

# States of the Union

## NAVAJOS, HOPIS AND THE LAW OF THE LAND

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BIG MOUNTAIN, ARIZONA

**T**O THE unpracticed eye, Hopi and Navajo sand paintings may not look all that different, yet they are created from wholly dissimilar angles of vision. The tradition-bound Hopis begin at the edges of a design and work inward, while the more assertive Navajos start in the middle and work outward. The difference in cultural tem-

peraments affects more than esthetics: It lies near the center of a century-old land dispute between the two tribes that is still causing much human misery.

To Navajos, the most conspicuous sign of misery is a 200-mile-long fence that Federal officials erected here in 1977. It zigzags through the tawny landscape like a coping saw, dividing Navajo from Hopi, carving new boundaries and sundering old arrangements. The fence represents efforts by Congress to settle the old argument. Going a step beyond Solomon's fabled solution, Congress actually severed the living land, awarding each tribe an equal portion of a 1.8 million acre parcel they once shared. Families residing on the "wrong" side of the fence have been required to pull up stakes and go elsewhere.

It is not hard to understand why Navajos object to the fence. When the grim process of relocating families began eight years ago, the Navajo & Hopi Relocation Commission—an agency invented by Congress—compiled a "Roster of Potential Relocatees" that included 109 Hopis and 9,525 Navajos. Even taking into account the population disparity between tribes—there are about 160,000 Navajos and only some 8,000

Hopis—the number of Navajos slated for removal seemed painfully disproportionate. "Imagine what would happen," a Navajo tribal official has speculated, "if Congress suddenly passed a law requiring 6 per cent of the entire U.S. population to abandon their homes, where they'd been living peacefully for generations, and find some new place to live. Wouldn't there be riots in the streets?"

As is so often the case among people without power, we are in the presence here of too much justice and too little mercy. We have allowed the letter of the law to overwhelm the spirit of the tribes.

It all began in 1882 when Chester Alan Arthur, our 21st President, signed an executive order creating a 2.5 million-acre reservation in northern Arizona for the Hopis and "such other Indians as the Secretary of Interior may see fit to settle thereon." If the order was meant to discourage Navajo encroachment of traditional Hopi turf, it missed the mark. Only 13 years out of enforced exile at Fort Sumner, New Mexico, the Diné—as Navajos call themselves—were embarking on one of the most astonishing ethnic comebacks in modern history. Their grazing grounds, which would eventually grow into a reservation of more than 9 million acres, already encircled the Hopi reserve. As the Navajo population burgeoned, scores of shepherds drifted into Hopiland.

Most commentators agree that the mild, village-centered Hopis were no match for the warlike, nomadic Navajos. To this day the Hopis call themselves "the Peaceful People," while they call the Navajos *Tasavuh*, which means "head-bashers"—an acid reminder of past massacres. Writing to the Secretary of the Interior only six years after Arthur's executive order, an on-the-spot investigator of Hopi complaints emphasized the "continual intrusions and depredations of the Navajos, who steal [the Hopis'] corn, their melons, their horses, and who in many cases have settled on their reservation, and treat Hopi lands as though they belonged to them, making use of the ... water springs and driving the lawful owners from them...."

In those rough-and-ready times, the Federal response was to forgive the Navajos their trespasses, chiefly on the grounds that Navajo shepherds required considerably more land than did Hopi pueblo-dwellers. A Bureau of Indian Affairs (BIA) official at the Hopi Agency spoke for many when he declared that the Hopis "should not be permitted to eject an industrious (if disobedient) neighbor and then allow the land to waste and his sheep to decline in filthy mesa corrals while he indulges in snake dances, basket dances, clown dances, and the 10,000 other displays he uses as an excuse why he should not be on the range."

In time, however, white political sympathies began to tip toward the Hopis. There were minerals beneath the grazing grounds, and the Hopi leaders might be willing to lease the tribe's rights to them to oil and coal interests. Besides, Chester Arthur had given his word; a promise was a promise. In his influential *Book of the Hopi*, published in 1963, Frank Waters reminded readers that "the People of Peace are still compressed upon a tiny Hopi island in a great Navajo sea bounded by the continental shores of white supremacy." Waters placed at the top of his upper-case list of recommendations a call for "PROTECTION OF RESERVATION FROM NAVAJO ENCROACHMENT."

In fact, the wheels were already turning in that direction. Only the previous year a panel of three Federal judges in Prescott, Arizona, had found that the Navajos and the Hopis held equal rights to 1.8 million acres of the Arthur reserve, and another 600,000 acres were earmarked for the exclusive use of the Hopis. Henceforth the 1882 parcel would have a new name: the Joint Use Area, or JUA.

There followed a dozen years of fruitless negotiation over the meaning of "Joint Use." The Navajos kept insisting on buying out Hopi interests; the Hopis kept calling for partition of the land. Finally, in 1974, the Hopis got their way when Arizona's Congressional delegation—led by Barry Goldwater in the Senate and Morris Udall and Sam Steiger in the House—persuaded their

colleagues to pass the Navajo-Hopi Settlement Act. The measure provided for equal partition of the JUA. Three years later the fence went up and relocation began.

Life for many Navajos has been difficult ever since. The courts have imposed a "freeze" on construction and development in Hopi-designated areas still occupied by Navajos, so the huts and hogans out there are often packed with three generations of families who have no other place to live. In addition, the Bureau of Indian Affairs has set severe limits on how much livestock Navajos can raise on Hopi land: For each family a maximum of 10 sheep, two cows and two horses. During a recent three-month period, BIA rangers from the Hopi Agency impounded 119 "excess" Navajo horses and 80 cows—in Navajo terms, a lot of livestock. To get their animals back, owners have to pay a stiff impoundment fee (something like a towaway fine).

**I**F THERE are no "riots in the streets" here, that may only be due to a shortage of streets. Other forms of resistance to relocation are everywhere in evidence. A handful of Navajo protesters who live atop Big Mountain—Kee Shay, Pauline Whitesinger and some of their neighbors—have gone so far as to announce their secession from the tribe, declaring themselves "an independent nation" impervious to Federal law or court fiat. To Navajos, Big Mountain is alive and female; it safeguards fertility. In guerrilla-like dramatization of their beliefs, the resisters have made permanent camp here, close by the reviled fence.

A few others have pushed the crusade still further. BIA monitors, who ride the range each day looking for illegal Navajo livestock, complain of being shot at, whipped with fencing wire and knocked on the head with wrenches and two-by-fours. "They've even taken shots at our patrol planes," says Alf Secacaku, the Bureau's Superintendent at Keems Canyon.

The occasional violence serves to underscore more ordinary displays of Navajo discontent. Although the Reloca-

tion Commission is offering each Navajo family as much as \$66,000 to move, with a \$5,000 bonus thrown in for "voluntary relocation," fewer than a quarter of the families on the Commission's hit-list have actually relinquished their homes. "Some of the families do want to get out," says Don June, a Navajo who works on relocation problems for the tribe, "but most are against it. They have grandparents buried out there. They feel they have been there forever."

The Commission's original timetable envisioned an end to its labors by mid-1986. Last year, however, in a resolutely cheerful report, it conceded that the deadline would not be met, while claiming to have discovered "a spirit of enthusiasm and positiveness permeating the Commission toward the ultimate realization of its mission."

Most of those who have consented to relocation have been dispatched to border towns like Flagstaff, Tuba City and Gallup, where they eke out their days in trailers bought for them by the Commission. Many are relying on the usual urban prescription for Indians: a blend of welfare and whiskey.

By now, moreover, it is common knowledge that some of the displaced country folk are being swindled by city slickers, who buy the trailers for a fraction of the market price. The proffered cash may seem like a fortune to a Navajo family still covered with the dust of Big Mountain, but before long the family finds itself destitute as well as homeless. "There is no question," concedes Paul Kessler, a Commission official, "that relocatees are being taken advantage of by sharp real estate practices, possibly fraud."

Why is all this happening? I ask my Navajo friend Alice Luna, who directs her tribe's social welfare office in Tuba City. Why are the two tribes at each other's throats? "We are fighting each other," she says, "because we have been fooled by the publications of your non-Indian society" (i.e. the laws and decrees that have emanated from Washington). "Those are only the things written down," Alice reminds me. "They are not the real things."