ (Matthiessen, 1979: 79). At the time, Banyacya lacked initiation into men's society and therefore those who sought to exploit this cultural

⁶ Typically most Hopi leaders came from particular men's societies and were trained in the Hopi way. As such, they developed skills and relationships necessary to make their roles effective for the community they lived in. Essentially, they became active members of the village, and knew the history of the people and the land.

shortcoming often criticized him. In the mid-1960s, however, he was brought into a Kachina Society through the sponsorship of Dan Kochongva, a Hotevilla *kikmongwi*. Importantly, he and other traditionalists tried to reinvigorate the old Hopi order, as they understood it and impart their age-old views of land and people. It is an organic view of a structured society with people performing tasks they were assigned to do to insure a balanced existence. In fact, on numerous occasions, Banyacya and others shared their vision with members of the United Nations, calling for the industrialized world to rethink their usage of the land and its resources (Clemmer, 1996: 192). They also have demanded for the Hopi government to restore the social and political power taken away from them via American institutions such as boarding schools and the Bureau of Indian Affairs. In addition, they have consistently maintained they have not and will not surrender their historic and sovereign rights to any group or government. Despite this objection, the U.S. has recognized the tribal government as the official representative and voice of the Hopi people. The traditionalists view the standing Hopi government as an illegitimate institution, because it usurped their social and political authority. Thus, the Hopi Tribal Council was often seen as a “puppet” or “extension” of the federal government.⁷ In the words of traditionalist Dan Katchongva:

“The Hopi Tribal Council is being reactivated today but to us religious leaders it is not legal; it does not have the sanction of the traditional headmen. And it composed of mostly young and educated men who know little or nothing about the Hopi traditions. Most men supporting it are Indian Service employees, men who have abandoned the traditional path and are after only money, position and self-glory. They do not represent the Hopi people...” (Report to the Hopi

⁷ The Hopi tribal government was established by Indian Commissioner John Collier with the help of Oliver LaFarge, who wrote the Hopi Constitution and bylaws that were “approved” by an election of the Hopis in October 1936 (Matthiessen, 1979: 78). The election, however, was rigged in favor of LaFarge’s constitution with less than a majority, the Hopi Constitution was approved and it established the tribal government. An excellent review of the Constitution’s ratification process is found in Report to the Hopi Kikmongwis & Other Traditional Leaders on Docket 196 & The Continuing Threat to Hopi Land & Sovereignty (1979), Chapter 4.

Kikmongwis & Other Traditional Leaders on Docket 196 & the Continuing Threat Hopi Land and Sovereignty, 1979: 84).

Banyacya adds:

“There’s no dispute between the Navajo and Hopi, it’s the Tribal Councils and the big energy companies and the U.S. government who are in dispute against the Navajo and Hopi who live on the land. The Great Spirit didn’t want the land dug up to create nuclear weapons (referring to uranium mining). If you were born on the land then that land is your home....The [Hopi] prophecies say the Navajo will intermarry and trade with us, and we’ll hold the land together.” (Mander, 1991:268).

The rise of the traditionalist movement can be traced to the 1906 split of *Oraibi*, which occurred between the traditional and progressive Hopis. This traditional-progressive division became more defined in the 1940s as the traditionalists began to define their character separate from the progressives (Clemmer, 1995: 181). One group, the progressives favored the adoption of non-Hopi practices into the Hopi life, such as Christianity, a wage labor economy, and the commercialization of natural resources. The other Hopi group, however, chose to observe and practice the Hopi way, which called for maintaining culture, farming, and living within the means of the land. Since then, the Hopi people have been philosophically divided into these two factions (i.e. traditional and progressive), with other tribal members dispersed between them. These differences become evident when actions are taken against the land or people living within the Hopi homeland. The traditionalists have continuously voiced their concerns against the U.S., which culminated with the “Letter to the President in 1949.”⁸ In the case of the

⁸ This letter was addressed to President Truman and signed by 19 religious leaders. Other “Letters” were sent to Presidents Eisenhower through Reagan, and stated: the “Hopis had a special knowledge; it was important that the world share in this knowledge; dangerous times are upon us and greater dangers are foreseen for the future; the President must come to Hopiland and meet with the real and true leaders of the Hopi people--the Kikmongwis and other mongwis” (Clemmer, 1996: 192). Andrew Heremequaftewa of Shungopovi, and Dan Katchongva of Hotevilla authored these letters.

traditionalists, they were a loosely knit group rooted in Hopi ideology and prophecy. Richard Clemmer writes the traditionalists drew their authority from a combination of “prophetic ideology, history, expediency, and an affirmation of tradition, intuition, and revelation over ‘progress,’ majority rule, and urbanization” (Clemmer, 1996: 166). Because they practiced open membership, people were free to come and go. This fluidity of people gave rise to other influential Hopi leaders--Mina Lansa, Dan Evehema, David Monongye⁹--that helped secure invaluable off-reservation communicative support from non-Hopis.¹⁰

The traditionalist movement operated independent of the established *kikmongwi*'s organization. Meetings were held in each village and gatherings were sporadic and scheduled abruptly. However, its leaders were drawn from persons that helped with the important religious functions of the tribe such as a medicine society.¹¹ A majority of the traditional people that comprised the movement came from the Hopi villages of *Hotevilla*, *Shungopavi*, and *Mishongnovi*. Some non-Hopis were invited by Hopi elders to join the traditionalists in the early years of the land dispute, such as Anglo writers Thomas Mails and Peter Matthiessen. These non-Hopis helped voice a message of frustration on behalf of the traditionalists via a newsletter called *Techqua Ikachi* and other nationally published sources. To help the Hopis, they brought with them their knowledge, skills, and experiences of the Anglo world. Other marginal group players,

⁹ Writers of the period identified the major characters of Hopi conservatism: 1) Mina Lansa a woman *kikmongwi* from *Oraibi*, who is became the spokesperson for the traditionalists; 2) Dan Evehema a Hopi elder from *Hotevilla*, who worked with non-Hopis to create *Techqua Ikachi*, a pro-traditionalists publication; and 3) David Monongye a Hopi elder from *Hotevilla*.

¹⁰ Hopi traditionalists have been communicating with outside non-Hopis to improve the way they address Hopi issues. For example, the period 1955-66 witnessed Indian spokesman Mad Bear Anderson, Cherokee medicine man Rolling Thunder, and Chumash medicine man Semu Huarte give their organizational support to Hopi elders (Matthiessen, 1984: 82). These Native leaders were instrumental in defining the political agenda of the period, which later became known as Red Power.

¹¹ A medicine society is a “small secret group composed mainly of men who have knowledge of the initiated and possess mighty powers by virtue of that knowledge” (Dutton, 1983: 43).

such as the Native American Rights Fund and Black Mesa Defense Fund, sought to secure support from politicians and activists. Unlike other social movements, the traditionalists had no central office, budget, or systematic campaign (Clemmer, 1996: 181).

The traditionalists of both tribes agreed on two key issues; the first issue was to honor the *tiponi* and to reinstitute its philosophical bases of mutual understanding. Moreover, honoring the *tiponi* was consistent with the Hopi way, and respecting *Massau's* teachings in being in harmony with all creations. Banyacya succinctly summarized this point of view, "If you really are Hopi, you really want to preserve this land, life and look to the future welfare of all our people throughout this land" (Lapman, 1973: 30). In the context of the *tiponi*, it was believed that the Native elders could arrive at some peaceful solution for the dispute. Navajo Chairman MacDonald preferred the federal government to keep out of what he termed an "Indian problem", and his sentiments were concurred by Hopi spokesman Banyacya ("Congress Shouldn't," 1972)("Hopi Traditionalists Oppose, 1972). Essentially the traditionalists did not want any governmental entity to arbitrarily appoint themselves as the voice of the people and issue orders on their behalf. Instead they wanted tribal elders to gather, discuss, and resolve these matters. To this end, not all traditional people wanted the Navajos to remain on the land as they saw their presence as a means of them appropriating more Hopi land. Banyacya stated "the [Relocation] law is a bad law, and we do not support the law, but the land is Hopi land" (Feher-Elston, 1988: 66). MacDonald, however, chose to represent the Navajos in all matters pertaining to a land settlement and by virtue of his elected office he designated himself as the official Navajo spokesperson.

A second point of agreement was the elimination of strip-mining on Black Mesa, because the act violated Native religious principles and desecrated the environment. A

statement issued by the Coalition of Navajo Liberation (CNL) summarized this tribal position:

“Our clean waters are clouded with silt and the wastes of the white man; Mother Earth is being ravaged and squandered. To the Navajo people it seems as if these Europeans hate everything in nature--the grass, the birds, the beasts, the water, the soil, and the air. We refuse to abandon our beautiful land. To Navajos, land was something no one could possess, any more than he could possess the air. Land is sacred to the Navajos, it is part of the Almighty’s design for life...” (Grinde and Johansen, 1995: 130).

Moreover, the views of CNL contrasted those of Navajo Chairman Peter MacDonald as CNL opposed on-reservation gasification plants, placement of power lines over the reservation, Black Mesa mining and the extraction of uranium. MacDonald favored nearly all types of business ventures as long as the Navajos were compensated for the reservation-based enterprise. In fact, CNL members demanded for the resignation of Chairman Peter MacDonald in 1976, because of his support of coal strip-mining, which was represented in a lease with El Paso Natural Gas and Consolidated Coal. Based in Shiprock, New Mexico, the group demonstrated that the “closer to grassroots level an energy development proposal came, the more strongly it was opposed” (Ibid., p. 129). Simply put, this regional group of Navajos held MacDonald and the tribal council accountable for their actions and they confronted them with their disapproval. The period 1974-76 marked the height of CNL, and they steadily declined in popularity following the death of their leader Fred Johnson.

Interestingly enough, Navajo elders that opposed Public Law 93-531 law were regional leaders, and not widely known to other Navajo people. Consequently their messages were not widely heard unlike those of the Hopis who were protesting since the 1940s. Spokesmen of the Hopi were skilled speakers and established a network of

supporters in Congress, as well as contacts in Hollywood.¹² Navajo opposition to relocation became a relevant issue to most Navajos only after the Relocation law was enacted and their removal became imminent. David Brugge writes:

“The people of the disputed area brought their pleas only to the tribal government, and there with varying success, for they constituted no more than about 10 percent of the Navajo population, while they knew that the tribe as a whole suffered a great many other difficulties....The people of the dispute land never were able to make a tribal cause out of their dilemma” (Brugge, 1994: 243).

Thus, the Navajos were simply reacting to legislative proposals and they were not actively participating in its formation. A recent manifestation of this reactionary mode are the dissenters of relocation who reside in the Big Mountain area of Navajo country. To all Navajos, Big Mountain is important because of its place in the Navajo origin myth. It harbors medicinal herbs that are necessary for the spiritual and cultural well-being of the Navajo. Peter Matthiessen writes “Big Mountain is the most prominent feature in the heart of Black Mesa, and Black Mesa in its entirety is sacred, [as] sacred as the four sacred mountains of the Navajo people” (Matthiessen, 1979: 318).

Katherine Smith and Roberta Blackgoat, Big Mountain spokespersons, equally became symbols of the *Dineh*¹³ resistance that galvanized the support of people from around the world. Their protests and level of organization were unprecedented for the Navajo people as they proclaimed themselves “The Independent *Dineh* Nation”.¹⁴ The Big Mountain Navajos openly protested against the U.S. and called into action Chairman

¹² Banyacya was able to secure the support of actors Jon Voight and Elizabeth Taylor to host fundraisers and speak out against relocation policy. Later, in 1986, the Big Mountain Navajos found allies in Voight, singers Stevie Van Zandt, Connie Stevens, and Buffy Sainte-Marie (Benedek, 1999: 322).

¹³ *Dineh* is a Navajo word, which means “the People”.

¹⁴ In 1978, the Big Mountain Navajos declared their independence and sovereignty “...the sacred laws of the *Dineh* gives no authority for the federal government and its related agencies to intrude and disrupt the sacred lands of Big Mountain” (Parlow, 1988: 201).

Peter MacDonald. Before 1974, the Big Mountain Navajos had little interest in politics, but after that year they actively participated in protest walks, confronted Senator Barry Goldwater on numerous occasions, and continued to advocate repeal of the Relocation law. In the end, Public Law 93-305 addressed some of their concerns such as authorizing life estates on Hopi land and the acquisition of 250,000 acres (see Chapter 5). Despite these legislative accommodations, the removal law remained firmly in place.

The Healing Case

John Boyden, Hopi Tribal attorney during the years 1944-80, is responsible for bringing the mining companies onto *Tutsqua*. After Boyden established himself as the legal counsel of the partly reconstituted Hopi Tribal Council (1951), Boyden moved to question a legal opinion that found the Navajos held mineral rights to the 1882 Reservation (Report to the Hopi Kikmongwis & Other Traditional Leaders on Docket 196 & The Continuing Threat to Hopi Land and Sovereignty, 1979: 111).¹⁵ By challenging the Solicitor's 1946 opinion¹⁶, Boyden sought to clear a path for mineral leases a tract of land called the Joint Use Area (hereafter called JUA). The following year in 1955, saw Humble Oil and Refining Company, General Petroleum Corporation, and Sun Oil Company prospecting on the Hopis' half of the 1882 Reservation. By the mid-1960s, 63 percent of the Hopi Reservation (District Six) was opened to oil companies (Redhouse, 1985: 13). Other petroleum companies expressed interests in mining the 1882 Reservation, but they could not excavate or extract minerals from the

¹⁵ The Hopi government was revived to deal with passage of the Indian Claims Commission Act of 1946 and the Navajo-Hopi Act of 1950 (Clemmer, 1979: 533).

¹⁶ On June 11, 1946, the Solicitor issued *Ownership of the Mineral Estate in the Hopi Executive Order Reservation*, an opinion which stated "the rights of the Navajos within the area who settled in good faith prior to 1936 are co-extensive with those of the Hopis with respect to the natural resources of the reservation" (Redhouse, 1985: 9).

JUA until its ownership was made clear.¹⁷ To obtain Hopi ownership, therefore, Boyden initiated a law suit against the Navajo government over their interest to the 1882 Reservation. Boyden's move was welcomed by Navajo Attorney Norman Littell, who wanted a federal court to decide the ownership of the land.¹⁸ These actions were pursuant to Public Law 85-547, a legislation that provided the necessary authority to allow the tribes to engage in legal actions over ownership of the land. It led to the landmark ruling of Healing v. Jones (1962) that established all rights pertinent to the JUA.

The Healing case answered several questions concerning the ownership and distribution of the disputed land. First, the court decision determined that District Six of the 1882 Reservation belongs exclusively to the Hopis, therefore the Navajos could not live within its confines. Second, the case determined that each tribe possessed joint and undivided ownership to the area. Thus each tribe owned one-half interests of the JUA. The Order, however, did not preclude mining on the JUA, and if this activity were to occur on the JUA, then both tribes had to agree to those terms and each would share in the mineral profits. This ownership extended to surface and subsurface rights, thereby including mineral rights to the 1882 Reservation. Third, the case ordered the two tribes and the federal government to fairly administer the JUA, and if that failed, then the need to partition the area became necessary. In 1973, the Navajos submitted to the Hopis a proposal for joint administration of the JUA; however, the Hopi Tribal Council rejected the plan since there was no reason to share the land with the Navajos (Aberle, 1993: 161). One year earlier, in 1972, a federal court ordered the Navajos to reduce their usage of the

¹⁷ Redhouse (1985) writes "In 1970 and later in 1976, the Arizona Bureau of Mines estimated that Black Mesa contained over 21 billion tons of known accessible coal and predicted that it would soon become part of one of the largest energy producing centers in the world" (p. 8). Although the Hopis possessed the land, its ownership was held jointly by both tribes.

¹⁸ See Littell's rebuttal titled *Answer of the Navajo Tribe to the Petition of the Hopi Tribe to the Secretary of the Interior for Reconsideration of the Opinion of the Solicitor of the Department of Interior Dated June 11, 1946, Re: Ownership of Mineral Estate in Area of the Executive Order of December 16, 1882.*

JUA, because the Hopis wanted to exercise their surface rights to the land. The Hopi government, however, claimed that the Navajos living in the JUA prevented them from using the area. It was during this time that the alleged “range war” occurred between the two tribes.¹⁹ The period 1972-74 saw the tribes asserting their rights to the area. On one hand, the Navajos were holding onto occupied lands, while Chairman MacDonald defied federal court orders terminating livestock grazing and construction on the JUA. On the other side, the Hopis were internally divided between the progressives and the traditionalists, who had contrasting views on how to treat the Navajos and secure the land. Since the two tribes were unable to come to acceptable terms concerning the JUA, federal intervention became a necessary action. Accordingly, Congress passed the 1974 Relocation law to carry out the second provision of the Healing ruling.

The Navajo-Hopi Land Settlement Act of 1974 was a controversial piece of legislation. The removal of tribal people from their homeland is an enormous undertaking, especially when the land is directly tied to the social, cultural, and religious survival of the people. To this end, each tribe had an opportunity to express how the JUA should be divided through negotiation sessions mandated by the Relocation law. For six months, representatives of both tribes and a federal mediator would meet to negotiate where the new partition line would be drawn. Eight negotiating sessions were held, and a number of proposals were submitted, but the tribal representatives could not reach an agreement.²⁰ As a result, the Relocation law authorized a federal court to determine the partition line in accordance with recommendations of the federal mediator. In 1975, the final partition line was drawn and adopted (in 1977) by a federal District Court in

¹⁹ In 1971-72, an alleged range war between the Hopi and Navajo occurred in the JUA, which resulted in physical skirmishes. The Navajos believed the Hopi government encouraged these events by employing a local cowboy that incited violence between tribal members, while a camera crew recorded the event. Afterwards, it was revealed that the Hopi government’s public relations firm of Evans and Associates to demonstrate the violent nature of the Navajo coordinated these events (see Kammer, 1980).

²⁰ Negotiation sessions began on March 17, 1975, and ended on September 13, 1975.

Tucson, Arizona (Benedek, 1999: 153). From this point, the Navajo and Hopi Indian Relocation Commission was charged with determining eligibility requirements and executing a plan for Indian removal.

The Legislative Record

The coalition model referred to in Chapter One explains how we should regard these legislative activities. Coalition politics is defined as a “process of creating a working relationship between ethnic or racial groups, which seeks to maximize political preferences” and outcomes (Rich, 1996: 6). For the Navajos, they received the backing of organized labor, Democratic partisans, and intertribal supporters. Each coalition member brought with them their own support by way of group membership, financial capital, professional reputation, and existing legislative supporters. As for the Hopis, they were able to secure the backing of Arizona Senator Barry Goldwater, and the Republicans, while casting themselves as the proverbial “underdog”. By examining the legislative record, these particulars become apparent.

The shaping of the Relocation law consisted of several legislative proposals. Each proposal was aimed at satisfying a certain group in the legislative process. In 1971, Congressman Sam Steiger sponsored a bill that proposed dividing the JUA, sharing mineral rights of the area, allocating \$16 million to carryout the relocation of persons, and creating a passage to the Hopi village of *Moencopi* (Wright, 1973: 19). To administer the land partition, however, the Steiger proposal (see footnote #21) called for the removal of individuals and families found on the wrong side of his newly proposed boundary line. Since a significant number of Navajos were affected by the proposal, the bill became a controversial proposition to them. The Navajos particularly opposed the Steiger Bill

based on its mandated expulsion of over 6,000 Navajos without providing them adequate assistance to pay for their moving costs and new homes.²¹ More importantly, the Steiger Bill failed to mention where the evicted Navajos would go. Navajo Chairman MacDonald remarked:

“The so-called Steiger Bill is, in substance, a drastic and unnecessary resolution of the Navajo-Hopi dispute. Even more distressing to the Navajo people, however, is the manner in which the bill was formulated.”

“No representative of the Navajo tribe was ever consulted. No local hearings were held to determine the effects upon the Navajo if such a bill were to become law. No encouragement was given by Congress to resolution of the dispute by the tribes themselves” (“Congress Shouldn’t,” 1972).

Initially, MacDonald wanted the Hopi and Navajo representatives to create an “Indian solution” to the land dispute. At all cost, MacDonald did not want his people to be moved off the land. While the legislative proposal was considered by congressional members, officials of the Hopi government addressed the intrusion of Navajo livestock onto their land. To this end, the Hopis officials hired a local Anglo cowboy along with extra ranch hands to enforce the Healing ruling and prevent Navajo livestock from grazing on areas within the District Six area. The situations worsen as Navajo livestock were impounded and the practice became a source of irritation among the Navajos.²² The Navajos responded by building a fence across parts of the JUA, which separated their

²¹ The Steiger Bill was one of three proposals sponsored by Representative Steiger, H.R. 4753 “A Bill to Authorize the Partition of the Surface Rights of the Hopi and Navajo Indian Tribes in Undivided Trust Lands, and for Other Purposes,” 92nd Congress, February 1971; H.R. 4754 “A Bill to Authorize the Partition of the 1934 Navajo Reservation, and for Other Purposes,” 92nd Congress, February 1971. The Steiger Bill is actually a combination of the two previous submittals, and it was known as H.R. 11128 “A Bill to Authorize the Partition of the Surface Rights in the Joint Use Area of the 1882 Executive Order Hopi Reservation and the Surface and Subsurface Rights of the 1934 Navajo Reservation between the Hopi and Navajo Tribes.”

²² Reportedly the Hopi workers harassed some Navajos by deliberately seizing their animals. On the other side, the Hopis contend that some Navajos made incursions into Hopi country to intimidate their people and recapture their impounded livestock (Wright, 1973: 21).

land holdings from the Hopi people. In response, the Hopi government erected their own fence. These two tribes were at a standstill and stonewalled any amicable resolution. Hopi Chairman Sekaquaptewa stated:

“Anyone who has had the experience of dealing with Navajos knows it’s not possible to co-exist with them. They have no respect for the property rights of others. They think if they need something or want it they have a right to have it. Like children” (Wright, 1973: 22).

Organized Labor - the Union

The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) entered the policy arena in 1973 helping the Navajos’ defeat the Steiger Bill (H.R. 5647). To thwart the Steiger Bill, Navajo Chairman Peter MacDonald enlisted the AFL-CIO to organize the Navajos against those who supported the relocation proposal.²³ MacDonald believed that organized labor had a strong voice in the nation’s capital, and one the Navajos needed to build on to gain an advantage over the Hopis. At the time, Union membership consisted of roughly 16 million members (“Union Alliance,” 1974). The Union utilized their in-house organization; Council on Political Education (COPE), to coordinate a voters registration drive among the Navajo electorate in southwestern U.S. COPE’s objectives were twofold. First, elect to public office all pro-Union candidates since these individuals would favor the political views of the AFL-CIO. Union leaders believed that by increasing the number of pro-Union voters, the organization would improve their political standing in the state of Arizona. By bringing in the Navajos into their organization, the Union could stand to gain over 70,000 voters in 1974 (“Voter Registration, 1974). Second, the Union wanted to unionize Navajo workers

²³ COPE, an agency of the Union, taught Navajo officials some methods of group organization.

to secure future benefits from on-reservation labor projects, such as those offered at the mining operations of Black Mesa. Mining on Black Mesa has been conducted by Peabody Coal Company since 1966. Anticipated benefits from the Navajo-Union partnership included an increase in Union dues, more work for members of their organization, and a stronger political presence in the state. For the Navajos, they wanted the support of the Union to prevent the emergence of any relocation policy, while increasing their political standing in the state. Moreover, the presence of the labor movement on the Navajo reservation did not go unnoticed by state politicians.

The fact that the AFL-CIO became involved in these matters rankled Senator Goldwater as he opposed the unionization of Arizona workers (Kammer, 1980: 110). Senator Goldwater feared the Union might acquire too much political power due to their alliance with the Navajos, and they would set out to dictate public policy for the entire region. Commenting on the AFL-CIO, he said, "Unions exist, presumably to confer economic advantages on their members, not to perform political services for them. Unions should therefore be forbidden to engage in any kind of political activity" (Kammer, 1980: 110). According to Goldwater, the Navajo-Union alliance was a self-serving association that failed to promote common benefits for the nation.

The election results of 1974 only confirmed Senator Goldwater's dislike of the Navajo-Union alliance, as the Democrats were extremely successful in organizing and registering Navajos for the upcoming election. In June of 1974, the Navajo Tribal Council approved a resolution to establish a federal Voter Registration Office on the reservation for the purpose of encouraging eligible Navajos to vote. At the time, Navajo government officials reported approximately 79,000 Navajos were eligible to vote in the fall election of 1974 ("Voter Registration Office," 1974). Because of COPE's effort and the voter registration drive, the number of Navajo voters increased by 9,000 persons, who

then cast their votes for candidates of the Democrat Party (MacDonald, 1993: 195). In fact, these new Navajo voters were partly responsible for determining the winner of the state's gubernatorial race in 1974 as they unseated then-Republican governor Jack Williams, a Republican and friend of Senator Goldwater.

Of course the Navajo-Union alliance was not highly revered by Goldwater and its success intensified a contentious relationship between MacDonald and Goldwater. MacDonald exacerbated ill feelings by threatening to support Senator George McGovern's presidential bid in 1972, unless the Republicans supported the Navajos in the land dispute. This action began the MacDonald-Goldwater "feud" as the Navajo Chairman fell from the Senator's grace because of his threatening endorsement of Senator McGovern for president. It was reported that Goldwater felt MacDonald betrayed him and the Republican Party by conducting himself in that way. From this point on the two leaders would openly resist the other, often quarreling without reservation or restraint (See Kammer, 1980: 130-33).

The Goldwater-Fannin Bill

A second legislative proposal, the Goldwater-Fannin Bill (S. 2424), was sponsored by Arizona Senators Barry Goldwater and Paul Fannin, and was similar in content to the Steiger Bill as it viewed Navajo removal as a necessary step toward establishing order to the area. It was introduced in 1971. Unlike the Steiger Bill, however, the Goldwater-Fannin proposal appropriated roughly \$28 million dollars for the relocation of the Navajos from areas they occupied within the JUA. Interestingly, this proposal was also drafted by Hopi General Counsel John Boyden (Redhouse, 1985: 28). Boyden served as attorney for the Hopis and he represented them in the land dispute with

the Navajo Tribe. Support for the Goldwater-Fannin Bill varied in feelings, with a Hopi traditionalist opposing it calling it “a cruel and malicious attempt to set Navajo against the Hopi”, while Hopi government officials openly embrace it. A Navajo representative commented, “This [Goldwater-Fannin Bill] is being done by creating an environment of discrimination and deprivation instead of looking for a just solution to the problem” (“Hopi Traditionalist,” 1974). Another group, the Coalition of Navajo Liberation, issued a poignant statement in August of 1974 stating their opposition to the Goldwater-Fannin proposal. It read:

“...We know that our enemy is not the Hopi people. Our enemy is and always been the U.S. Government arbitrarily drew up overlapping reservations boundaries for the Navajo and Hopi tribes in the 18th century. We also know that the U.S. Government has historically played Indian tribes off against each other by inventing a “land dispute” or some other unresolvable issue in order to get the land in question....We also know that there are valuable minerals in the land dispute area that the greedy white man wants. That is the real reason behind the so-called Navajo-Hopi land dispute....White racist politicians will sponsor bills to remove Indian people from their ancestral homelands, but they will never sponsor a bill to evict their Anglo constituents from Indian lands that they are illegally occupying and trespassing. It is this type of white hypocrisy and racism that we are fighting against” (“Navajo Liberation Opposes,” 1974).

The foreseeable problems of the Goldwater-Fannin Bill caused several Native groups to unite to form one group, and travel to Washington, D.C.

In 1974, coalition politics became a force as 129 Navajos and 4 Hopis traveled on three buses to Washington, D.C. to lobby the U.S. Senate to vote against the Goldwater-Fannin Bill (“Caravan Bound,” 1974). It was dubbed the “Navajo-Hopi Unity Caravan”. Navajos came from the JUA communities of Low Mountain, Pinon, Jeddito, White Cone, and Chilchinbito. They traveled across the country, and held press conferences at selected cities to read Unity proclamations opposing the Goldwater-Fannin Bill. After arriving in Washington, D.C., these activists met with U.S. Senators to urge them to

support a land settlement initiated by tribal people, an agreement arrived at without federal interference and outside pressure. It was the first of its kind for the Navajo Tribe, as they coordinated their drive across the country. In Washington, they broke into groups and canvassed the halls of the Senate, trying to meet with as many legislators as possible. The trip received extensive media coverage and daily updates were provided to the tribal newspapers. In the end, the trip and project were successful as the Steiger Bill went down in the Senate Interior Committee in 1972.

The Owens Bill

A third proposal was sponsored by Utah Democrat Wayne Owens, who proposed the 1882 Reservation be equally partitioned between the tribes by a federal court in Arizona. The Owens Bill (H.R. 10337) was prepared by Hopi legal counsel John Boyden, and introduced in Congress by Senator Owens. The Owen's plan required all Natives residing on the "wrong" side of the partition line be relocated and they be eligible to receive monetary compensation for their property losses. This proposal was seen as the least expensive choice of the suggested alternatives, since it mandated dividing only one-half interest to the JUA (Whitson, 1985: 384). Furthermore, President Nixon supported the Owen's Bill. Interestingly, Nixon's policy preference was made public, while rumors of the Watergate scandal were circulating congressional halls in Washington, D.C. It was suggested that Nixon was preoccupied with his ties to the scandal to be fully attentive to the land dispute (Kammer, 1980: 122).

Interestingly, an "energy connection" was discovered by free lance writer Mark Panitch as he questioned the association of the Hopi Tribal Council, John Boyden, and Peabody Coal Company. It was learned that Boyden served as legal counsel to Peabody

Coal, while he represented the Hopis in the land dispute. Boyden was the chief architect of the Relocation bill. Critics of the Relocation law believed that Boyden advanced his bill to help Peabody Coal Company secure the mining rights to Black Mesa. That is if the mining rights were defined, then Peabody Coal could secure a mineral lease from the Hopis to mine their half of the JUA. Panitch writes "...the relationship between the Hopi Tribal Council and the power companies strip mining the land became almost symbiotic" ("Hopi Power Alliance," 1974). The coal from Black Mesa would be used to fuel future power plants that were owned by Western Energy Supply and Transmission Associates (WEST).²⁴ WEST was also connected to Boyden by way of Peabody. Incidentally, WEST and the Hopi Council shared the same public relations company Evans and Associates. Evans and Associates was the firm responsible for casting the land dispute as a "David and Goliath" scenario that appealed to Congress and the American public.

In the end, the Navajos rejected the Owens Bill, because they refused to move from the areas they occupied in the JUA. Navajo Chairman Peter MacDonald believed that if the Navajos could hold their ground, a more favorable proposition would come about, especially in light of the various bills in circulation. Thus, MacDonald dismissed the Owens Bill and favored another proposal that was receiving some attention at the same time. It was the Lujan Bill.

The Lujan Bill

A fourth approach, the Lujan Bill (H.R. 7716), suggested the Navajos would pay the Hopis for their half of the 1882 Reservation with money borrowed from the federal government. Thus, it rejected any notion of Navajo removal and held that no one would

²⁴ WEST Associates, a consortium of twenty-three power companies, planned to use Black Mesa coal for the energy needs of Phoenix, Las Vegas, and Los Angeles.

be deprived of their land. It was proposed by Congressman Manuel Lujan, a Democrat from New Mexico. In addition, the Navajos would secure the surface rights of the 1882 Reservation, while the Hopis gained perpetual easement rights to areas that were occupied by the Navajos. These easements allowed the Hopis to travel through Navajo areas for religious and medicinal purposes. Obviously, the Navajo tribal government supported this proposal, because it would not disturb Navajo settlements or deny grazing rights to Navajo livestock holders.

Hopi officials rejected this idea and continued to push for the Navajo removal. Hopi Chairman Sekaquaptewa stated, “the Healing decision had been a compromise of Hopi land rights”, “We (Hopis) cannot compromise what is already compromise” (Kammer, 1980: 103). Throughout the process, the Hopi officials maintained they would not retreat from their position of Navajo removal. Importantly, Navajo officials placed significant weight behind the Lujan proposal, and grossly neglected the other bills. When the Lujan Bill failed to gain support, the Navajo leaders were left with no other option to pursue. Thus, the Navajos were in a reactive mode and they were engrossed with defending and minimizing their land losses to the Hopi.

The Meeds Bill

Another policy option (H.R. 7679), suggested the land controversy be settled through a process of negotiation and arbitration. The proposal was sponsored by Representative Lloyd Meeds of Washington, and he personally visited the JUA before developing a position on the land dispute. As such, his proposal limited the tribes to six months of negotiations with federal mediators. Then if they failed to provide a solution, each tribe was to submit their “last best offer” for consideration as one would be chosen.

The Meeds proposal was submitted in May of 1974, the same time the Owens Bill was being circulated on the House floor. The Meeds Bill received support from the Navajo Tribal Council, but it was shunned by the Hopis as they favored the Steiger and Owens Bill. The House vote for the Meeds proposal was 128 in favor and 199 against it (Kammer, 1979: 6). Similarly, the Montoya Bill (S. 3230) called for a commission to resolve the land dispute. The commission would include Navajos and Hopis, who would determine the land usage of each tribe. Moreover, those lands used by the Navajos would remain in their possession and the Navajo Tribe would compensate the Hopis for the land. The Montoya Bill received support from the Navajos and was rejected by the Hopis.

The Abourezk Bill

Finally, the Abourezk Bill (S. 3724) suggested a life estate concept for those living on the land. It was proposed by Democratic Senator James Abourezk of South Dakota. His proposal was a compromise bill, which sought to establish Hopi land rights, while keeping the Navajos in place. Specifically, it proposed that the Navajos would pay rent to the Hopi Tribe for Navajos living on Hopi land. It was circulated in the U.S. Senate the same time the Goldwater-Fannin Bill and the Owen Bill were being circulated. According to the Navajos, one of the attractive features of the Abourezk Bill was it had no mention of relocation and it sought to keep the Navajos in their place. Responding to the bill, Hopi public relations person John Dwan of Evans and Associates called Senator Abourezk a "Navajo partisan" ("Washington Post Article," 1974).

In the end, the Senate adopted the Owens' Bill (H.R. 10337) with a vote of 75 in favor and 0 opposed, while the House passed a similar bill recording 290 in favor, 38

oppose (Kammer, 1980: 117). Despite the two different versions of the same bill, an ad hoc conference committee was not convened because the Senate leadership agreed to accept the House's version and brought it out to the Senate floor for full unanimous consent (Ibid., p. 129). President Gerald Ford signed the Owens Bill, Public Law 93-531, into law on December 22, 1974.

Analysis of the Public Law 93-531

The making of Public Law 93-531 was both complex and controversial. By analyzing the law through coalition politics we are able to see the linkages and associations of the political process. One vital component of coalition politics is networking. Each tribe showed that they could network, but establishing coalition partners took time to develop.

In the early 1970s, the Navajo-Hopi land dispute was an issue largely restricted to the southwestern U.S. As a result, the development of the Relocation law was limited to those tribes directly impacted by the statute. In fact, neighboring tribes of the Navajo and the Hopi chose not to get involved in the land squabble and they declared a position of neutrality in the matter, with the exception of New Mexico Pueblos Council, who sided with the Hopi government's position to divide the land ("Hopi Traditionalist," 1974). The dispute, however, received national attention when the federal government was called to establish surface/subsurface rights to the JUA. The issue received more attention with the reported Navajo-Hopi "range wars." This type of news coverage became the standard way of reporting these events. Not until 1974 were the tribes able to create the image they wanted to project, namely the Hopis.

Originally, the Relocation law was written to prevent any violent outbreak on the

reservation. To resolve the issue, the federal government through Arizona's congressional delegation became involved in 1971 with a proposal crafted by Congressman Sam Steiger. It was followed by several different legislative plans sponsored by U.S. Senators and Congressmen.²⁵ The legislative record shows that these proposals suggested varying degrees of land ownership held by either Indian tribe. Importantly, the federal government became the focal point as tribal representatives and congressional members would work through the federal government to process their requests.

On one side the Navajos developed a reliable support group that included activists, traditional Navajo and Hopi people, and congressional members (Senators Edward Kennedy, Mike Mansfield, and Representative George McGovern) (see Casteel, 1973). The Navajo coalition was able to organize themselves and effectively state their case on a number of fronts. Politically, Navajos of Arizona changed their partisan support from Republican to Democrat due to Representative Sam Steiger and Senator Barry Goldwater (McCool, 1985: 123). Navajo voters held these two Republican legislators responsible for the Relocation law. On another front, the Navajo government stated their political preferences in a book sponsored by the Navajo Tribe.²⁶ The book warned Americans of the Steiger Bill and urged them to write to their congressmen stating their opposition to the proposal. Financial support was furnished by the Navajo government to assemble a staff of professional advisors and lawyers to further the Navajos' land claim, under the guise of the Navajo Land Dispute Commission.

Next, Navajo Chairman Peter MacDonald was an effective spokesperson for the

²⁵ Sponsors of land dispute legislation include Senators Barry M. Goldwater, Paul Fannin, James Abourezk, and Joseph Montoya; Representatives Manuel Lujan, Lloyd Meeds, and Wayne Owens.

²⁶ This book, *New Navajo Tears* (1973) was published by the Navajo Nation. It provided biting criticism of the potential damages caused by implement the Steiger Bill. The book details who the Navajo leaders allied with--congressional personnel and celebrities--and their plan of action (i.e. letter writing campaign).

Navajo coalition. Under his administration, the Navajo Nation established a permanent office in Washington, D.C. At this office, MacDonald could orchestrate tribal personnel, control information, and direct the Navajo legal team. He also forged an alliance with the AFL-CIO to increase the Navajos political strength in the southwest region. Moreover, MacDonald's charisma helped bridged the Navajo realm to the modern world by encouraging his people to actively participate in the business and educational opportunities of the larger society. However, MacDonald has been criticized for monopolizing the land issue to preserve his political career at the expense of his people. The land dispute has been the decisive factor in at least two tribal elections--1982 and 1986 (Iverson, 1997: 182). Despite this, MacDonald has received the endorsement from Navajo communities located in the disputed area such as Forest Lake, Pinon, Hard Rock, and Blue Gap.

On the other side, the Hopis created and managed their own coalition. They were, however, organized into two separate groups that claimed to speak for all Hopis. Because of this intertribal division, the cohesion factor/component was weakened. One group questioned the authority of the tribal government and linked themselves with non-Hopis for support, while the second group supported the tribal administration. The leaders of these groups worked independently of the other, organized their messages, and established contacts with those they felt would support their causes. Speaking for the traditionalists, Mina Lansa saw "the real purpose of the bill (Relocation law) was to split Indian resistance and open up more Indian land to the energy leases desired by the Hopi Tribal Council, much against the will of traditional leaders in both tribes" (Matthiessen, 1992: 91). Their main complaint was against the mining companies operating on Hopi lands, because of their belief that these mining operations were in direct violation of the Hopi way and their responsibility to serve as caretakers of the land. To the Hopi

traditionalists, there was no room for compromise regarding the violation of the earth and its creations. A consistent underlying theme was to always honor the traditional Hopi cultural lifestyle and end mining operations on the homeland. They publicized their concerns to others through a publication entitled "*Techqua Ikachi*." This publication openly questioned the authority of the tribal government and whether the legislative policies they approved were to the benefit of the Hopi people. Not surprisingly, Hopi Chairman Sekaquaptewa referred to these traditionalists as "phonies" that pursued their own private agenda without regards for the Hopi people (Welch, 1977).

In contrast, the Hopi tribal government indicated they were acting in the interests of all Hopis and therefore, they remained firm about Navajo removal and did not waver in their position. The Hopi government through their legal counsel John Boyden employed a public relations firm in Salt Lake City, Utah. The firm created an image of aggressive Navajos, who for centuries have bullied their way over the Hopis. The public relations firm wanted to paint a picture of endless violence that would justify the relocation of the Navajo (Kammer, 1980: 93). To that end, the firm cast the Navajos as nomadic marauders. Hollis Whitson succinctly summarized this powerful image:

"The **picture**, painted by the Hopi tribal attorneys before Congress, was compelling: the smaller, more peaceful and sedentary tribe, completely surrounded by the larger, more aggressive and nomadic one, was seeking to uphold the decisions of the U.S. courts" (emphasis added) (Whitson, 1985: 382).

Consequently, the Relocation law was seen as an impartial mechanism to calm the Navajos, while minimizing future violence.

Another outcome of the public relations firm was the creation of a coalition between Boyden, and Steiger, a conservative, and a liberal Utah Democratic Representative Wayne Owens (Kammer, 1980: 108). These two congressmen were instrumental in obtaining the necessary support from their sides of the political spectrum

to pass the Owens' Bill. It was one of those rare times that these two legislators acted in unison.

Eventually, Senator Barry Goldwater also became a partner in this coalition, which proved to be beneficial to the Hopis. They benefited greatly from Goldwater's involvement because of his seniority in the Senate and the fact that his colleagues deferred to him as an "expert" of Indian affairs. In addition, he personally guided the Relocation law through the legislative process, ensuring that his fellow Republicans would support the Hopis. As a renowned statesman for Arizona, he had immediate access to local leaders and influential national leaders. His belief was that the Hopis were the rightful owners of the disputed land.

The Human Aftermath

After passing the Relocation law in 1974, the federal government targeted 3,495 Navajo and 40 Hopi for removal (Joe, 1998: 131). Before the Relocation law was adopted, Navajo Chairman MacDonald tried to convince Congress of the potential harmful human impacts that relocation would cause. One of his concerns was that the Relocation law would destroy the cultural viability of traditional Navajo people by removing them from their homeland, especially those of Big Mountain. In essence, the removal policy would strip them from their livelihood. MacDonald, like his kinsmen, believed the land and the peoples' livelihood are inseparable--one cannot exist without the other. Catherine Feher-Elston (1988) poignantly captured the traditional Navajo view of the land by offering, "land creates the essential fabric of Indian society, central to both physical and spiritual survival" (p. 125). Speaking of Big Mountain, one Navajo said, "The mountain is ours. It is the place we go to pray for our livestock, and our medicine

men go there to get herbs, and it is the place our women gather the medicine they use when they bear children. We need the mountain to live” (Matthiessen, 1992: 318). Therefore, to remove a Navajo from his or her homeland is a traumatic event. Supporting this point, research by Scudder (1979) found that Navajos living in the former JUA were undergoing severe psychophysiological and socioculture stress. Another study corroborated Scudder’s findings, and it found that relocatees have “eight times the mental health service utilization rate as non-relocatees” (Report and Plan: Navajo and Hopi Indian Relocation Commission, 1981: 11). Aberle (1993) concludes, “There is no way to assess long-range negative consequences for Navajos in terms of loss of livelihood, land, income, and access to shrines, or in terms of demoralization and possible indigence and dependency over several generations” (p. 192). For one traditional Navajo, his greatest fear was that “once relocation is completed, all the knowledge and power of their way of life will be lost forever” (Feher-Elston, 1988: 103). This is an alarming fact since a large number of relocatees were tribal elders and many have stated that they would die if the were removed from their homeland.

Second, Chairman MacDonald argued that relocation would destroy the Navajos’ economic viability. Studies prepared by experts of different fields--Thayer Scudder (1979), Mark Schoepfle, et al (1979), John Wood, et al (1979)--document the devastating social and economic impacts associated with relocation. These researchers warned that Navajo relocatees were in deep trouble since approximately 41 percent of the head of household lacked a formal education and approximately 70 percent were unemployed (Report and Plan: Navajo and Hopi Indian Relocation Commission, 1981: 12). It appears the Relocation law has created a group of refugees since these individuals lack viable marketable skills and have no place to go. This condition is further exacerbated by problems caused by family break up, impaired mental and physical health, greater

dependency for social services and lack of a viable income (Ibid., p. 11).

Third, MacDonald stated that the religious fabric of the Navajo culture was irreparable damaged by the Relocation law. With the establishment of property lines and the enforcement of these boundaries, Navajos were denied access to the sacred sites on their former lands. The law restricted tribal members from freely traveling to gather necessary sacred objects used to maintain their spiritual well-being--minerals, plant roots, and animals. For most Native elders, to be denied to visit these sacred sites and gather materials is blasphemous. They believe that natural rhythms must be maintained, and relocation has destroyed this natural rhythm.

The passage of Public Law 93-531 has caused detrimental changes for all relocatees. The loss of land through forced relocation has deprived the Navajos and Hopis of their birthright, their livelihood, their social relationship, and their familiarity with their lands. Furthermore, forced relocation has deprived them of their sacred shrines where they made religious offerings to maintain their natural relationship with the supernatural. As one Navajo elder said, "If you move us to the most beautiful mountains in the world, with plenty of rain, they will not be as beautiful to us as these little hill, where we make contact with nature and with our gods" (Scudder, 1982: 45). In the final analysis, the Relocation law has denied them their traditional way of life.

CHAPTER 7

CONCLUSION

The purpose of this study is to examine the policy formation of Public Law 93-531 through a theoretical framework of coalition politics. Coalition politics is a particular form of pluralism, and it exhibits some characteristics common to pluralist activity such as the need for resources like; communication, networking, group cohesion, and finances. Accordingly, government is accessible to its people by way of group mobilization and interest articulation. Groups can strategize and employ their resources to execute a plan in the policy environment. Moreover, coalition politics avails itself to the inquiry of researchers of the legislative process. To this end, I used a historical approach to analyze the skills and the attributes of coalition building as demonstrated by policymakers, tribal leaders, and their supporters. These components came together at different times in the legislative process and influenced the outcome of Relocation law.

What can we conclude from this initial inquiry? We discovered that both the Navajo and the Hopi governments were influential groups that made efficient use of their resources. What distinguished the two groups? I believe the way that each tribe presented their case before Congress and the American public separated them. The leadership style/mannerism of Chairman MacDonald was a concern for some as he constantly refused to compromise with the Hopis. Instead, MacDonald remained steadfast on having his people remain in the Joint Use Area and did not consider any idea of land concessions. It became a serious problem. In fact, the record showed that people were troubled by his abrasive behavior and they made note of this fact. Despite this impression, MacDonald was effective in using his position to secure partisan support among key Democrats and the AFL-CIO. It was an unprecedented event for both tribal

governments.

As a result, coalition politics transformed the Navajo Nation into an influential actor of the southwest starting in the mid-1970s. Through MacDonald's leadership the Navajos established an official tribal office in Washington, D.C. At the Washington office, the Chairman could monitor national policy as it related to the Navajos and engage other pro-Indian coalitions. In addition, MacDonald created a sizable bloc of Navajo voters who joined ranks with the Democrats in 1974. However, this Navajo-Democrat alliance proved costly for the Navajos as the Relocation law was influenced by partisan politics.

On the other side, the Hopis established themselves as an effective social network that defined how the land dispute would be resolved. This was accomplished by elevating the concerns/issues of the Hopi to the national media, while actively engaging Congress with numerous pro-Hopi proposals. Simply put, the Hopi Tribe operated offensively with proposals authored and submitted by their Attorney John Boyden. This action placed the Navajos in a reactive mode, and the Navajos were unable to coordinate their resources to impact the flow of pro-Hopi legislation. Another key observation is acknowledging Boyden's use of a powerful American theme to generate public empathy for the Hopis. Through a public relations campaign, the Hopi Tribe painted themselves as the historic victims of the Navajo. It was a brilliant ploy that took the edge off Navajo relocation as the law was seen as a reasonable solution to a historic problem.

In the final analysis, Public Law 93-531 required a confluence of interests expressed by the federal and the tribal governments. Coalition politics enhanced the group's political position through the tactful use of "direct" resources such as money, legal skills, outside support and voters. Each resource was used individually and collectively to achieve the desired result.

Future Research

What are the applications of coalition building? This dissertation has shown that coalition politics can be used to study a Native American legislation. This research approach allows us to reconsider and reexamine the legislative record from a Native perspective, thereby revealing the inner workings of Native participation and their decision-making process. Second, coalition politics can develop a careful, well-thought, objective analysis of the participants, their behaviors, and their beliefs. Because of this extensive inquiry, all major differences and similarities between the groups and their values can come to light along with their corresponding influences. Unlike other methodologies, coalition politics can bridge the past world with events of the current day.

Through this study we have increased our understanding of coalition politics and its effects on the Navajo and Hopi Tribes. However, does this study have any relevance to other Native tribes and can they benefit from this type of analysis? I believe so. If we place this study in a larger framework beyond the immediate actors, we can see that coalition politics is a method for tribal governments to actively engage in the larger society. More importantly, this activity becomes an exercise of tribal rights that **builds tribal sovereignty**. Simply put, tribal sovereignty must be practiced in order for it to exist. By practicing their sovereignty some tribes may encounter a significant victory that elevates them and other Native tribes to a new level. In 1979, for example, the Seminole Tribe of Florida entered into the bingo gaming industry on their reservation, which exploded in national popularity, and in three years they earned a reported \$2.7 million (Utter, 2001: 362). This rapid wealth and the potential to make more money quickly captured the attention of other tribes throughout the nation. Because of the success of one bingo hall in Florida, the economic activities of all Native governments

have been forever been changed.

Today, Indian gaming is a 74 billion dollar industry and is regulated by the Indian Gaming Regulatory Act of 1988 (National Indian Gaming, 2005). The Gaming Act provides several functions: 1) a legislative basis for the operation and regulation of gaming by Indian tribes; 2) a law that established the National Indian Gaming Commission as a federal agency that works between the tribes and Congress to protect gaming as a means of making profits; 3) a law promoting strong tribal governments that can offer economic development and self-sufficiency; 4) a law protecting gaming tribes from organized crime; and 5) a law to insure fairness to tribes and their customers (Utter, 2001: 362). Because tribal governments value their rights, they have established support groups on- and off-the reservation to advocate for gaming enterprises. One group, the Native American Gaming Association (NAGA), represents about 184 different tribes and is organized to “protect and preserve the general welfare of tribes striving for self-sufficiency through gaming enterprise in Indian country” (National Indian Gaming, 2005). Through this organization, NAGA is building group cohesion by coordinating tribal actions. They also provide technical assistance to gaming tribes by hosting legislative summits, training seminars, and provide and coordinate the distribution of national Indian gaming information. By doing this NAGA is making a network of communication. In addition NAGA provides technical assistance to Indians and non-Indians, advocates for gaming issues, and advises policymakers of pro-Indian gaming legislation. In summary, the resources of coalition building (communications, finances, networking, etc.) are used by NAGA to create a private niche for themselves in the policy environment, while broadening tribal sovereignty.

However, NAGA cannot relax and assume that gaming is completely protected. They must actively exercise their right of association and seek to maximize their business

opportunities. This pro-active approach was recently demonstrated by NAGA when they networked with Bally's of Las Vegas, a number of major building contractors, resort companies, and insurance groups. To remain effective, NAGA must be assertive with their tangible resources (people and finances) to protect their newly acquired gains. Of course, it will not be an easy task. Therefore, there needs to be sophisticated and knowledgeable individuals involved who know what they want and are willing to do whatever is necessary to fulfill those goals. This is the political reality for NAGA as they have entered into a new phase of economic development.

The practice of coalition politics can be seen as **an exercise of tribal sovereignty**. Coalition politics is a significant event, because it implies that tribes can engage in cost-benefit analyses before entering the policy process. Their political participation is a conscious act. Thus, their actions would be seen as a rational event. This particular event creates a number of excellent research possibilities to explore. Future research could consider how these decisions were made? What factors were considered before coalition members decided to take action? Does a tribe lose something when they constantly interact with the outside parties? What are substantive issues of coalition politics? Indeed, the possibilities of future research are rich. Coalition politics is an excellent tool for understanding democratic action. Moreover, the application of the theory has broader implications than those expressed here.

Certainly, the study of American Indians is not an easy task. American Indian tribes, as renowned legal scholar Vine Deloria noted are not a single monolithic ethnic group of people that share a common political agenda. As of 1993, the official count of "federally recognized" Indian tribes totaled 515 distinct nations; each one with their own culture, language, history, and traditional homeland.¹ The diversity of these Indian tribes

¹ The term "federally recognized" is a designation of the Bureau of Indian Affairs (BIA) and signifies an official relationship between the federal government and an Indian tribe via treaty,

is immense--from the 250,000 Navajos living in the American southwestern to the 197 separate Native bands on the Alaskan frontier. Each one is different. Correspondingly, each study of an American Indian tribe should account for and acknowledge their own diversity. This study represents only one form of research that provides an overview and specifically highlights some key issues that are critical to the survival of two Indian tribes living in Northern Arizona. By studying their new and innovative forms of politics, social scientists can begin to appreciate how these Indian tribes have coped with the ever-changing complexities of the American political system, and while yet, maintaining those things that are essential for their own separate tribal identities.

congressional legislation, or executive order.

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