Curly Hair and Big Feet: Physical Anthropology and the Implementation of Land Allotment on the White Earth Chippewa Reservation

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CURLY HAIR AND BIG FEET: Physical Anthropology and the Implementation of Land Allotment on the White Earth Chippewa Reservation

by
David L. Beaulieu

"Knowledge may be enjoyed as a speculative diversion but it is needed for decision-making. The genesis of ideas and the authentication of knowledge are a part of a continuous process which ultimately brings knowledge to bear on decision. What matters is the knowledge actually used at the decision-making point not the knowledge in process of development or authentication nor even the knowledge clearly apparent to particular individuals or organizations somewhere in society."

Thomas Sowell *Knowledge and Decisions*

Introduction

THE TERMS MIXED-BLOOD, half breed and Indian have had many various meanings. We are familiar with the common uses of these terms. We are less familiar with their formal political-legal meanings and the destructive impact their official usage has had upon tribal societies and communities in America.

For the most part contemporary political legal definition and scholarly discussion regarding people of mixed Indian-European descent has been subsumed under the more generic term "American Indian." Yet this has not invariably been the case. The implementation of the land allotment policy among the Chippewa of the White Earth Reservation in Minnesota represented a focused political-legal and scholarly discussion concerning mixed-blood Indians in the years 1906–1915. The interaction and relationship of the political legal debates and the scholarly discussions in this example focus significant attention on broader questions concerning the role and function of scholars in the development and implementation of federal Indian policy and the particular relationship of the social sciences to American Indian societies.

The provisions and intentions of the General Allotment Act of 1887 are generally known to most students of Indian-European relations in the United States.[2] The implementation of the allotment policy at the White Earth Reservation, however, represents a little known and

unique combination of the tragic and absurd. Perceived initially by government policy makers as among the most desirable locations in the United States available for the "civilization of American Indians," the White Earth Reservation was to become the example of what a civilization could accomplish with a dependent people to despoil through fraud and corruption.

Into the middle of what has been labeled the "tragedy of White Earth"—almost as if they were thoughtfully provided for the slapstick, comic relief, of future generations of students too burdened by the conclusions of the scholarship to cry—two anthropologists came to White Earth Reservation to measure, to scratch the skin, pull the hair and otherwise physically examine the Chippewa people living there to determine who was a mixed-blood Indian and who was full-blood Indian.[3] Given the legislative history associated with the White Earth Reservation, the determination of who was mixed-blood and who was full-blood was initially necessary to facilitate the allotment and disposition of the lands and pine resources of the reservation. Full-blood Indians and minors were considered legally incompetent and were by this definition unable to sell their allotments, and by theory also in need of the government's protection and representation. The appeal to the science of physical anthropology to aid in such a determination became essential for the United States Attorney who sought to bring charges against individual entrepreneurs, lumber companies and banks in the state who had illegally obtained allotments from Indians ineligible to sell their allotments.

The records of the National Archives contain transcripts of the Federal court proceedings in the land allotment fraud cases of the White Earth Chippewa Reservation. Among the witnesses were Dr. Albert E. Jenks, Professor of Anthropology at the University of Minnesota, and Dr. Ales Hrdlicka, curator of the Division of Physical Anthropology of the United States National Museum of the Smithsonian Institution. It is a rare moment in the historiography of the relationship of anthropology and the other social sciences to American Indians to find an example where the colonial nature and political purposes and uses of the academic enterprise seem so obvious and direct. The land allotment fraud cases by ironic paradox also provide a rare opportunity where the Indian subjects of research were able, through their government attorneys, to examine and cross-examine the experts, the expertise of their science, and the morality of their purpose and function.

Professor Albert E. Jenks Lecture

Professor Albert E. Jenks entered his advanced course in anthropology at the University of Minnesota in 1909, evidently confident of the importance of his topic, and assured by the critical acclaim given

his courses in the 1907 *American Anthropologist* that the new discipline of anthropology would most likely have a long tenure at the University of Minnesota. "There is a growing demand for the professional anthropologist in our universities," asserted the editor of the *American Anthropologist* whose article, "Anthropology at Minnesota University," presented syllabi of the courses of the Department of Sociology of the University of Minnesota. As an illustration of the value of anthropology to university students, the editor noted the increasing enrollment in the course "Anthropology by Name" that Professor Jenks had founded in 1906.[4]

Thomas Uzzell, who sat through Professor Jenks' course in his senior year, must have had a similar sense of the importance of his topic for he saved and preserved his lecture notes to give them back to the University of Minnesota in December of 1966. As Mr. Uzzell sat to record the lecture, Professor Jenks began with a discussion of the stages of culture and the order of hierarchy of the five races of man. It was noted that the enlightenment state of culture, which stressed the development of the individual, was the highest stage of culture and was represented by the example of America. This stage was followed in order by civilization, barbarism and lastly by the primitive stage. Important to this ranking was the presence of reading, writing and agricultural development.

It was also noted that the races were ordered in a hierarchy that placed the white race on top followed by the yellow, the brown, the red and lastly, the black race. Cultural advance and racial advance went hand in hand and depended, according to Professor Jenks, on cultural opportunity. Despite the assertion that the yellow race was ahead of the white race in economy of living and nerve energy and in being less susceptible to diseases, Jenks felt that the white race was due to lead because of its greater originality and initiative and because of the greater comingling of races in white countries.[6]

Jenks defined race as a group of people having many variations grouped about one definite type. It was noted that head form was the most persistent trait in races and that the cause of head form was a great anthropological problem. Even so it was understood that head form and mental characteristics follow the example of the father and that the color of skin and eyes and the texture and color of hair generally follow the example of the mother.[7]

In 1908 Dr. Jenks, in commenting on the value of his research at the University of Minnesota, felt that his work in Physical Anthropology was important because "when the scientific fact of human heredity becomes common knowledge such educated public opinion will gradually impel people toward a rational improvement of the race of

man." His research in the cultural study of foreigners was viewed with similar logic. Taking what was described as "the new advanced position," Jenks felt "American civilization should not destroy the peculiar valuable characteristics of her various immigrants, but should foster and accentuate all the different worthy ones." In order to understand social life at the "high steps up the ladder," Jenks saw his research among primitive peoples as essential; "never before has the student of present social conditions so appreciated the necessity of starting at the bottom of the ladder of human culture."[8]

Albert E. Jenks received his Ph.D. at the University of Wisconsin-Madison in 1899. After a year with the Bureau of American Ethnology at the Smithsonian Institution, he received a position with the Bureau of Non-Christian Tribes, United States Commission, Philippine Islands. The bureau's name was changed to The Ethnological Survey for the Philippine Islands, enlarging the scope of work to include the Christian and Mohammedan peoples of the Philippines in August of 1903, a few months before Dr. Jenks was appointed chief of the survey. Part of Dr. Jenks' responsibility in the Philippines included "investigating and reporting on practical operations of all legislation for such people."[9] In connection with his work in the Philippines and for bringing "Columbus style" natives from the Philippines to the United States for a living exhibit at the St. Louis Exposition, Jenks received four gold medals of recognition.[10] In the fall of 1913 Jenks, now a professor of Anthropology at the University of Minnesota, was asked, as part of a $22 million endowment for research by the Carnegie Institution of Washington, to make a report upon the Western Hemisphere and islands of the Pacific as a field of anthropological investigation.[11] In viewing anthropology as an applied science, Jenks noted in his report to the Carnegie Institution, "It must not be supposed that the anthropologist is limited in his interest and his field work to man's evolution of the past. He knows man is still in the making. He studies man's present-day evolution in its individual and ethnic aspects. He makes his studies of both the past and the present, with an eye on the future, in order that those things which vitiate or benefit it today may serve as guides for future generations."[12]

Mr. Nelson's Act

The editor of the 1907 *American Anthropologist* in commenting on Professor Jenks' curriculum saw the value of anthropology in universities "as a culture study, a professional study and as a foundation work for the other sciences especially the social sciences . . ." However, Jenks' focus on the applied role of anthropology in solving modern

problems and molding a desirable future, was to combine with the broad institutional mission of the university to the state, to make available to them his ideas and concepts regarding race and culture—an unusual and singular application of significant value to the state of Minnesota.

The broad social and economic mission of the University of Minnesota as articulated through the work of various professors and academic departments, was well understood by United States Congressman Knute Nelson as a member of the Board of Regents at the University of Minnesota in the 1880s. Congressman Nelson, who actively solicited his appointment to the Regents "to promote interest in Scandinavian literature and culture at the University of Minnesota," aggressively supported the development of Agricultural Science and education at the University to increase the economic potential of agriculture to Minnesota.[15]

Regent Nelson not only sought to increase the economic potential of agriculture but also the economic interests of European agriculturalists with regard to Chippewa land and pine resources in Minnesota. In claiming that sixty-thousand people in his congressional district desired the opening of the Chippewa reservations to settlement and the colonization of the Chippewas, Nelson introduced in 1889 "An Act for the Relief and Civilization of the Chippewa Indians of Minnesota."[16] The desires of Nelson's constituency not only included the more obvious interests of entrepreneurs and speculators in land and pine or the needs of individual settlers. They also included the less obvious and rarely reported desires to simply have cheaper pine where freight cost from Minneapolis was considered a major problem for the residents of the Red River Valley, and to affect an increase in the property value of non-Indian lands surrounding the Chippewa reservations. The intention was also to significantly increase state revenues which would result through taxation, from both the alienation of title of the Chippewa reservations into fee patent land and from the improvements made upon the land by principally European farmers.[17] In calling for the cessation and sale of "unalloted" lands and surplus pine, the Nelson Act of 1889 laid a legislative foundation which would enable the congressman's constituents to have their desires fulfilled.

The passage of the Nelson Act was not unlike opening an upstream floodgate during the Minnesota spring. What occurred at White Earth was clear from the tenor of the House Committee report on Indian Affairs at White Earth in 1913:

> "Considering their (the Indians) unsophisticated character, the operations of great and greedy lumber concerns and anxious speculators in farming

> lands, the march of settlement, and the great influence such interest could wield with the government, particularly in the legislative and executive branches, it is natural that results such as we found were likely to follow sooner or later. In this instance, it was sooner.[18]

The story of the fraud and corruption associated with the appraisal and sale of the pine lands that were ceded as a result of the Nelson Act, seem incredible in and of itself.[19] The situation however was severely aggravated by Congress itself, which began to enable the loss of allotments reserved for Chippewas under the act. An act of 1902 provided that heirs of deceased Indian allottees might, with the approval of the Secretary of Interior, sell and convey lands they had inherited; minors could do the same through court-appointed guardians.[20] In 1904 a rider to the Indian appropriation bill authorized the Chippewas of Minnesota to sell the timber on their allotments.[21] The Steenerson Act of 1904 increased the allotment size from 80 to 160 acres originally promised for White Earth allottees in the agreements negotiated by the United States Chippewa Commission under the Nelson Act and by the 1867 treaty.[22] And in 1906 and 1907 Congress removed restrictions to the sale, incumbrance or taxation of allotments held by adult mixed-bloods of the White Earth Reservation.[23]

As if the legal provisions between 1902 and 1907 were not enough to provide ample pine and land for speculators, there was massive fraud in the purchase of allotments from mixed-bloods and illegal buying of allotments from full-bloods and minors, as Marsden C. Burch, a special representative of the United States Attorney General, discovered at White Earth late in 1909. Burch filed complaints in the United States District Court at Fergus Falls, Minnesota, beginning in the summer of 1910, involving 142,000 acres of land worth $2,000,000 and with a timber value of $1,775,000.[24]

Toward a Political-Legal Definition of Mixed-Blood

In order to prosecute the cases, Burch needed to know who was full-blood and who was mixed-blood. In order to establish who was mixed-blood it was first necessary to establish a political and legal definition of what was a mixed-blood.

In the fall of 1910 Burch, with the help of John Hinton, a special Indian agent, developed a roll which noted the blood status of each White Earth Chippewa. This roll was rapidly discredited for its inaccuracy. Many brothers and sisters found themselves designated mixed-blood and full-blood.[25] Ranson J. Powell, the attorney for the defendants in the government cases, began extensive inquiries, in 1908, into the geneological history of approximately 1,000 different

Indians at White Earth in preparation for the defense. The Department of Justice taking the same course independent of Powell began its geneological research with a corps of assistants in 1911 after Burch's efforts to develop a roll was discredited.[26]

In comparing his geneological research with that of the Department of Justice, Ranson Powell found remarkable consistency in results as well as considerable complementary evidence. It was decided in 1913 to combine and broaden the geneological work through formation of a commission to enroll all members of the White Earth Reservation by sex, age and blood status.[27]

Burch assumed, given the common meaning of the term at White Earth, that mixed-blood meant those persons having one-half or more white blood, and full-blood meant those persons have one-half or more Chippewa blood. To resolve the question, test cases were presented to the United States District Court. The court ruled that the term mixed-blood meant persons having one-eighth or more white blood. Relating "competency" to the amount of white blood present, the court determined that the assumed competency of a mixed-blood Indian required at least one-eighth white blood. Judge Page Morris felt that in the case of Indians with less than one-eighth white blood, "The white blood would not affect the capacity of the Indian to manage his own affairs."[28] The defendants in this case, the First National Bank of Detroit (Detroit Lakes), The State of Minnesota and the Nichols Chisholm Lumber Company, appealed the case to the United States Circuit Court of Appeals. The Circuit Court reversed the District Court decision declaring that an Indian having any identifiable blood other than Indian was a mixed-blood. The government then appealed the case to the United Supreme States Court which affirmed the decision of the Circuit Court on June 18, 1914. With this decision everyone was mixed-blood who wasn't 100 percent full-blood.[29]

The arguments presented by the government attorneys in the Supreme Court case not only presented significant principals of federal Indian law, but also presented two distinct definitions of the term mixed-blood. There existed in Chippewa a definition which the government argued should prevail and there also existed a definition found in the prevailing notions of race and culture in American society.

This latter view which asserted the need for varying amounts of white blood to render an Indian competent to manage his own affairs, and in stimulating a sense of paternalism, has often been used to protect the land rights of "incompetent" Indians despite the justice and logic of other reasons.

The differences between Chippewa and white definitions of mixed-bloods was stated by May zhuch ke ge shig, a chief of the Mississippi

Band and a signer of the 1867 Treaty. On the subject of mixed-bloods he stated, "We do not think as the people do that bought our land. They have said that if the Indian had a cousin that was mixed-blood that made the Indian mixed-blood. We have two words for what we want to say, one for Indian, one for mixed-blood."[35]

The terms mixed-blood and half-breed in Ojibwa language were the same word regardless of percentage of blood. The Chippewa classified a person Indian if he lived with them and adopted their habits and mode of life and classified him a half-breed if he adopted the white man's life.[36] Some Chippewas in using this general rule tended to focus on style of dress as the main feature in distinguishing Indian and mixed-blood. Indians wore breachcloths and had braids in their hair whereas mixed-bloods wore hats and pants.[37] Some noted economic style in trapping; when Indians trapped they only trapped enough to pay off exactly what was due the trader whereas mixed-bloods trapped the entire season in an effort to gain a surplus.[38] To others this general rule was more precisely determined by the nature of intermarriage whereby children of Indian and white parents and children of persons who were both mixed-blood were defined as mixed-blood. Children of mixed-bloods and Indians were considered Indians or "Anishinabe" or of "our people."[39]

The terms Indian, Anishinabe, "our people," were used interchangeably by Chippewas for the English word full-blood. Percentage of Indian and white blood was not a determining factor in distinguishing a mixed-blood or Indian. For the most part the distinction was cultural reflecting the various roles for distinguishing children by nature of intermarriage.

When May zhuch ke ge shig stated that an Indian having a mixed-blood cousin didn't make the Indian a mixed-blood, he was most likely referring to himself and his cousin, Robert Fairbanks. Sophie Roy, a daughter of Robert Fairbanks and Catherine Beaulieu Fairbanks, spoke of a woman named Bemo sah dum who was the grandmother of May zhuch ke ge shig. Her description happens to illustrate the subtle and complex sense of kinship and distinction which provide a source of meaning to the terms mixed-blood and Indian.

> Bemo sah dum always lived around home there at Crow Wing. My mother always kept her around the place. She did not live in my father's house. She had a little wigwam right beside the house. She was considered family. My deceased father and her grandchild May zhuch ke ge shig always called each other cousin. My father called her aunt. She lived alone in the wigwam beside the house. My mother always took care of her. She was very old then. She lived as an Indian. She spoke no English and did not understand English. She was lighter complected than my mother but not as light as my father.[40]

Just as the Chippewa referred to children of mixed-blood and Indian marriages as Indians or Anishinabe or as "our people," there was a growing distinction in the early to mid-1800's among the mixed-bloods of a sense of "our people." Nancy Pluff who had lived at Crow Wing and had removed to White Earth referred to herself and others who had white fathers and Indian mothers as "us people." This sense of "our people" centered on the type of father one had, and was a common way of distinguishing totems or clans among the Ojibwe. Nancy Pluff, in stating that she and another woman living at Crow Wing had the same totem was asked, "Did you ever hear her say that she had white blood?" In response she said, "We had the same totem. You folks ought to understand what I mean when I say this . . . We had the same kind of father."[41] This totem for the half-breeds or mixed-bloods was designated as Eagle (Meegazee).[42]

The process of amalgamation and incorporation between the Ojibwa and Europeans had two features: 1) the traditional clan system among the Ojibwa whereby an individual inherits his clan affiliation from his father, and 2) the distinction of mixed-blood and Indian based on intermarriage without reference to the sex of the parents. This process was both interrupted and intruded upon by United States governmental involvement, initially through treaties which attempted to render fixed and static definitions of mixed-bloods and Indians not only for the people living at that time but for their descendants. Part of the distinction between half-breed or mixed-blood and Indian or full-blood took on a new meaning after the application of official labels by the government. For example, consider the testimony of an Indian man whose mother at first declared to her son's surprise that she was a mixed-blood and later in tears under cross-examination, conceded that she was after all a full-blood. To the question, "would you be a full-blood if you had sold your land," the son answered, "I would have been an Indian if I had not sold my land. I tried to be, but if it (sic) had not been given to me that I was a half-breed why I could not have sold my land?"[43]

The definition of mixed-blood which developed in the prevailing notions of race and culture in American society, focused on a direct relationship between white blood and competency. When Congress passed the General Allotment Act in 1887, it was intended that the allotments issued to Indians would be held in trust by the United States for the "sole use and benefit of the Indian" for a period of twenty-five years. The act assumed a need for Indian adjustment and adaptation through education and experience in order that Indian allottees would be able to maintain and use the allotment "the government had granted him."[44] In 1906 Congress passed the Burke Act

which gave the Secretary of Interior power to issue a patent in fee to an Indian allottee before the expiration of the 25-year trust period "whenever he is satisfied that any Indian allottee is competent and capable of managing his or her affairs."[45]

The 'Clapp Act' of 1906 and its amendment in 1907 which was made retroactive, removed "all restrictions as to sale, incumbrance or taxation for allotments within the White Earth Reservation heretofore and hereafter held by adult mixed-bloods."[46] The 'Clapp Act' (by legislative association) defined an adult mixed-blood as an Indian competent and capable of managing his or her affairs. Even so there existed neither a description of the specific attributes of competency or of being mixed-blood.

In the district court case which first sought to determine the definition of the word mixed-blood for purposes of the 'Clapp Act', Judge Page Morris struggled to associate the meaning of competency with the meaning of mixed-blood.

> I think we must presume that Congress intended to do what was right in this matter, having in full view its heretofore assumed relation as guardian for these allottees. At the same time the great difficulty here encountered is as to where to draw the line in reference to the guardian of white or foreign blood in a fair and proper construction of this act. I can not bring myself to believe that Congress meant to say that any admixture of white blood, however slight, would furnish a conclusive presumption of the competency of the allottee to manage his own affairs. On the contrary, after careful reflection, I can not help coming to the conclusion that it meant by the term "mixed-blood Indian" any Indian having a reasonable (quantum) of white or foreign blood; in other words that the so called Clapp Amendment should receive a reasonable construction.[47]

Judge Morris admittedly "anxious to avoid what might be interpreted as judicial legislation," defined reasonable construction of the Clapp Amendment to include within the meaning of mixed-blood all those who had at least one-eighth degree or more white blood. When the decision of the district court was reversed the government attorneys attempted to provide an even more reasonable construction.[48]

The government attorneys relying on an 1891 Supreme Court decision which noted that the language of a particular act of Congress "if construed literally, evidently lead to an absurd result," used a principle established in this case that "if a literal construction of the words of a statute be absurd, the act must be so construed as to avoid the absurdity. The court must restrain the word."[48]

To restrain the word mixed-blood in order to avoid absurdity in the construction of the Clapp Amendment, the government attorneys

applied simple logic to prevailing ideas of race and culture. With the assumption that the white man is competent and the Indian incompetent, the government argued that it was reasonable to include within the competent class all who had one-half or more white blood.

The situation surrounding the need for a legal definition of a mixed-blood was complicated by a deepening political controversy and division among the Chippewa who were severely aggravated by the implementation of the allotment policy at White Earth. Though affecting complex issues having diverse and tangled the roots in the history of the tribe, issues were increasingly felt and divided the population along a growing perception of social, economic and political distinctions—between those "who wore hats and pants" and those "who wore breachcloth and braids"—between mixed-bloods and full-bloods.

The issue took form with a petition representing the views of a large number of full-bloods protesting the favorable assignment of allotments to mixed-bloods, generally, and to certain mixed-bloods considered ineligible. The petition further requested that full-bloods instead of mixed-bloods be given the first opportunity to select allotments. By the time of the Justice Department investigation and resulting need to determine a legal definition for the term mixed-blood, the issue had intensified with another petition "for the purification of the White Earth Roll." Though naming only 86 individuals, the petition, if successful, would have affected the rights of over 1,000 mixed-blood members of the tribe.[51]

From the petition as well as federal court cases brought by certain mixed-bloods to have their rights recognized, there seems to be three types of mixed-bloods whose claim to an allotment on the White Earth Reservation was disputed: (1) mixed-bloods of the Mississippi Band of Chippewas who should more properly be identified as Chippewa of the Lake Superior Band; (2) mixed-bloods who for various reasons, such as marrying a white man or residence off reservation, had their legal standing as 'Indian' disputed by the federal government; and (3) "foreign mixed bloods," or those who could not prove a direct social or political relationship to the various bands party to the agreements made under the Nelson Act of 1889.[52]

Toward a Scientific Definition of Mixed-Blood

Though the legal question of what constituted a mixed-blood was determined by the Supreme Court decision, who specifically fit that definition remained a very significant problem for both the government and defendants in the land allotment fraud suits. Ranson Powell commented:

> We have found, after nearly ten years of investigation and controversy over this unfortunate situation, that it is much easier to determine a legal proposition relative to what constitutes a mixed-blood under the Act and what powers and duties the government may possess with relation to the mixed-bloods, than it is to determine who are the mixed-bloods in cases where the allottees are close to the line.[53]

By the fall of 1914 it was determined that the geneological histories developed by Powell and the Department of Justice now formalized in the work of the enrollment commission did not represent substantive legal proof of the blood status of Indians. Also in cases where the geneological record was meager or unsatisfactory the need for additional evidence became very necessary.[54]

Powell's search for sources of additional evidence and substantive legal proof led him to a meeting with Dr. Ales Hrdlicka, curator of the newly established Division of Physical Anthropology in the United States National Museum at the Smithsonian Institution."

Dr. Hrdlicka was Curator of the Division of Physical Anthropology and was responsible for the preservation and safe-keeping of collections related to physical anthropology and their use for the advancement of science.[55] According to one of his biographers, the study of bones was probably the happiest aspect of his career in physical anthropology. The museum's collection of bones, regarded as among the most complete of its kind, was certainly the result of a man happy with his work, if not also a tenure of forty years in his position, from 1903 until his death.[56]

Hrdlicka had two medical degrees and had initiated his formal study of anthropology in Paris at the Broca Institute. Prior to that time he worked at the Middletown State Hemopathic Hospital for the Insane where he attempted to determine the relationship between mental and physical characteristics similar to the contemporary questions posed regarding criminals, prostitutes and the like. In comparing the 1,000 inmates of Middletown with its 100 employees, Hrdlicka found no difference in physical characteristics that would explain their respective status.[57]

Hrdlicka was apparently given his first opportunity to examine a Native American after his return from Paris. In November of 1896, Hrdlicka was invited to attend the autopsy of Kishu, an adult male Eskimo, who died of tuberculosis at New York's Bellevue Hospital. Kishu, along with six other Eskimos was brought from Greenland by Lieutenant Robert Perry to be studied at the American Museum of Natural History in New York. Harlow Brooks of the Pathological Institute of New York, who invited Hrdlicka to assist, removed Kishu's brain and prepared the body in order to preserve the skeleton for the

collections of the American Museum. Following this inspection Hrdlicka then examined the remaining and yet living Eskimos at the American Museum. Each of these Eskimos also had contracted tuberculosis and all were dead within a year.[58]

In the same year that the United States Supreme Court determined the legal definition of mixed-blood and full-blood, Hrdlicka published an article describing the history of the discipline of physical anthropology that would be used to provide the scientific definition and description of mixed-blood and full-blood.[59] Admitting a dependency of the discipline upon its American Indian populations and their physical remains, Hrdlicka suggested an early social-political function of his science:

> For the fertilization of the field (of physical anthropology) in this country, nothing could have been more effective than the presence on the American continent of a race whose identity, composition and origin were problems that from the date of discovery interested the whole world, a solution of which, however, never advanced beyond a maze of hypotheses. To this toward the beginning of the nineteenth century, was added the fact that the white man's contact with the Indian in North America was becoming extensive and the need of knowing the race better, physically as well as culturally was felt with growing intensity.[60]

The history of American physical anthropology through much of the nineteenth century is primarily a history of the gathering of American Indian skulls and attempts at their description and comparison. The significant scientific questions concerned the relationship of the 'mound builders' and Peruvian, Mexican and Central American Indian skeletal remains with modern North American Indians as well as racial origin of American Indians.[61] Hrdlicka writing in 1912 shortly before he was contacted by Ranson Powell showed that he retained his interest in the question of Indian origins. He evidently did not expect, however, that further American data would illuminate the question of origins. To Hrdlicka reflecting on the collections of the Smithsonian at this time, which consisted of 11,000 crania and skeletons, 1,600 human and animal brains and thousands of photographs, casts and other objects relating to physical anthropology, the exploration of the question of Indian origins was more dependent on measurements of living subjects and skeletal material from other parts of the world, than America.[62]

After determining that the Justice Department had no objection, Powell attempted early in the month of November 1914 to hire Dr. Hrdlicka "in his professional capacity as an expert witness to examine certain Indians in the state (of Minnesota) for the purpose of determining

their blood status." In this regard Powell urgently proposed bringing two Indians to Washinton, D.C. for an examination. When it was learned that Hrdlicka might be passing through Chicago on his way west, Powell proposed meeting Hrdlicka with the two Indians in Chicago.[63] Despite Hrdlicka's willingness to serve as an expert witness for the defendants if approval could be obtained from the Secretary of the Smithsonian Institution, his busy schedule prevented this. Nonetheless, Hrdlicka gave a formal deposition at the Department of Justice in Washington, D.C., describing the characteristics of the pure-blood American race.[64]

Mr. Powell then turned to Dr. Albert E. Jenks, a local and more accessible expert, who was Professor of Anthropology of the University of Minnesota. In mid-November, Powell brought the two Indians to Dr. Jenks for his examination. Powell provided Jenks with a copy of Hrdlicka's deposition and arrangements were made for Jenks to conduct the necessary examination.[65] Right from the beginning it seemed that the call to science would have its difficulties. In a letter to Jenks, Powell writes:

> I beg to hand you herewith a copy of the testimony given by Dr. Ales Hrdlicka relating to the characteristics of the pure-blood American race. I note that he calls attention to the fact developed his observations, that the whiskers of the pure-blood are likewise straight. Judging by the standard the darker of the two Indians I had before you the other day would be doubtful as to his blood status because of the fact that the whiskers of his is pretty curly.[66]

In May of 1915 Dr. Hrdlicka, now retained by the Justice Department, had to make a rapid but extended trip to the Leech Lake and White Earth reservations to determine as far as possible the extent of mixed-bloods and full-bloods among the Chippewa and to verify the blood status of certain families and individuals.[67] Dr. Jenks found it necessary to request a six month leave of absence from the University, beginning in August, 1915 in order to continue his examinations in the employ of Mr. Powell, attorney for the defendants.[68]

The first cases to be tried using the expert opinion of Jenks and Hrdlicka, occurred in the summer of 1915. *The Minneapolis Journal,* in noting the significance of the Cabanne case, bannered their story with the headline, "1000 Land Titles Hang By a Hair, If Curly Indians Lose."[69] The case involved an Indian woman who claimed to be full-blood and a man named Cabanne who bought her allotment. Testimony by many witnesses prior to the trial had enabled the development of a geneology running back five generations, including the names and identities of all eight of her great-grandparents.[70] Witnesses who might

have seen or heard about these great-grandparents were asked to testify about their physical characteristics. The expert opinion of Jenks and Hrdlicka was used to evaluate the meaning of these characteristics relative to defining the great-grandparents as mixed-blood or full blood. One such great-grandparent was described as having curly hair, which according to expert testimony, was a definite sign that the person in question was a mixed-blood. Testimony, however, revealed that the Ojibwe word for curly could also describe a matted condition of the hair. The woman was declared a full-blood and the defendant appealed the case.[71]

Outside of the possible precedent-setting value of the case in establishing the rules for evaluating human characteristics to determine who was a mixed-blood and who was a full-blood, the case was also significant for revealing just how time consuming and expensive it would be to resolve all the questions, case by case.

The Justice Department attorneys at this point tried an entirely different approach by formally raising the question of the constitutionality of the Clapp Act of 1906. However, almost as soon as Mr. C.C. Daniels had submitted the question to the district court he found himself relieved of his duties in Raleigh, North Carolina. Needless to say, the questions regarding the constitutionality of the Clapp Act of 1906 were formally withdrawn by the Justice Department.[72]

Due to political pressure from almost all sides, an out of court agreement was reached between the Justice Department and the defendant's attorney, whereby the entire situation could be resolved, including the many cases of fraud. The agreement allowed for genuine full-bloods to have their lands restored to them by court decree. Mixed-bloods competent to sell would have their cases dismissed. The defendants would pay the Indian office the difference between the actual value of the original payment and the fair market value of the property at the time of sale as agreed upon, plus 6% interest. Dissatisfied parties could go to court.[73]

The Cabanne case and the nature of this out-of-court settlement also revealed the need for a more focused and direct involvement of expert opinion in determining precisely who was full-blood. The experts who were called upon to state what physical characteristics constituted a full-blood were asked to declare upon physical examinations of specific individuals whether the individual be full-blood or mixed-blood. Interestingly both Dr. Jenks and Hrdlicka found it necessary to develop new and deciding tests to give them more authority for the necessary judgments.[74]

Dr. Hrdlicka was again retained by the Justice Department, and in the summer of 1916, with a list supplied by him by the Justice

Department, he examined 800 individuals and declared 693 to be full-blood. Hrdlicka, in describing his work, stated that it was not only possible to detect and separate all mixed-bloods from full-bloods, but to form a fair estimate of the proportion of white blood wherever mixture existed. Many individuals continued to press their cases in Federal court despite Dr. Hrdlicka's pronouncements. Such a course was not to be fruitful for many. In the 1920's Judge Morris dismissed cases before they started without reference to geneological evidence, based on his personal impression and assessment of the plaintiff's physical characteristics as they stood before the bench.[75]

Anthropological Theory and Method on Trial

Despite their expert status, both Hrdlicka and Jenks had very little direct experience with Indians generally, and Chippewas particularly.

In his deposition, Hrdlicka testified that though he examined individuls of 40–50 tribes, he had never made a scientific investigation of subjects from the Chippewa tribe. Having never visited the territory of the Chippewa, the closest he had come was one visit to the Menominee of Wisconsin. In his response to a question concerning his experience with Chippewa, Hrdlicka answered, "Those (Chippewas) that I saw came to Washington to see the Commissioner of Indian Affairs or the President. Such parties are sent to us and we take their picture or casts if we can and in some cases they are examined in detail."[80]

Question: "In what connection did you make any personal investigation to ascertain whether or not those subjects were full-blood samples of Chippewa or not?"

Answer (Hrdlicka): "There were certainly full-bloods among them."

Question: "When you say that they were certainly full-bloods, upon what do you base your theory?"

Answer (Hrdlicka): "Upon my knowledge based on extended experience of what constitutes a full-blood Indian and on the fact that we took facial casts of some which we only take of full-bloods."[81]

Professor Jenks testified that he had spent five weeks with the Cheyenne and Arapaho in Oklahoma, one week with Montauks, two months with the Menominee and Winnebago in Wisconsin, ten weeks with the Pima and Papago in Arizona and a few days with the Sisseton Sioux. His experience with Chippewas included a summer vacation in northern Wisconsin while in graduate school at the University of

Wisconsin, two 3-to-4 week visits with the Chippewa of Lake Vermillion in Minnesota and six to seven days prior to the trials with the Chippewa at White Earth.[82] His experience with American Indians prompted the government attorney to ask the rhetorical question, "So you have not spent as much as a year of your life with the Indian." Answer (Jenks): "I have not figured it up, probably not."[83]

Question: "Have you examined any full-blood Chippewa Indians?"

Answer (Jenks): "I don't know that I have."

Question: "Have you examined any full-blood Indians of any tribe?"

Answer (Jenks): "I believe I have."

Question: "Do you know?"

Answer (Jenks): "No."

Question: "You cannot say as a fact though that you have ever examined any full-blood Indians, can you?"

Answer (Jenks): "It is absolutely impossible to distinguish always in an Indian whether he has other blood. It may be there and in the visible characteristics be not revealed."[84]

Dr. Jenks later changed his view after he took a leave of absence from the University of Minnesota to hire on with Mr. Powell, the attorney for the lumber companies. It was at this time that Jenks advanced the theory that he could indisputably tell full-bloods from mixed-bloods by a cross-section analysis of the hair of an Indian.[85] Besides hair type Jenks noted other characteristics which marked a full-blood Indian. "There is no typical form of the Indian nose as is commonly supposed," Jenks told a reporter of the *Minneapolis Journal*, "except their noses are coarse and crudely molded rather than finely chiseled. Contrary to popular opinion, the pure Indian has slight, delicate hands and feet, the natural form of people who do little manual labor."[80]

With regard to the examinations of the hair, Professor Jenks and Mr. Powell collaborated with Dr. Hal Downey in the Department of Animal Biology in the College of Science, Literature and Arts at the University of Minnesota. Samples of hair were gathered by Dr. Jenks and were then examined by Dr. Downey whom it appears simply reported on the technical data.[87] Mr. Downey reports the development of a Pima standard against which to measure Ojibwe hair in a February 25, 1916, letter to Ranson Powell:

. . . enclosing notes on the measurement of hairs of Domingo Blackwater full-blood Pima. You will notice that I have measured ten hairs and that

> I have made several measurements along each hair at distances of one-half centimeter.
>
> It seems to me that we must measure at least this number of hairs for each individual who we are using for the preliminary work of establishing a standard. If satisfactory I shall proceed.[88]

Both Hrdlicka and Jenks, in admitting little familiarity with Chippewas, full-blood or mixed-blood, stated that they used as the basis for determination of full-blood Indians the "Pima Standard" because it was reported that the Pima killed all non-full-blood Pima children of mixed marriages prior to the federal government's administration of their affairs.[89] It is not surprising that Hrdlicka should, in using standards developed from his research in the Southwest among the Pima and other tribes, claim that Pima from a physical standpoint were racially closely related to the full-blood Chippewa.[90]

Dr. Hrdlicka's favorite and deciding test was the skin reaction test. Hrdlicka reports:

> An interesting test developed by the writer during the preliminary work and one which proved of much diagnostic value, both as to blood status and as to the general health of the person, consisted of drawing with some force the nail of the fore-finger over the chest, along the middle and also a few inches to each side. This creates a reaction consisting of reddening, or hyperaemia, along the lines drawn. In the full-bloods the reaction as a rule is quite slight to moderate, and evanescent, or of only moderate duration; in mixed-bloods, unless anaemic, it is more intense as well as lasting.[91]

In order to be fully prepared and to try out his new test, Hrdlicka went first among the Standing Rock Sioux before coming to White Earth to conduct his 1916 investigations.

A significant scientific question in American physical anthropology in the early 1900's concerned the racial origin of American Indians. Such a question was to enter into the cross-examination of Dr. Jenks in reference to the ability of science to detect and separate mixed-bloods from full-bloods, particularly if the mixture is distant. As the government attorney pressed Dr. Jenks on just how far back a white ancestor might have to be to still leave a physical trace, questions concerning human creation and racial origins seemed a logical extension of cross-examination. The Biblical interpretation regarding the origin of man, theories regarding the distinctiveness and origins of the race of mankind and the idea of evolution, natural selection and an animal origin of humanity; seemed by the testimony of Dr. Jenks to represent a competition of ideas, too intense to be contained in any singular world view or field of study. After reversing himself

a number of times, Jenks, in seeming frustration offered a common racist version of the ancestry of "some people."

Question: "Doctor, do you accept the Bible interpretation as to the origin of Man, that man came from Adam and Eve?"

Answer (Jenks): "I think there was a first man and first woman. I believe the word 'Adam' in the Hebrew, means 'the first man,' and 'Eve, the first woman.' "

Question: "Then you accept the interpretation that the entire race sprung from one couple?"

Answer (Jenks): "No, I do not."

Question: "Then you do not accept the Bible interpretation that the new race came from Adam and Eve?"

Answer (Jenks): "Well pardon me, I suppose I would have to be a theologian, to understand what you mean. I accept the scientific interpretation of the origin of man."

Question: "You do not accept the Bible interpretation of the origin of man?"

Answer (Jenks): "Probably not as the average theologian does."

Question: "What is your scientific view as to where Man sprang from, how many couples?"

Answer (Jenks): "Probably a very large number."

Question:: "Is it your interpretation that each separate group sprung from a different couple?"

Answer (Jenks): "No."

Question: "Is it your scientific interpretation that the human race came from other animals?"

Answer (Jenks): "Yes, sir."

Question: "The Darwinian theory is the basis upon which you proceed?"

Answer (Jenks): "I accept the physical origin of man as animal."

Question: "And that the monkey was the origin of man or some other animal."

Answer (Jenks): "Perhaps some people's ancestors but probably not mine."[92]

The science of Jenks and Hrdlicka, of course, required actual measuring, observations, scratching of the skin and pulling of hair of real people to make the necessary scientific determinations. Hrdlicka,

in reporting on his 1915 investigation at White Earth and Leech Lake states:

> The method of procedure was to drive from dwelling to dwelling over the reservations and to examine the Indians whose blood status was in doubt by all means at the disposal of the anthropologist practical in field work of this nature. Particular attention was directed to the skin of the body, especially that of the chest, to the hair and eyes, physiognomy and a number of other features, such as the nails, gums and teeth.[93]

By witness of the following testimony, the subjects of such observations certainly did not passively allow such personal intrusion. The experts, however, in the face of adversity and resistance seemed flexible both in theory and method.

> Answer (Jenks): "No. I had her mother out on the back stairs leading somewhere from the front door, and examined her for about an hour."
>
> Question: "Did you examine the daughter?"
>
> Answer (Jenks): "Yes, I did. I was going to explain it to you. I had the mother half an hour on the back stairs, examining her and her daughter was the interpreter and sat with her head in the room, and I made a partial examination of the daughter. I wished to complete it the next day, and I never completed it, because she objected to it when she came back the next morning."[94]
>
> Question: "Why did you take strands of the hair of Chief Mayshuckegeshig's head when he asked you not to do it?"
>
> Answer (Jenks): "I don't believe I have taken no hair from any man's head who objected to it."
>
> Question: "Don't you know you went to the Chief's house with John Carl, and his daughter told you not to take a hair, and you cut a lock of the old Chief's hair from his head, and he became very indignant about it?"
>
> Answer (Jenks): "No, sir, I never did any such thing—I took the hair."
>
> Question: "Don't you know he wrote a letter in which he expressed great indignation that he had been treated with such discourtesy?"
>
> Answer (Jenks): "No, sir, that is the first I heard of it."[95]

Though Jenks asserted that he could determine whether or not an individual Indian was a mixed-blood or a full-blood by an examination of hair, the ability of this method or combination of methods to determine the blood status of an individual without knowledge of

the person's family history was admittedly limited. Jenks, under cross-examination in the following testimony, denies the essential rationale for the use of physical anthropology in the determination of the blood status of individual Indians associated with the legal purpose of White Earth.

Question: "What is the standard by which you compare Margaret Roy to express the opinion that she is a mixed-blood?"

Answer (Jenks): "It is the family as a whole, so far as I saw them, rather than upon the appearance of Margaret White or Margaret Roy individually."

Question: "And, without having seen the members of her family, you would not have expressed the opinion that she was a mixed-blood?"

Answer (Jenks): "I would not be sure of it."[96]

When Dr. Jenks took a leave of absence from the University and hired on with Mr. Powell, the attorney for the defendants, Jenks, in turn, used Mr. Nunn, a merchant, and a man by the name of Jim Bunker as interpreters. Mr. Nunn was himself a defendant in some of the suits, being charged with illegally obtaining allotments. Mr. Bunker, a bootlegger, was serving time in Detroit (Detroit Lakes, Minnesota) for illegally selling liquor at the time Jenks was called upon to describe the field method he, Mr. Nunn and Mr. Bunker used in the case of the old woman, Nubinaygahbowequay, who refused to have her picture and measurements taken.[97]

Question: "Well, you three went there, Doctor?"

Answer (Jenks): "Yes sir."

Question: "The old lady was making a mat in a little warehouse, when you got there, was she not?"

Answer (Jenks): "She was making a rush mat, in a building. I suppose it was her home."

Question: "What was said about (sic) meats or groceries, there in your presence?"

Answer (Jenks): "Mr. Nunn told something about provisions."

Questions: "What did he tell you in your presence?"

Answer (Jenks): "She stepped outside of her house, and, pointing to the lands to the south said she wanted to sell them, because she was destitute, had nothing to eat; and Mr. Nunn told her he would give her some provisions and flour, pork,

sugar, coffee, and so forth, that he could not buy her lands, he was not buying lands."

Question: "When was it you patted her on the back, 'come on I want to have your picture?"

Answer (Jenks): "I don't know I asked her several times for her picture and her measurements."

Question: "Did she tell you she didn't want to have anything to do with you?"

Answer (Jenks): "She said she didn't want to have her picture taken or measurements made."

Question: "Did she say she didn't want to have anything to do with you?"

Answer (Jenks): "The substance was that she said she didn't care to be photographed or measured."

Question: "Did you prepare a place to take her picture?"

Answer (Jenks): "I prepared the background, yes sir."

Question: "Did you go over and pat her on the back again, and say, 'Come on, there is nothing wrong in it?' "

Answer (Jenks): "I don't think I did."

Question: "Then she went off, put a shawl over her head, and went off?"

Answer (Jenks): "She started away from her house?"

In examining the twin sister of this woman, Jenks evidently made a mistake in the measurement of her skin color.

Question: "I believe you said she was darker than her sister, the allottee?"

Answer (Jenks): "As the sister appeared here today, she is lighter than her twin sister was when I saw her. This woman today was evidently washed, slicked up, hair combed, so she looked a good deal lighter than she looked when I saw her at home."[98]

Afterwords

Given today's standards, the testimony of Hrdlicka and Jenks reveal many areas where criticism seems obvious and appropriate. However, at the time that the disputed full-blood cases went to trial, the application of anthropometric evidence in legal proceedings as well as the use of physical anthropologists as experts, was rare. The only other case in the recollection of the parties involved at the time was a professor of anthropology at Columbia University by the name

of Dr. Bohay who was called to testify in a divorce case concerning the wife of a white man who was said to have Negro blood. The purpose of this particular case seems to have been of the same character as the government's intention relative to its relationship with White Earth mixed-bloods.[99]

Complex legal and political situations requiring description, definition and the rationalization of human affairs into a form understandable and usable to dynamic political and legal processes, have often required academic experts. Though it may seem necessary to criticize the role of social scientists in the political-legal process, this relationship seems a natural extension of the role and function of anthropology and the other social sciences to American society. Hinsley argued that:

> anthropology was reflexive, an exercise in self-study by Americans who sensed but were unable to confront directly the tragic dimensions of their culture and their lives. The utility of anthropology was moral. . . . Born into an increasingly secular world of change and diversity, they found solace as well as aesthetic pleasure in the vision of progressively evolving humanity. Beneath the appearance of chaos, their science would surely reveal unity and purpose in human affairs.[100]

In discussing the importance of education to early American leaders who desired to "render the American Revolution a blessing to Mankind", Lawrence A. Cremin describes a broader social-political function and purpose of anthropology and the other

> They urged a genuinely useful education, pointedly addressed to the improvement of the human condition. At its head would be the new sciences through which citizens might come to know the immutable laws governing nature and humankind and on the basis of which they might build a society founded on reason and conformity to moral truth. Through botany, chemistry and geology, Americans would unlock the secrets of their virgin continent, with incalculable gain to agriculture, trade and industry. Through economics, politics and ethics they would discover the customs of peoples and nations, with consequent benefit to the conduct of domestic and foreign affairs. And through the systematic application of science to every realm of living, they would learn in countless ways to enhance the dignity and quality of their daily existence.[101]

The educational and scholarly institutions and academic experts which were essential to the implementation of allotment at the White Earth Reservation clearly operated from these views of education and the sciences.

When Professor Jenks requested a leave of absence from the University of Minnesota, the official reason given was to engage in a study

of racial amalgamation as manifested on the Indian reservations of Minnesota.[76] Jenks, as it has been noted, viewed anthropology as an applied science important to solving modern problems, improving the race of man, helping to select the valuable cultural characteristics of European immigrants and enabling a better future. Somewhat saddened in tone in a 1921 article on "The Practical Value of Anthropology to our Nation," Jenks noted a peculiar failure of anthropology with regard to American Indians.

> The American plant breeder has long made use of hardy native plants to make his more prolific hybrids more resistant to cold, drought, disease and insect pests. Had we been as intelligent in the matter of the Indians as we have been with plants and animals, there is little question that conditions would have been better for the Indians, and they might have added desirable strength to our nation.[77]

The "practical value" of anthropology to the state of Minnesota, with regards to Jenks' study of "racial amalgamation as manifested on the Indian reservations" was stated by the editor of the University of Minnesota's *Alumni Weekly* who reported on Professor Jenks' work while on leave of absence in 1915–1916.

> So far 90% of the 300 Indians examined show unmistakable evidence of mixed-blood. The results of the government suits so far tried with aid of anthropological evidence are decidedly favorable to the citizens of Minnesota; if the defendants continue to win their cases, farming lands now valued at more than 1,500,000 will it is conservatively estimated within ten years increase in value by improvements four hundred percent. They will be worth 6,000,000 and taxable by the state.[78]

Ranson Powell wrote a short letter to Mr. Fred R. Snyder of the University of Minnesota Board of Regents, expressing his appreciation of the "action of the Regents in liberating Dr. Jenks."

> While the time was not sufficient to enable Dr. Jenks to give the extensive examinations which might be necessary were he to be used as a witness in each case, it had the effect of demonstrating the unreliability of the Indians' testimony, and has led the Government to adopt the same line of investigation for arriving at the facts in these cases.[79]

Though the role and function of the social sciences and scholars involved with the American political and legal process is an area of special interest, the potential of the social sciences to "represent" the Chippewa perspective was essentially eliminated by the Supreme Court decision of 1914 which determined the legal definition of mixed-blood. Though it was recognized that the Chippewa had particular ideas about the term mixed-blood, these ideas were not officially

recognized. These Chippewa notions of race and culture had no legal standing in resolving this particular issue and determining the meaning of the term mixed-blood. This has not, however, invariably been the case. The view that Indian treaties should be interpreted as Indian tribes understand them, a position asserted by the government attorneys in the mixed-blood case before the Supreme Court, has been successfully argued in other cases both before and since.[102]

Though the relationship of the social sciences to governmental, political and legal processes involving American Indian societies may beg criticism from a number of perspectives, the relationship seems natural and vital to the processes involved and in greater need of description and study. Within this context a significant criticism can be made concerning the illusion that social scientists and scholars are involved for primarily scientific purposes which happen to be useful to the political or legal process. Before his work for the Justice Department Hrdlicka admitted that the significant scientific questions in physical anthropology would not be aided by further examinations of American Indian subjects. In characterizing his own work in examining full-bloods for the Justice Department, Hrdlicka stated that, "on the whole there is no question but a detailed anthropological examination in cases of this nature could be of considerable assistance to the law. Scientific results of the work, on the other hand, would prove disappointing."[103]

Another criticism concerns the need of the political-legal process to have the illusion provided by expert opinion that all decisions, however complex, are fairly and logically made. Though both Hrdlicka and Jenks found the need to develop new scientific tests to aid in determining the blood status of specific individuals, a major criticism can be made concerning the legitimacy of the expertise if it rises to such occasions. Though Jenks had provided "anthropological evidence . . . decidedly favorable to the citizens of Minnesota" and had the "effect of demonstrating the unreliability of the Indians' testimony," Jenks in a March 1917 letter to Ransom Powell commented on the enduring legitimacy of his expert opinion:

> You will be interested to know that your micrometer is revealing some very new and interesting facts concerning the nature of human hair. Among the things revealed are the following: Both Hrdlicka and myself have hair of the most typical negro type and the Scandinavians have hair more circular in cross-section than our pure-blood Pima Indians. I am not sure yet what these facts mean; but either the old classification of human races by hair texture is not of scientific value or Dr. Hrdlicka and I are related to the negro and the Scandinavians are simply bleached out Mongolians. Interesting, isn't it?"[104]

Another criticism more substantially made by Stephen Jay Gould in his book, *The Mismeasure of Man,* concerns an erroneous view of how knowledge develops. Gould's book illustrates "the scientific weaknesses and political contexts" of biological determinism—the field of knowledge in which Jenks lectured in 1909 and from which Hrdlicka had received his formal training—criticizes the "myth that science is an objective enterprise, done properly only when scientists shuck the constraints of their culture and view the world as it really is. My message, "Gould asserts, "is not that biological determinists were bad scientists or even that they were always wrong. Rather I believe that science must be understood as a social phenomenon."[105]

In seeing a relationship between the idea of unilinear progress which he suggests lies beneath racial rankings, Gould suggests the concept also lies beneath a false idea of how science develops. This false idea is the assertion that "any science begins in the nothingness of ignorance and moves toward truth by gathering more and more information, constructing theories as facts accumulate." Instead Gould states that "The barrel of theory is always full; sciences work with elaborated contexts for explaining fact from the very outset. . . . Science advances primarily by replacement not by addition."[106]

Hrdlicka's view of how knowledge develops seems by the description of his biographer to be not only subject to Gould's criticism but also explains the personal rewards for Hrdlicka of science as a "socially embedded activity."[107]

> . . . Hrdlicka was consumed, as he was to be for the rest of his life, by an overwhelming desire to succeed, to be recognized and respected . . . even loved. While others were to collect money and property, Hrdlicka would collect knowledge. What money and property he did accumulate during his life was acquired as an investment to finance the achievement of his dreams for anthropology. Knowledge in Hrdlicka's mind was a reflection of human endeavor and its acquisition came only from personal labor: the effort of which seems to be directly proportional to ones character and thus reputation. From the acquisition of knowledge sprang the notion of power and the authority gained by its possession. Never plagued by philosophical doubt, Hrdlicka naively assumed, like so many others that the reality of the human condition would be miraculously revealed after an undetermined amount of data collection.[108]

Consistent with his role in the American administration of the Philippines and the need to provide justification for the legitimacy of the discipline he founded at the University of Minnesota, Professor Jenks stressed an applied role for anthropology. Though sharing many of the characteristics of his colleagues, Jenks was not satisfied to simply await the revelation of the reality of the human condition.

Jenks viewed and promoted anthropology as a necessary tool of American social and political policy.[109]

Anthropology of late has taken responsibility, after some urging from American Indian critics, to look at itself and the morality and appropriateness of its methods. Recent efforts, however, seem more an effort to replace the study of the Indian with more directed and focused self-study. The purpose and utility of this effort remains nonetheless moral.[110] Such efforts, however, are not useful for understanding the development of theory or more importantly the relationship of theory, Gould's "elaborated contexts," with social political policy. Sydel Silverman explains, "The process of theory making in anthropology has not received the scrutiny that has been given to fieldwork which has been examined in a long series of personal accounts aimed at demystification of 'the field.' As anthropological theory becomes codified . . ." and "as each generation of anthropologists and students becomes further removed from the seminal figures of the field, an understanding of their work as part of a life, a career, a personality, and a social and cultural setting becomes more and more elusive." Though Silverman asserts that most anthropologists view as self evident the notion that "the development of theory is a social process, a product of life histories embedded in time and place," these life histories are also deeply embedded in dynamic social and political processes of the society directly related to the groups being studied.[111] Professor Albert E. Jenks' 1909 lecture on race and culture in his advanced course in anthropology at the University of Minnesota and University of Minnesota Regent Knute Nelson's "Act for the Relief and Civilization of the Chippewa Indians in Minnesota" were buds on the same intellectual tree. This tree being deeply rooted in American society and culture provides reference for the political as well as the scientific and explains the essential relationship incumbent in the institutional function and mission of the University in society.

The matrix of institutions, decision makers and ideas concerning race and culture carried within, and necessary to, the political and legal processes which converged to implement the allotment policy at White Earth remained long after the land allotment fraud cases. From this meeting ground both Jenks and Hrdlicka published scholarly articles using the data they had collected contributing to the "advancement" of knowledge within their field. A critical review of Jenks' article "Indian-White Amalgamation: An Anthropometric Study" noted the infancy of of hybrid study and commented that "a valuable beginning has been made" and that "broad and special stress must be laid on following up such studies."[112]

From this meeting ground both Jenks and Hrdlicka became involved with public policy issues affecting government's relationship

and responsibilities to American Indians. In the same year that Hrdlicka published his physical description of the Chippewa full-bloods in *Anthropology of Chippewas*, he gave an address on the Indian service before the Thirty-Fourth Annual Lake Mohonk Conference of the Friends of the Indian and Other Dependent Peoples.[113] Hrdlicka defined the Indian service as that "function of the American body politic which deals with the Indian and ultimate object of which is his complete emancipation." In keeping with the reform ideas of the day, Hrdlicka called for better paid, trained and qualified Indian service workers, particularly teachers and physicians, as well as more modern and efficient organization of the service.[114]

The platform of the Conference to which Hrdlicka gave his presentation called for justice and protection of the Indians while the country attempted to accomplish the "ultimate solution" to the Indian problem.

> The ultimate solution to the perplexing Indian problem will be reached only when the Indians by an academic, industrial and moral education have been prepared to receive all the privileges and assume all the duties of American citizenship. Until that time such Indians as are not prepared are the wards of the nation. The nation is duty bound to protect their rights, promote their interests and provide for their education.[115]

Professor Jenks who was chairman of the Committee on Anthropology and Sociology of the National Bureau of Research at Washington, D.C. and who had earlier appeared at Lake Mohonk shortly before his return from the Philippines, was appointed by Dr. Hubert Work, Secretary of Interior to the Committee of One Hundred. This committee of one hundred persons of eminence who were generally known to have special interest and knowledge regarding American Indians, including ten professional anthropologists, was charged to investigate Indian conditions and recommend necessary changes and reforms in line with federal Indian policy.[116]

The committee gave its report in 1923 noting that "we found ourselves beset by many of the same problems which have faced the government for nearly 50 years. Regardless of the progress actually made, the great objectives of our benevolent desires have not been attained. This situation and this history shows the extravagance of all efforts which are not directed by the best ability supported by adequate funds or maintained by sufficient consistency."[117] Professor Jenks, for his part, felt that the policy of the United States in "pampering the Indian, providing houses, lands and a living for them is the worst thing the government can do for the Red Man and in a few generations will result in their extermination. All but one in every thousand are

and want to be paupers," said Jenks. "Now that hunting's largely gone, the government cares for them and they get no exercise. As a result two or three generations will see the last of them."[118]

Neither the 'problems' to which the Committee of One Hundred made recommendations nor the people Professor Jenks had measured for extermination disappeared. Indeed the specific issues which Jenks and Hrdlicka lent their reputation and opinion have endured and remain current. Issues remain concerning the rightful ownership and status of numerous parcels of reservation lands on the White Earth Reservation.[119] Issues relating to the definition of 'Indian' combining various notions and criteria relating to race and culture are ever more essential to federal Indian policy and official definition of the limits of federal responsibility. Indeed the terms 'Indian Race' children and 'Indian Ancestry' children have recently been used in discussions concerning federal obligations in Indian education to give contemporary significance to the classifications full-blood and mixed-blood and the government's desire to emancipate certain classes of individual Indians.[120]

These particular issues, though specifically related to those issues which brought Jenks and Hrdlicka to the White Earth Reservation are not the only issues between American Indian tribes and American society requiring the use of expert knowledge. The number of issues and types of expert knowledge required in the matrix of decision-making processes affecting American Indian tribes has grown tremendously.

This need for expert knowledge has also been increased by a general trend, noted by Sowell, in the social application of knowledge where "decision making has tended to gravitate away from those most immediately affected toward institutions increasingly remote and insulated from feedback. . . ." This trend, warns Sowell, has "grave implications not only for individual freedom, but also for the social ways in which knowledge is used, distorted or made ineffective."[121]

Notes

1. See, Cohen, Felix. *Handbook of Federal Indian Law* (Section 2, Chapter 1, "Definitions of Indian," pp. 2–4; Section 8, Chapter 8, "The Meaning of Incompetency," pp. 167–169) University of New Mexico Press, Albuquerque, 1972.

Forbes, Jack D. *Native Americans of California and Nevada: A Handbook.* (Basic concepts for understanding Native History and Culture, "Who is Indian," pp. 122–124) Naturegraph Publishers, Healdsburg, California, 1969.

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