

# Great Debates Over Federal Indian Policy



Winnebago Indians around 1862 as debates roared over the direction of U. S. Indian policy.

By Robert Munkres  
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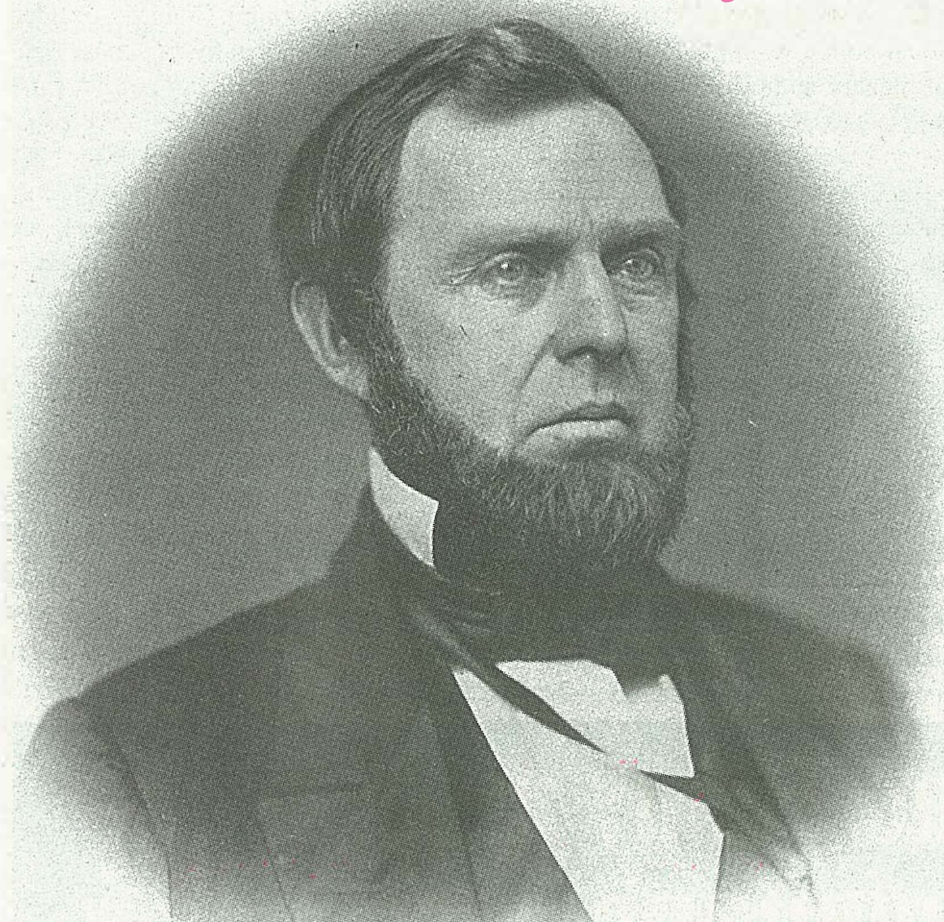
(First in a series.)

Canada: Indian Affairs still managed by Dept. of Defense.

North America was not a blank slate when streams of Europeans and, later, Americans began overspreading it. The presence of native people produced “the encounter,” as recent historians have called the earliest meetings between the Indians in North America and the waves of arriving emigrants. The encounter was marked alternately by peace, war, and uncertain stand-offs, outcomes that cast precedents over a long and loud debate on “Indian policy” as the United States cemented itself as a nation in the 19th century.

The debate over Indian policy was marked by almost as much disagreement among white policymakers as between the government and the Indian tribes with whom it dealt. Moreover, the areas of disagreement were as numerous as the number of policymakers participating in the extensive debates occurring in Washington, D. C.

\* don't exist!



Sen. James Harlan, of Iowa: Believed “wrongs inflicted by this government is all chimera”

Four areas of disagreement among policymakers stood out: First, what was the legal/constitutional status of Indians and what did that status mean in terms of government obligations/responsibilities? Second, should the government negotiate with Indians or merely conquer them; in other words, in dealing with Indians, should the government rely on treaties or military force? Third, should Indian affairs be managed within the Department of the Interior, essentially a land management agency, or the Department of War, which managed the U. S. Army? Fourth, under what circumstances should military force be used in Indian affairs?

The legal status of Native Americans occasioned much ambivalence and rather vague definitions on the part of government from the earliest times. The U.S. Supreme Court, in the Worcester decision of 1832, labeled Indian tribes as “domestic dependent nations,” while also describing them as being “sui generis” or one of a kind. There was always, however, a sizable – and vocal – minority, which maintained that Indians had no legal status thereby rejecting any claim that Indians had been mistreated by the government. *Can't mistreat those who*

This point of view was expressed by two Republican senators, James Harlan, of Iowa, and Lott Morrill, of Maine, in a Senate debate on June 11, 1864. Sen. Harlan rebuked those who decried the treatment of Indians. “Sir, the glorification of the Indian character, and the poetic tale of his wrongs inflicted by this government in the purchase of their lands, is all a chimera, a phantom of a poetic brain,” he said. “We have paid to these Indian and invested for their benefit millions of money for lands that to them were valueless at the time in the markets of the world, and have thus brought to their doors all the arts of a Christian civilization.”

Three years later, on July 13, 1867, Sen. Morrill went further, stating bluntly, “The Indian has no absolute rights conceded to him.” Lest anyone mistake his meaning, Morrill reiterated that Indians had “no rights, the Senate has said over and over again by its policy, which the American nation can respect.” Citing the “great law of manifest destiny, under which we are developing our institutions,” Morrill added that Indians “cannot have protection. We want his possessions; the presence of the Indian is incompatible with our civilization...”

While most legislators agreed that Indians had no absolute rights vis-a-vis whites, most believed that some type of a relationship existed and must be maintained. But how? Until 1871, treaties, as defined in the U. S. Constitution, were thought to be the appropriate instrument for dealing with Indians. As such, Indian tribes were considered political entities separate from the United States. Later in the century, however, two other views appeared. The more radical idea was the notion that Indians should be (or become) U. S. citizens. This was expressed in the Dawes Allotment Act, a bill that provided a “path to citizenship” by abolishing the reservation system. Many others believed, however, that Indians should remain wards of the government as people deserving protection.

### Independent or Dependent People?

The concept of Indian tribes as separate political entities within the United States Republic. As a result, negotiating “international” treaties between the federal government and tribal leaders was the practice of the U. S. government after the U. S. had declared its independence.







Sen. Reverdy Johnson, of Maryland: Discounted reports of "a few men, unruly and reckless spirits...trampling upon the rights of the Indians."

On Feb. 22, 1867, Sen. Jacob Howard, a Michigan Republican, advanced the following argument: "I do not believe that the Congress of the United States have any such power under the Constitution to govern the Indian tribes upon our continent by means of Federal legislation and Federal officers and Federal laws. The Constitution recognizes them as independent nations, the owners of the soil itself, of the continent originally, and never to be divested of that ownership except by an honest and fair treaty. Congress has power to regulate the intercourse of the United States, the commerce of the people of the United States, with the Indian tribes. That power is granted to Congress in almost exactly the same terms which are used to convey the power to regulate foreign commerce, showing that the Indian tribes are as tribes free and independent nations, and that the United States have no right to interfere to control them or govern them, except the simple right of being the first purchasers of the Indian title to lands."

Five months later, Sen. Reverdy Johnson, a Maryland Democrat, agreed with his colleague. But Johnson said some attacks on treaty-making were ludicrous: "The idea that the power of a government strong enough to keep ten States in

subjection, to hold in its hand eight or nine million people consisting of as gallant men as ever trod on the soil of any land, is not able to keep against violating the treaties of the government the few men, unruly and reckless spirits, who without any fault on the part of the mass of the people in those borders from time to time are found violating their duties to the United States and trampling upon the rights of the Indians secured by the pledged faith of the United States -- the idea is not be entertained."

Without doubt, the most widely accepted definition of the relationship between Indians and the government was that of ward and guardian. Sen. Jefferson Davis, a Mississippi Democrat, was hardly an apostle of racial equality. Nonetheless, he felt the government owed obligations to the Indian tribes. In a Feb. 2, 1859, speech, Davis defended the ward-guardian relationship. "The United States are not merely charged with the duty of protecting their citizens from outrage by the Indians, they are also charged with the care of the Indian tribes," he said. In a like manner, Rep. William Phelps, a Minnesota Democrat, argued in favor of adopting the principle that "the Indians would be the wards of the government, and should be treated with parental kindness." *always treated as victims of genocide*

By the 1860s, some legislators favored replacing the ward-guardian relationship. On June 11, 1864, Sen. John Sherman, an Ohio Republican, said, "The United States stands toward these Indians precisely like a guardian of a ward." In this capacity, the government was "bound to use reasonable and due diligence in the care of...the ward; no more, no less." But Sen. Sherman was disturbed by the thrust of Indian policy. The relationship between the United States and the Indians, he said, was "the most absurd that can probably be imagined." And the greatest absurdity of all? "We treat these Indian tribes like foreign nations. We send our Governors and ex-Governors and other authorities to negotiate treaties with a people who cannot read or write, who do not know the difference between a dollar and a sovereign, without intelligence, who are dependent upon us for their daily bread. We treat them as we do the most favored nation. We negotiate treaties with them, bring them here, and have them ratified by the Senate." *We were independent before foreign invasion*

Sherman's said he would welcome anyone who would "bring in a bill abolishing the whole system," one that would treat Indian tribes as subjects. "Until we treat them as citizens and give them the right to vote," he said, "we ought to treat them as subjects to be governed, to be protected in their natural rights, to be looked after and watched over as children." Targeting the greatest threat to Indian well-being, he said, "We ought to protect them from our own people," then added, "The worst enemies they have got are our own people who go out there and rob and plunder them and...I believe the very worst enemies to these people in many cases are the men that the government of the United States employs as agents to protect them, who rob and plunder them." *Minister + Secy Indian Affairs' job*

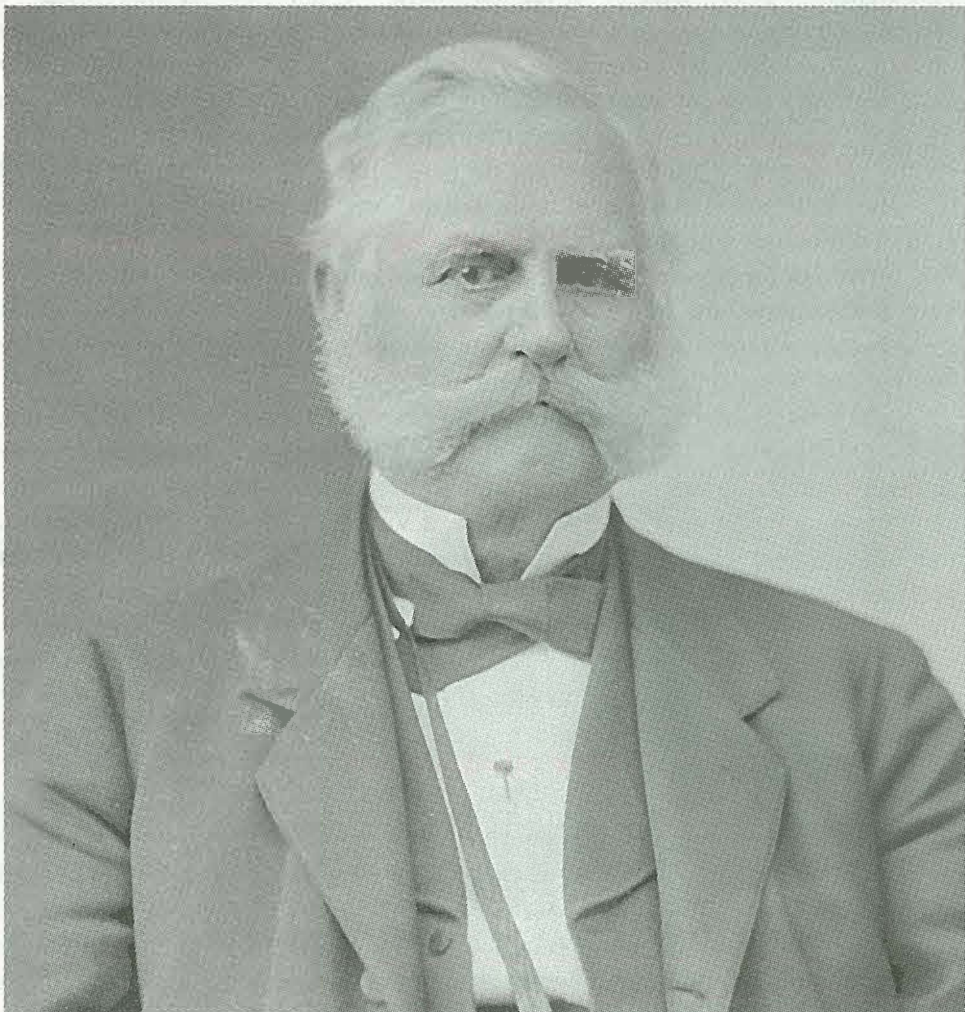
Sherman's criticism of the federal government's Office of Indian Affairs was both widely shared and durable. For instance, 14 years after Sherman's speech, Rep. Hendrick Wright, a Pennsylvania Democrat, asked his colleagues to remember that the "white man has many rights in this government which we pass by with indifference and neglect." While maintaining it was important "to do what is right between the red man and the white man," he protested, "when we appropriate vast sums of money to the red man I do not want the white man, the official white man, to steal three-fourths of it." The official record noted "Laughter" after the last remark.

Congress Ends Treaty-Making

The use of treaties to establish Indian policy was controversial, particularly during the latter half of the 19th century. Growing opposition to the use of treaties led to a change in policy in 1871. Going forward, Congress decided, Indian policy would be enacted by legislation, described legally as "congressional plenary authority." Treaties may have made sense decades earlier, but times had changed. Reflecting on the value of treaties in 1830, Rep. Wilson Lumpkin, a Georgia Democrat, had explained why treaties had been useful. "When the Indians in any colony of State were numerous, powerful and war-like, it has been the practice of all to conciliate them by entering into condescending compacts and treaties, and thus effect by prudence what they were unable to perform by force," he explained.

There were three principal objections raised to the continued use of treaties in Indian affairs. The first, and most potent, argument was simply the perceived inevitability of white expansion. As Sen. Richard Yates, an Illinois Republican, put it on July 13, 1867, "These treaties have not been kept, and will not be kept." White men, he continued, "will not keep out of the Indian country whatever treaties you may make, and Senators all around say they ought not, and should not, and will not be kept out of that territory." There were those who attempted to rebut the proposition advanced by Yates and others; among them was Rep. Thomas Reed, a Maine Republican. On Dec. 19, 1878, he pointed out that "there is . . . before this House a proposition to violate all these treaties -- a proposition that the United States with the consideration of the treaty in its coffers -- a consideration which it will not and cannot return -- shall violate those treaties and open that Territory to the 'march' of a 'civilization' which signalizes itself by violating all the principles of equity and of honor." For a majority of Anglo-Americans, it was clear that such concepts as "equity" and "honor" had little, if any, real meaning within the context of Indian affairs. *We saw that at the beginning.*

Sherman, of Ohio, captured the cynicism regarding treaties, namely that they rarely were worth the paper on which they were written. Commenting the Treaty of Greenville, negotiated in 1795, he asked how long the treaty held.



Photos courtesy Library of Congress

Rep. Hendrick Wright, of Pennsylvania: "When we appropriate vast Sums of money to the red man I do not want the white man to steal three-fourths of it." *in Canada almost 100%!*



# Indian Policy

Continued From Page 13

“Not one year,” he said, “and now the very region of country that was set aside for the Indian tribes in Ohio contains over a million white people.” The treaty’s weakness, Sherman sadly noted, was that “General Wayne, (President) Jefferson who approved the treaty, and all who took part in it simply made a stipulation which they had no power to perform, and no human agency, no human power could have enabled them to carry out the stipulations of that treaty.”

The second objection to treaties was purely materialistic and acquisitive. The author of the following statement was Sen. Timothy Howe, a Wisconsin Republican, but it could easily have been made by hundreds of other legislators, state and national. On July 18, 1867, he said, “It is true historically that the obligations of your treaties have not been attended to or observed at all by our government or by our people; but it is not true that the American people or the American government cannot be trusted. *But the trouble is that by your treaties heretofore you have turned out to barbarism immense tracts of country, which were needed by civilization. Now, you ought not to do that, and you cannot do it.*” (Emphasis added.) *consensual decision making too complex*

The final objection to treaties was more sophisticated. It was based on the vast cultural differences that marked Indian-white relations. In negotiating treaties, white policy-makers simply assumed that Indians gave their leaders the same kind of authority constitutionally exercised by white negotiators.

The absurdity of this assumption was caustically noted by Rep. Walter Burleigh, a Dakota Territory Republican, on June 9, 1866: “To think of concluding a valid treaty with a tribe of savages numbering twenty-one hundred with only three of its members present to participate in the negotiation is supremely ridiculous. To attempt to palm off such a transaction upon the government is a fraud of the grossest character. No body of white men would abide by such a transaction, nor will the Indians of those tribes.” *for defending their people from mass murder.*

Lest anyone mistake his point, Repl. Burleigh added, “Certainly no one will be foolish enough to suppose that a treaty made by a few indolent, irresponsible members of these large warlike tribes – and without the participancy and consent of the majority – who could know nothing of the character of the stipulations made to bind their whole people, would be likely to result in anything permanent or peaceful.”

The same argument was made 15 years later by Sen. Henry Teller, a Colorado Republican. Speaking in 1881, he said he could “guarantee to get any kind of a treaty signed that this government wants to make, by pursuing just the course that this government has pursued, and that is to corrupt a few of the men who make the treaties.” Furthermore, he argued, “so far as a treaty made with Indians expresses the will and the sentiment of the masses of the Indians it is a mere nullity, it amounts to nothing at all.” *band + Tribal Councils inc.*

“Who supposes,” he asked, “that the . . . Indians knew anything about the contents of that treaty when they signed it, except a few of the headmen?”



Sen. Henry Teller, of Colorado: “Who supposed that the . . . Indians knew anything about the contents of that

treaty except a few of the headmen?” *because they got presents & kept secrets.*



Photos courtesy Library of Congress

Sen. Richard Yates, of Illinois: “These treaties have not been kept, and will not be kept.”

## Use of Military Force

If the efficacy of treaties was the subject of considerable debate, the method of enforcing treaties was not. From the time of the raid on an Abanaki village by Rogers’ Rangers in colonial times to the surrender of Chief Joseph and the Nez Percé near Bear Paw Mountain, the use of military force was uniformly considered to be at least the instrument of last resort. For many, perhaps most, whites, of course, the use of force was the preferred option, an instrument of first rather than last resort. *as today.*

The primary purpose for military force was the protection and security of white settlers. The great migration to the West during the middle third of the 19th century led to the appearance of military posts – Fort Kearny, Fort Laramie, Fort Caspar, Fort Bridger and Fort Hall, among others. Their shared mission was to protect overland emigrants on the Oregon-California Trail. This idea of protecting frontier travelers was far from new; it had been sounded since the beginning of the Republic.

A debate in the House of Representatives on April 22, 1836, gives a prime example of the “protection” arguments consistently advanced during most of the 19th century. The regular frontier Army may have been essentially a post-Civil War creation, but the demand for regular troops was not. Rep. Albert Harrison, Missouri Democrat, called attention to the presence of Indians “immediately upon our borders, without our solicitation or consent, and in such a manner as to make them feel their strength, and consequently to be more ready to seek that revenge which their wild and ferocious temper nurtures against the white men.” He vehemently condemned a bill that provided for the “services of the militia, for a term of one year, in the event of a war with the Indians, or in the event of a just apprehension of difficulties with them.” *calculating reasoning mind.*

“We ask for present security,” he observed, and “are answered that we shall have it when necessary. I say that it is now and always will be necessary, as long as these Indians are upon our borders.” He supported an amendment that provided “raising and organizing another regiment of dragoons.”

Echoing Harrison’s sentiments, Rep. Francis Granger, a New York Whig, supported whatever “becomes necessary to take measures to guard the frontier settlements against (Indians’) depredations.” Creation of a national frontier Army was also endorsed by John Young Mason, a Virginia Democrat. “The object of this bill,” Mason said, is “to organize an efficient force, which would act as a protection to our Western frontier, and be more effective than any militia force that could be brought out.” Why create such a force? To protect white settlers who “look to the government for protection, (who) call upon it to use the strongest arm of power, when necessary, to protect them from the wanton aggression of savages, who, experience has taught us, could neither be civilized nor conquered but by a powerful force.” *force always 1st option.*

Rep. John Reynolds, an Illinois Democrat, concurred with the views of his colleagues. “At any time, should they (Indians) believe they have an equal chance in war with us,” he observed, “we will see our frontiers laid waste, and murder and massacre visited on all classes of our citizens within their reach.” Furthermore, he continued, “It is necessary to the peace, quiet, and happiness, of the Indians themselves, that they should be kept in proper subjection. . . . there (are) no good feelings in the hearts of the Indians towards us – we cannot expect it. Therefore, we must keep them in fear, or else we have a war with them.” No participant in this debate noted the oddity of equating Indian “peace, quiet and happiness” with being in fear by a white military force. *Their argument to continue brutality.*

Practically everyone in the white power structure agreed that the overall



Indian Ring (4)

they want war with us but we won't give it to them.

pose of using military force was to provide for white security. In 1867, Sherman, of Ohio, argued that a stark choice faced the nation. The government must either arm "our people in the West in a kind of uncivilized warfare to destroy the Indians, or else...seize their people, men, women, and children, wherever you can find them, and bring them within the reach of civilization, far within our lines. There you can control and manage them."

Still Today's policy. \*churches do this

Eight months earlier, Sen. James McDougall, a California Democrat, had advanced a similar argument. Indians "must be whipped into their place, and subjected to obedience," he insisted. But there was a problem with this approach, according to Sen. James Doolittle, a Wisconsin Republican. Whites had the power to "conquer...capture and slaughter" Indians through direct combat. The problem, rather, was engaging all Indians in direct combat. "It is just as impossible, within any reasonable amount of expenditure, to catch these Indians and reduce them to obedience by war as it is to catch the buffalo upon the plains or the blackbirds that fly over the plains," Doolittle said. The subsequent slaughter of the buffalo herds by white hunters coupled with a new military tactic of winter campaigns against Indian villages in the 1870s proved Doolittle was wrong. Much that happened during the 1870s and ensuing decades, however, provided bitter support for another conclusion given that day by Doolittle: "There is not much honor to be won by the Army or by the government in fighting with these Indians."

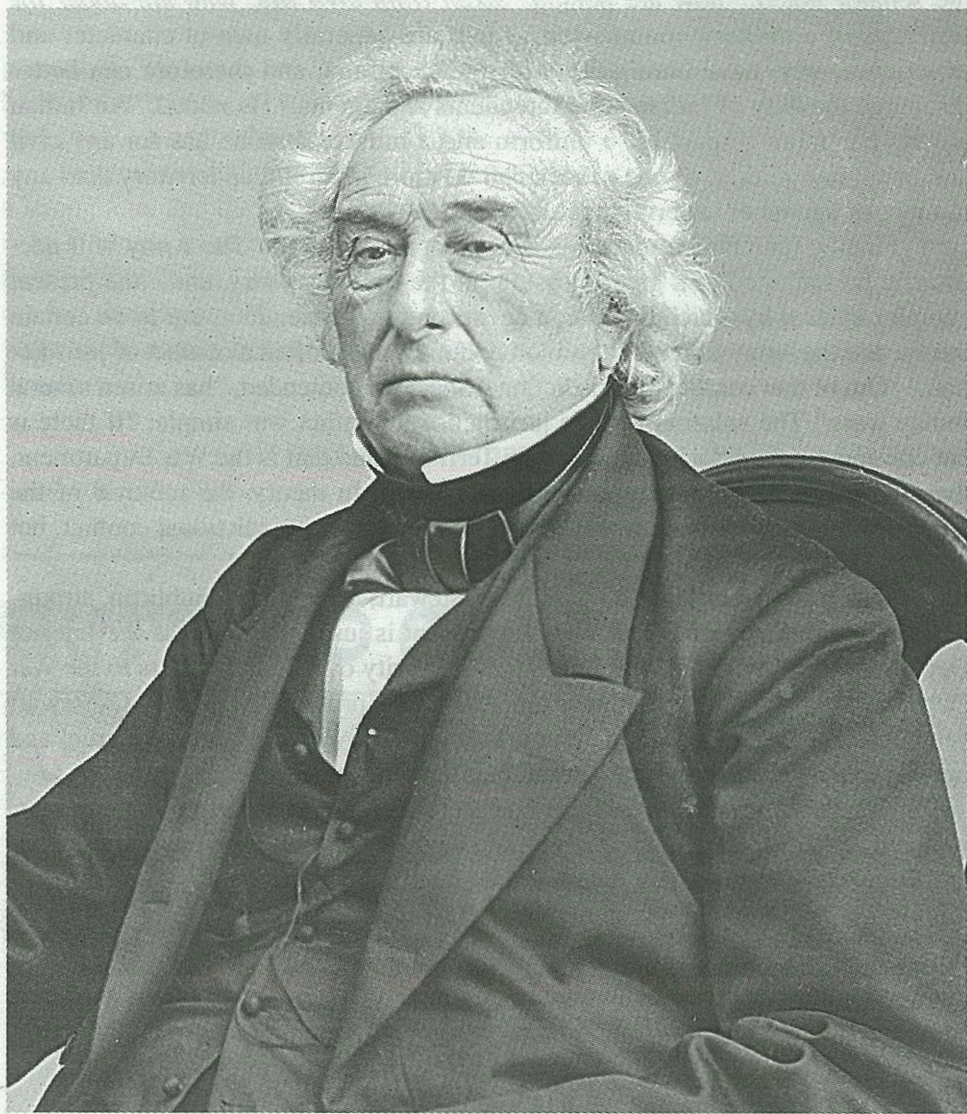
oka, Onondaga etc.

Senators spoke of long-term objectives and methods to achieve them. Specific instances of Indian depredations and victories also drew reactions from Gen. William Tecumseh Sherman, John Sherman's brother. Responding to news of the massacre of Capt. William J. Fetterman and his 80-man command near Fort Phil Kearny during Red Cloud's War, Gen. Sherman, on Dec. 28, 1866, sent a telegram to U.S. Grant. In it, the general confessed, "I do not yet understand how the massacre of Captain Fetterman's party could have been so complete." But he harbored no doubt about the required response: "We must act with vindictive earnestness against the Sioux, even to their extermination, men, women, and children. Nothing else will reach the root of this case." Coupled with his infamous march through Georgia during the Civil War, his call for Sioux "extermination" makes it clear that W.T. Sherman was committed to "total war."

Still, some congressmen expressed reservations about the use of military force. They expressed concern over war powers, military expertise and expenses. Regarding war powers, Doolittle declared, "The power to declare war is in the Congress of the United States and in Congress alone." In the "whole history of our dealing with our Indian tribes has been to transfer the power to declare war to some commander of the forces upon our frontiers," he continued. "Without any act of Congress, without any direction by the government, by the mere act, it may be, of a lieutenant, it may be of a captain or a major or a colonel in command of the military forces upon the frontier, they make war on a nation of Indians, which, before its termination, involves the expenditure of millions upon millions of dollars, and we simply foot the bill."

Howard, of Michigan, drew attention to the frequent lack of expertise and training among officers in the frontier military. "Military men, or at least that class of military men who are likely to be sent to the Indians," he said, "are, for the most

Continued Page 16



Rep. Francis Granger, of New York: Advocated whatever "become necessary to take measures to guard the frontier against their depredations."

# JUST AROUND THE BEND

APRIL 2016

April 1-3 - Cave Creek, Ariz. 38th Annual Cave Creek Fiesta Days Rode and Parade. Three PRCA rodeo performances, parade, mutton bustin' and entertainment. [www.cavecreekprorodeo.com](http://www.cavecreekprorodeo.com)

April 2 - Texas Canyon, Ariz. 3rd Annual Amerind Texas Canyon Trail Run. 10K trail run and walk sponsored by the Amerind Museum and Bisbee Vogue Inc. Route goes through quart monzonite formations in remote sections of Texas Canyon. [www.amerind.org](http://www.amerind.org)

April 8-10 - Tombstone, Ariz. Rose Tree Festival. 131st blooming of the world's largest Banksia rose, now encompassing more than 9,000 square feet. Rose Queen coronation, pancake breakfast, box lunch auction, parade, pet parade, folklorico dancers and mariachi band. [www.tombstonechamber.com](http://www.tombstonechamber.com) or (520) 457-3326.

April 8-10 - Phoenix, Ariz. Central Arizona Cactus and Succulent Society Show and Sale. Desert Botanical Garden, 1201 N. Galvin Pkwy. [www.dbg.org](http://www.dbg.org) or (480) 941-1225.

April 9 - Living History Day at Tucson Presidio. Re-enactments of life in early Tucson, 1775-1856, at replica of the city's original adobe-walled fortress. 10 a.m. to 3 p.m., 133 W. Washington St. [www.tucsonpresidiotrust.org](http://www.tucsonpresidiotrust.org)

April 9-10 - Globe, Ariz. 32nd Annual Historic Home Tour and Antique and Quilt Show. Guides will provide transportation to historic homes with antique and quilt show to follow. 9 a.m. to 3 p.m. [www.globemiamichamber.com](http://www.globemiamichamber.com) or 800-804-5623.

April 23 - Tombstone, Ariz. Tombstone at Twilight. Evening shopping and entertainment in Tombstone on the fourth Saturday of every month. Street entertainment by Blood at Dusk Gunfighters. Evening concludes with raffle. [www.tombstonechamber.com](http://www.tombstonechamber.com)

Through Sept. 30 - Phoenix, Ariz. Personal Journeys: American Indian Landscapes. Exhibits interpret relationships between Native Americans and land and how they were represented artistically. Heard Museum, 2301 N. Central Ave. [www.heard.org](http://www.heard.org)

Through Oct. 2 - Wickenburg, Ariz. Saddles That Shaped the West. Exhibit of saddles made by master saddle maker Carson Thomas. Half-scale saddles provide full historical survey of regional styles in the West from 1830 to the present day. Desert Caballeros Western Museum, 21 N. Frontier St. [www.westernmuseum.org](http://www.westernmuseum.org) or (928) 684-2272.

MAY 2016

May 4-7 - Sierra Vista, Ariz. Spring Fling. Annual birding outings sponsored by Southwest Wings. Overnight, full day and half-day trips for bird viewing throughout Cochise County, including the Huachuca Mountains, Chiricahua Mountains and San Pedro River Valley. All trips depart from Cochise College, Sierra Vista Campus, 901 Colombo Ave. Online registration required. [www.swwings.org](http://www.swwings.org)

May 7, 14, 21, 28 - Tucson, Ariz. Locomotive Saturdays. Steam locomotive No. 1673 highlights exhibits at the Southern Arizona Transportation Museum. 10 a.m. to 1 p.m., Tucson train depot, 414 N. Toole Ave. Also featured are life-size brown statues of Wyatt Earp and John H. "Doc" Holliday who gunned down Frank Stilwell near the depot in the aftermath of the Oct. 26, 1881, gunfight at Tombstone's O. K. Corral. [www.historicdepot.org](http://www.historicdepot.org) or (520) 623-2223.

May 14 - Tombstone, Ariz. Old City Hall Restoration Benefit Concert. Bisbee Community Chorus will perform. Proceeds will help raise additional funds for ongoing work to restore the historic Tombstone City Hall building, built in 1882 on Fremont Street. Sponsored by the Foundation for the Tombstone Archives. [www.tombstonechamber.com](http://www.tombstonechamber.com)

May 28 - Tombstone, Ariz. Tombstone at Twilight. Evening shopping and entertainment in Tombstone on the fourth Saturday of every month. Street entertainment by Blood at Dusk Gunfighters. Evening concludes with raffle. [www.tombstonechamber.com](http://www.tombstonechamber.com)

May 28-30 - Tombstone, Ariz. Wyatt Earp Days. Legacy of Tombstone's best-known resident will be celebrated with gunfights, chili cook-off, 1880s fashion show and Wyatt Earp look-alike contest. Event will conclude with auction of an 1851, .44-caliber, black powder, Colt Navy revolver. Sponsored by the Tombstone Lions. [www.wyattearpdays.com](http://www.wyattearpdays.com)

For a free listing of your Old West event, please send information including time, date and place to [info@tombstoneepitaph.com](mailto:info@tombstoneepitaph.com)



Policy: We will be under military until they have everything & we are no more  
 Indian Ring (5)

Indian Policy

Beaverserats  
 Bureaucrats or bullets?  
 Both!

Continued From Page 15

part, unacquainted with the Indian character and the Indian habits. They (military men) go there carrying with them all the pride, and, I regret to say, haughtiness which pertains to their profession; and I think you will find, on a careful inspection of the history of these wars, that...most of them have been provoked by little petty interferences and insults on the part of small military officers who held the Indians in contempt or did not regard their rights." Lt. John Grattan, Capt. Fetterman and Lt. Col. George Armstrong Custer held a very dim view of the Indians' fighting ability; they also shared an additional distinction - forces under their immediate field commands were destroyed by Indians. Only Grattan, Fetterman and Custer suffered such a fate.

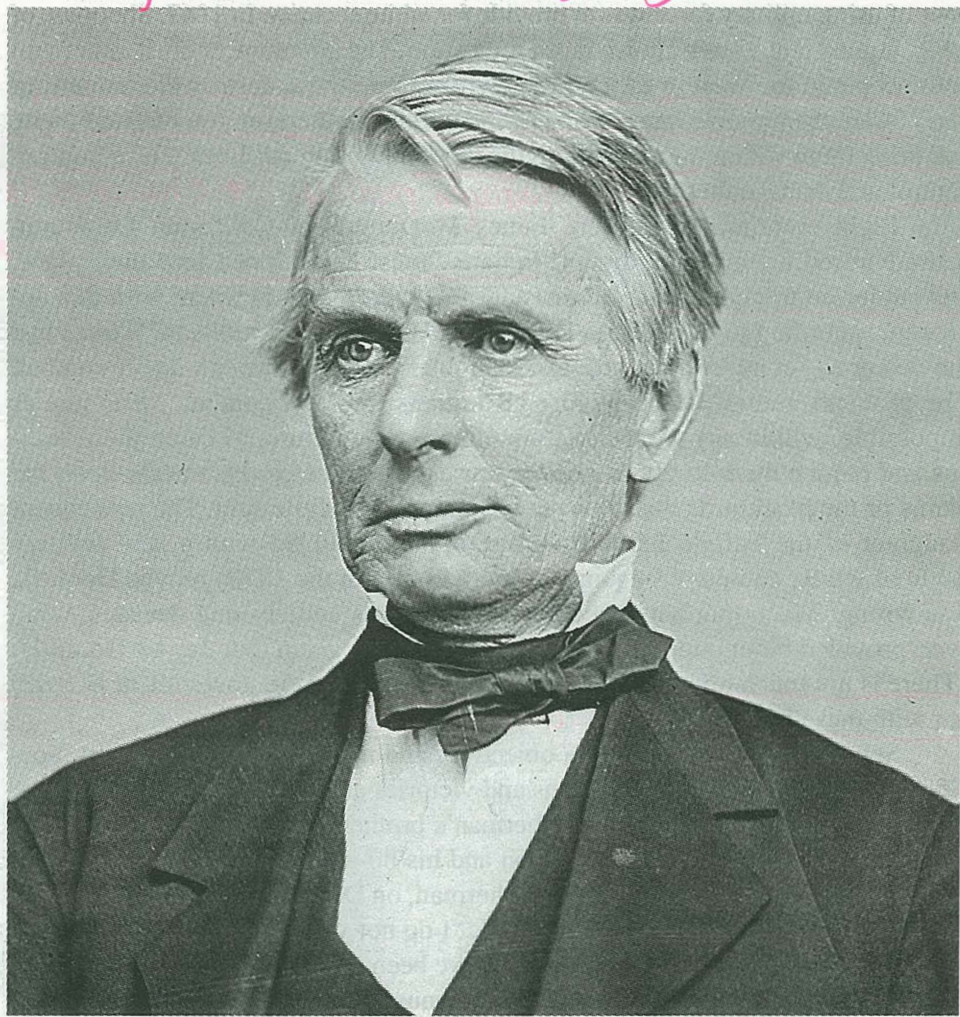
The remainder of Howard's statement deserves attention: "I do not believe that military men who come in contact with the Indians are less likely to practice fraud and imposition upon them than are civilians. I know no distinction in point of honesty and commercial honor between a soldier or an officer and a civilian, and I do not believe it exists; while, at the same time, I do believe, for I think history justifies me in the belief, that these Indian collisions are more frequently brought about by the impertinence and unjust interference of military men located among the Indians. An Indian, perhaps, in his ignorance of civilized manners, affronts a lieutenant without intending to injure his feelings and not knowing that he has done so. The young gentleman, fresh from West Point, with his epaulets bright and clean upon his shoulder and his sword by his side, whips out the toasting-iron and returns this imaginary insult by a blow or a stab, and then comes on an Indian war that costs the government ten or fifteen or twenty million dollars."

His comment pointed directly to the cost of military actions against Indians. In 1875, Sen. William Windom, Minnesota Republican, said, "Some years ago, I had occasion to make an examination and received a report from the War Department as to the cost of fighting one single band of Indians during the two years, 1862 and 1863, and it came to over \$30,000,000, and the report was that there were not over five or six Indians killed in the expeditions. So in that case it cost about \$6,000,000 each to kill those Indians." Sen. Windom then cited a recent report that showed "it costs on an average a million dollars to kill an Indian on the plains by the military." Most Americans, however, still favored military over non-military solutions to Indian problems. They wanted them solved quickly, once and for all, so the frontier Army could be disbanded. *Cost more today!*

Bureaucrats or Men in Blue?

Canada has Indian Affairs  
 "war room"

The arguments of senators Doolittle, Howard and Windom revolved around a fundamental issue. Should authority for Indian affairs reside in civil administrators in the Interior Department or military personnel in the War Department? Until 1849 Indian affairs were administered by the War Department; for the remainder of the century to the present day, Indian affairs have been managed by the Office (now Bureau) of Indian Affairs, the much-maligned "Indian Office." To many critics, Indian policy had suffered in bureaucratic hands; to right the ship, they argued, Indian affairs needed to be returned to military jurisdiction. The different approaches - bureaucrats or bullets - were



Sen. Timothy Howe, of Wisconsin: "You have turned out to barbarism immense tracts of country, which are needed by civilization."

much debated in 1866 and 1867.

Sherman, of Ohio, was an eloquent spokesman for military authority over Indians. He outlined his position in a June 30, 1866, speech. First, he said, "It is better to substitute military officers, who hold their commissions for life, in place of the Indian superintendents and Indian agents." With a military officer, he argued, "We shall get the security of a commission for life, and get the service of an officer of the Army for this duty without any increased pay." With civilian appointees, he said, "We have no security from a superintendent of Indian affairs or from any Indian agent that amounts to anything..." But with military authority he predicted, "there would be a chain of accountability from the soldier up to the general that would always give a sense of security...there is a burden of responsibility as against an officer of the Army that does not exist against any other person. This security would be worth more than all the bonds that can be executed by any civil officer."

Sherman's second argument was based on conditions that were waning over the course of the 19th century. "Two thirds of the officers of the Army, the senator noted, "now are persons taken from civil life, who are under the restraints of a military commission... (and) are generally men of character and experience, who have familiarity with Indian affairs, and therefore can better discharge the duty of Indian superintendents and agents." He added, "An Indian always has more respect for a uniform and a musket than he has for any civil authority; one soldier, or one officer, can do more in an Indian territory than an number of agents or superintendents."

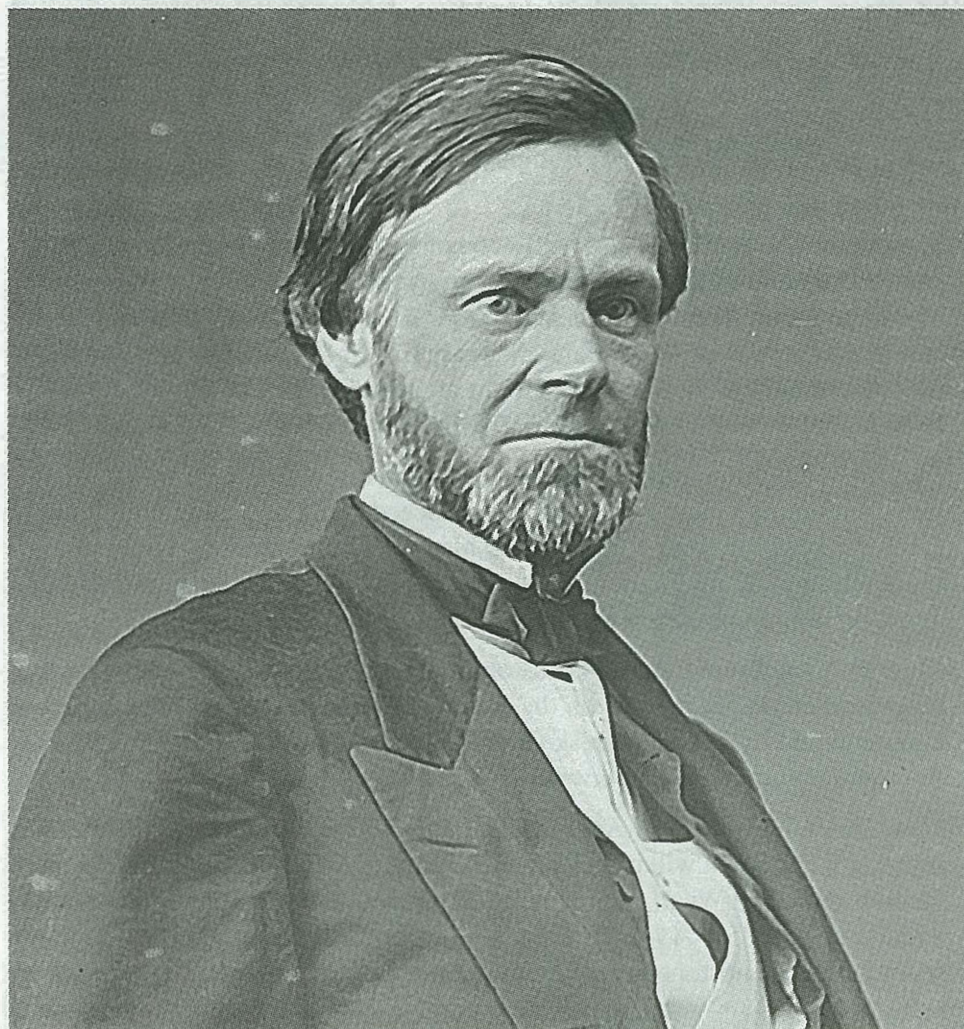
Finally, the Ohioan made his usual pragmatic point: "The Army will necessarily be stationed in a great measure, in the Indian country, and...the present complex system by which the Indian agents and superintendents are to do certain duties, and the Army officers certain other duties, make often a conflict of jurisdiction." "Out of that conflict of jurisdiction," Sherman contended, "has arisen several Indian wars." The solution for this jurisdictional conflict was simple. "If there is but one source of authority in the Indian Territory, and that is the War Department there will then be proper responsibility," he said. In theory, the removal of the Army from Indian territory would also have eliminated jurisdictional conflict, but no one ever advocated such removal.

Less than a year later, Sen. William Stewart, a Nevada Republican, strongly agreed with Sherman. "The War Department is just as humane as the Interior Department," he maintained. Returning of authority over Indian affairs to the War Department did "not mean extermination; it means protection in the end." Stewart vehemently rejected the notion "that officers of the Army will be more cruel and unjust to the Indians than mere speculating Indian agent!"

"Besides," he said, "the Indian respects shoulder-straps; he respects the warrior, and he likes to deal with warriors, and he does not look upon anybody as honorable unless he is a warrior. Every Indian that is of any account is a warrior. Let him deal with those that he respects as a class. Civilians he has a great contempt for. He will use them to avoid punishment by the Army, and cheat them the next hour." *All band/tribal councils report to military.*

Sherman had previously agreed: "You must keep armed forces in all these Territories and throughout the entire region of the Indian country... (in order to whip the Indians as soon as the traders shall have cheated them."

While Sherman and Stewart called for transfer of Indian Affairs to the War Department, Doolittle, of Wisconsin, deftly summarized objections to such a move. He conceded that "there is jealousy between the employees of the Indian Bureau and the officers of the Army:... (and) that there is sometimes a conflict of opinion



Sen. John Sherman, of Ohio: Government was "bound to use reasonable and due diligence in the case of...the ward; no more, no less."



and apparently a conflict of jurisdiction, that they are exceedingly jealous of each other." But he saw this as a good thing: "Far from that jealousy working to the disadvantage of the government it works rather to its advantage. The fact that there are two sets of officers in the Indian country jealous of and watching each other, is both for the good of the Indians and for the good of the government."

To this somewhat unusual application of the principle of separation of powers, he leveled a much more serious charge in the same speech. "I do not charge upon the Army greater mistakes than I would charge upon any other men in the same circumstances," he said, "but I do charge that the greatest Indian wars that have occurred within the last twenty years may be traced directly to the Army and to the blunders of officers in command."

Still, Doolittle insisted, "I stand not here to condemn the Army...(the) men who control it are as honorable men as we can find." Referring to the Grattan Massacre a dozen years earlier, he added, "If you put a young lieutenant who knows but little about human nature, and not much about Indians, in the command of a fort in an Indian country, he may involve you in a war that will cost you \$20,000,000 before you come to the end of it..."

"Withdraw all checks and guards whatever," he said, "and leave this whole thing to be determined by the officers of the Army, leave them to deal with the Indians as it is the profession of the soldier to deal with them, and my word for it, they will deal with them with the sword. It is their profession to do so; and there is no man in any profession of life who is not disposed from the very nature of the human heart to magnify his own profession."

**Finding the Right People for the Job**

Doolittle took up the subject again on Feb. 22, 1867. Conceding the presence of troops on the frontier was necessary, he said their job should be to "aid of the civil administration of the government rather than put them there in supreme power over the civil administration of the government." He issued a blunt warning: "I say to that sense of justice and propriety of this whole nation, that if the proposition is now made to deliver the whole of the Indian tribes over to the absolute, unqualified control of the War Department, to be administered by the Army and the officers of the Army, it is to deliver them over to the shortest road to extermination."

*he wants a longer benign unnoticed genocide road.*

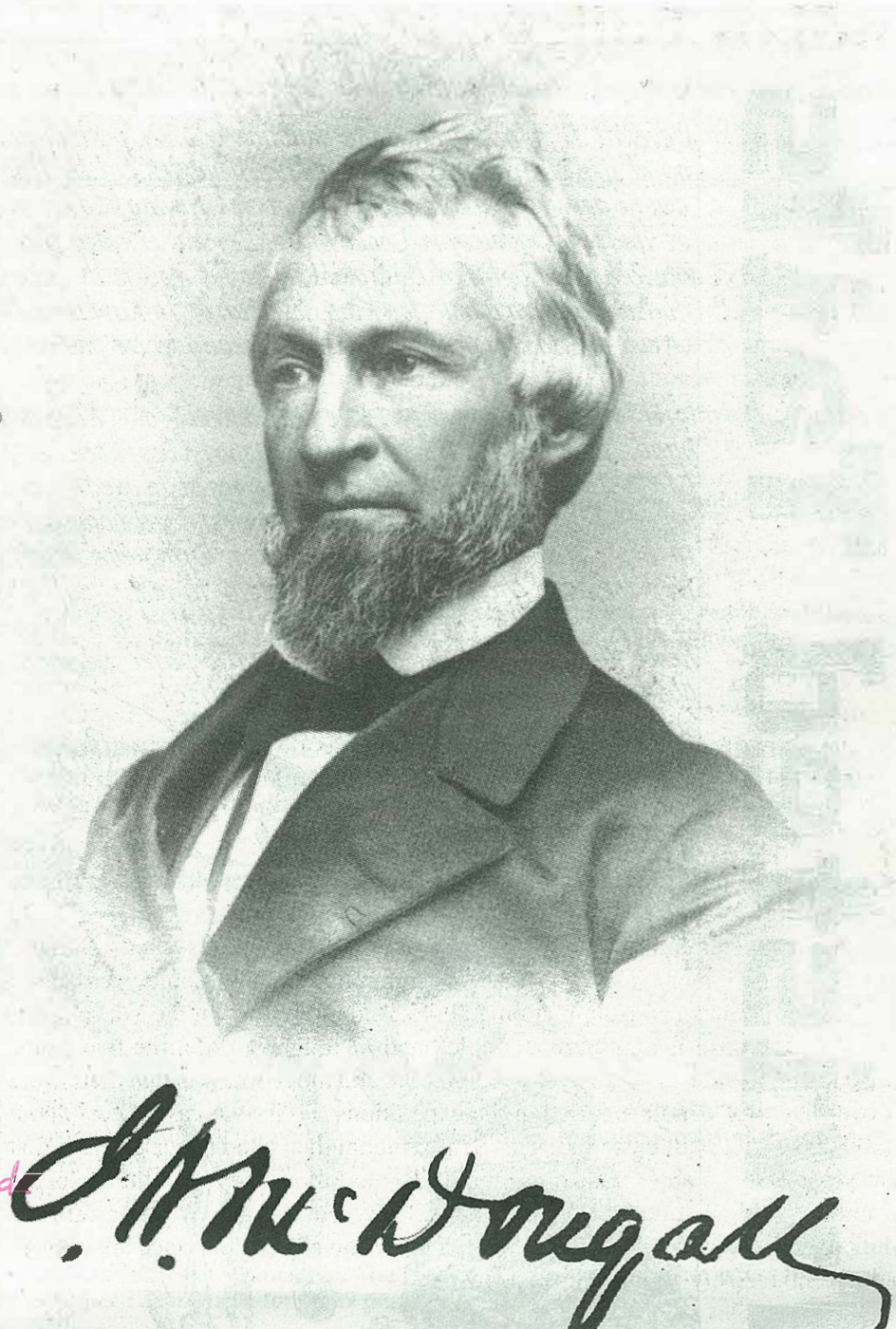
Other senators, including Thomas Hendricks, an Indiana Democrat, and McDougall, of California, expressed similar conclusions. Noting that an Army lieutenant general had preached the doctrine of "extermination" in war with Indians, Hendricks said transfer of Indian affairs to the War Department would be tacit endorsement of "that doctrine."

*this is "war dept" aim/mission.*

Likewise, McDougall said, "I am altogether opposed to returning this authority to the Military Department; for I know that a lieutenant or a captain commanding a post thinks his business is, if he sees a band of Indians, to order out his men booted and saddled; and as soon as he can approach them to draw and strike and slay and slaughter. I have seen it done, and I have felt it to be an outrage upon humanity. They are not to be overcome, unless they should be exterminated in that manner; and yet the Indians of our possessions are many of them superior men."

The most pervasive weakness of administering Indian policy throughout the century, he concluded, was the lack of truly qualified, competent and dedicated personnel. "Few men are fitted to discourse with (Indians)," he noted. But there had been at least a few stalwarts. "Fitzpatrick, who was for many years our agent with the (Comanche Indians) and with the southwestern tribes coterminous, could go among all the Indian tribes and converse with them, for he had a kind eye and a strong arm, and they knew him and knew he was a man to be trusted. I think it is by kindness and by the influence of Christian principles that we may save them from utter oblivion." The desperate need for qualified men perhaps was reflected in the fact that Fitzpatrick - mountain man, entrepreneur, Indian agent - had died 13 years to the month before McDougall invoked his name before the United States Senate.

A version of this story previously appeared in The Tombstone Epitaph in April and May 1988.



Photos courtesy Library of Congress

Sen. James McDougall, of California: Indians "must be whipped into their place, and subjected to obedience."

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