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The Reservation as Place: A South Dakota Essay

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Centennial West

Essays on the Northern Tier States

Edited by
WILLIAM L. LANG

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*To Margaret Kingsland and the Montana Committee for the Humanities, for
two decades of making things happen on the Northern Tier*

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The Reservation as Place

A South Dakota Essay

FRANK POMMERSHEIM

For Stanley Red Bird (1917–1987)

From the Indians we learned a toughness and a strength; and we
gained
A freedom: by taking theirs: but a real freedom: born
From the wild and open land our grandfathers heroically stole.
But we took a wound at Indian hands: a part of our soul scabbed over.
—Thomas McGrath¹

INDIAN RESERVATIONS ARE OFTEN DESCRIBED AS ISLANDS OF POVERTY and despair cast adrift from the mainstream of national progress. Less often, they are extolled as places luckily isolated from the corrosive predations of the twentieth century. Each description invokes the complex field of Indian law as a touchstone of both the past and the future, as either a driving wedge for Indian natural resources and cultural breakup or a countervailing force of restraint and an element of cultural renewal. Hidden in these descriptions and claims is the important notion of the reservation as place—as a physical, human, legal, and spiritual reality that embodies the history, the dreams, and the aspirations of Indian people, their communities, and their tribes. The reservation is a place that not only marks the enduring survival of Indian communities from a marauding western society, but it also holds the promise of fulfillment. As Lakota people say, “hecel lena Oyate nipikte [that these people may live].”² The reservation constitutes an abiding place full of quotidian vitality and pressing dilemmas that define modern Indian life.

South Dakota has often resisted the notion that reservations either endure or possess any positive significance for the state. The history of litigious animosity is long and bitter, with continuous disputes over

reservation boundaries, water rights, the Black Hills, and state authority on the reservation. Yet, at this centennial juncture it might be worthwhile to suggest another angle of vision that might, in turn, suggest an "angle of repose"—a vision infused by mutual understanding and common interest.³

The perspective of this essay centers on the continuing process of cultural self-scrutiny and intercultural contact between Indians and non-Indians and between Indian tribes and state and federal governments. This notion of "contact," which began with the arrival of the first Europeans, is continuous.⁴ As a process, it is not related to the ethnocentric concepts of manifest destiny, progress, and cultural superiority but to an examination of the forces at play in the "contact" and the rubric of *choices* that emerges. Choice, whether conscious or not, has real implications for individuals, communities, and tribes. Choice is not always apparent, and the failure to be aware of it often results in loss and forfeited opportunity. It is important, therefore, to highlight and clarify these choices as they emerge from the consideration of the reservation as place and eternal center—choices that are not merely grounded in considerations of efficiency but are also located in the larger space of culture and meaning.

Figures on Mother Earth

Indian people often cannot conceive of life without land. They are a part of it and it is a part of them; it is their Mother. This is not just a romantic commonplace. For most Indian groups, including the Lakotas of South Dakota, land is a cultural centerpiece with wide-ranging implications for any attempt to understand modern reservation life. Beyond its obvious historical provision of subsistence, land is the source of spiritual origins and sustaining myth, which in turn provide a landscape of cultural and emotional meaning.

The land often determines the values of the human landscape.⁵ The harsh lands of the prairie helped to make Lakota tribal communities austere and generous, places where giving and sharing were first principles.⁶ The people needed the land and each other too much to permit wanton accumulation and ecological impairment to the living source of nourishment. Much of this, of course, is antithetical to west-

ern history and culture. As one commentator suggested, the western ethos reflects a commitment

to *take* possession without being possessed: to take secure hold on the lands beyond and yet hold them at a rigidly maintained spiritual distance. It was never to merge, to mingle, to marry. To do so was to become an apostate from Christian history and so be kept in an eternal wilderness.⁷

Such differing conceptions between Indians and non-Indians about the nature of land only added to the likelihood of adversity and misunderstanding. And sure enough, one of the results of more than three centuries of Indian and non-Indian contact has been the severance of much of this cultural taproot that connects Lakota people to the land. Impaired but not eradicated, this root is now being rediscovered and tended with renewed vigor and stewardship. The importance of land has been a recurrent theme in recent Indian literature, which involves the loss of the old guardian spirits of place and how they might be made to speak again—how the land can become numinous once more.⁸

This, then, is one pull of the land, the source of vital myth and cultural well-being. But there is also the complementary idea of a homeland where generations have lived out their lives and destiny. Many reservations are rural and isolated and, like the Rosebud Indian Reservation, are quite beautiful, captivating in the way that the subtle paintbrush of the prairie often is. The Rosebud and other reservations like it hold no appeal for tourists, but a long stay makes lasting impressions on the psyche. The notion of homeland, of course, is not unique to Indians; and despite the obvious irony, it is valued by many non-Indians, including non-Indian residents of reservations.

These attractions and connections do not prevent people from leaving their reservations, but they do make it difficult. People do leave, most often for greater economic opportunity and sometimes to escape violence and what they consider to be inferior schools. But most who leave also return. Robert Logterman, a longtime, non-Indian rancher on the Rosebud Indian Reservation, may have said it best: "they ought to send someone from the reservation into outer space because then they would be sure that they would return safely."⁹ Even the federal

government learned this lesson and abandoned its program of "relocation," which attempted to take people from the reservation and resettle them in major urban areas where there were greater economic opportunities.¹⁰ Few Indians would participate, however, and many of those who did refused to stay on the fringes of urban ghettos.

The reservation is home for Indians. It is a place where the land lives and stalks people, where the land looks after people and makes them live right, where the earth's ways provide solace and nurturance.¹¹ Yet, it is also a place where the land has been wounded and the sacred hoop has been broken, a place where there is the stain of violence and suffering. It is this painful dilemma that also stalks people and their Mother.

The Formation of Reservations

Any attempt to understand modern reservation life requires an understanding of what reservations are and how they came to be. Without an understanding of the legal and cultural roots involved in the formation of reservations, it is impossible to comprehend much of the current social reality and political atmosphere that dominates individual and institutional life in Indian country. The particular history of any reservation can then augment this general understanding. Particulars include whether the reservation is located within a tribe's aboriginal homeland, whether more than one tribe is "confederated" there, and the numbers of permanent non-Indians. All of these elements ionize expectations and struggles in the modern refraction of old promises and commitments—the covenant with the past.

The concept of an Indian reservation is best defined as the guarantee of a "measured separatism" to Indian people as the result of negotiated treaties and settlements reached between tribes and the federal government.¹² Most of the treaties between mutual sovereigns were signed during the nineteenth century through negotiations that represented political and legal adjustments between the western march of an expansionary, American society and the staunch resistance of established, tribal societies.

The treaties that established reservations did much more. They helped create an enduring and special legal and moral relationship

between the federal government and Indian tribes. Treaties also reflect a set of sovereign promises and expectations that continues to be at the heart of defining the modern contours of this relationship. It is instructive, then, to explore the roots of these interactions and legal exchanges because they affect so much of what continues in this dynamic, though often misunderstood and wrongly construed relationship.

The meetings of tribes and representatives of the federal government brought together people with different languages, cultures, and worldviews. Those often extreme divergences must have gravely affected emotions and understandings. Perhaps under no other set of circumstances—except those of raw, historical necessity involving one sovereign in the face of another—could these disparate human configurations come together. The treaties represent the documents of that unprecedented exchange where, in part, each side cast its future on the integrity and goodwill of the other.

Treaties represent a bargained-for exchange, and it is important to understand what the exchange was. The Indians usually agreed to make peace and cede land—often vast amounts of it—to the federal government in exchange for a cessation of hostilities, the provision of some services, and, most important, the establishment and recognition of a reservation homeland free from the incursion of both the state and non-Indian settlers.

The quality of the exchanges varied significantly. In some cases, the federal government had the strong military upper hand, and many tribes were forced to agree to small reservations in regions removed from their aboriginal territories. In other cases—particularly involving the Lakota of the Great Sioux Nation in South Dakota—there was a military standoff and the reservations were established in the heart of the Indians' traditional homeland.

Much of the negotiations surrounding the treaties focused on the government's promises and guarantees to protect tribes from white settlement. For example, the Chippewas, Ottawas, and Potawatomes were told that

the Great Spirit has ordained that your Great Father and Congress should be to the Red Man, as Guardians and Fathers. . . . soon . . . you

shall be at a permanent home from which there will be no danger of your moving again, you will receive their full benefit.¹³

The need for reservations and for homelands of a "measured separatism" was the one point upon which both the tribes and federal government could readily agree. Such entities met important policy objectives for each side. The United States wanted to regulate and reduce the contact of Indians with future settlers in order to minimize the likelihood of violence. This federal policy was consistent from the beginning of the Republic. Non-Indians could not live harmoniously with Indians, and the federal government early on regulated contact between Indians and non-Indians. Non-Indians (and the states) could not purchase lands from individual Indians or tribes without the approval of the federal government. The federal government also regulated trade, the interdiction of liquor, and criminal activity in Indian country.¹⁴

This non-intercourse policy was complemented by the policy of removal. When non-Indians continually pressed on Indian lands and settlements, Indians were often "removed" and relocated west of the Mississippi River. The most dramatic example of this policy is the Trail of Broken Tears in 1831, when President Andrew Jackson, under conditions imposed in the Treaty of Dancing Rabbit Creek, removed the Cherokees, Creeks, Choctaws, Chickasaws, and Seminoles to their new "homes" in Indian Territory. In the West, removal was untenable because the continent ended at the not-so-distant West Coast, and many tribes, including the Lakota of the Great Sioux Nation, were not sufficiently "subdued" to have such conditions imposed on them.

The tribes, for their part, wanted to be left alone. The Fort Laramie Treaty of 1868 was typical, providing that the reservation was

set apart for the absolute and undisturbed use and occupation of the Indians herein named . . . and the United States now solemnly agrees that no person except those herein designated and authorized so to do, . . . shall ever be permitted to pass over, settle upon, or reside in the territory described in the article.¹⁵

Much of what federal negotiators said and did was a mixture of grandiloquence and ash, the expedience of the day grounded in the

clash between binding promises and mere holding actions. For the Indians, more was at stake. Theirs was not simply the need for a place to live, but the need to preserve the land that was critical for cultural survival and spiritual succor. Despite these contrasting needs and expectations, the notion was born that reservations were to exist as islands of Indianness within an ever-expanding, encroaching society.¹⁶ Whatever their shortcomings—and there are many—reservations continue to provide the opportunity to strengthen and fulfill the national commitment to a vital, pluralistic society and to preserve the promise of a “measured separatism.”

Despite this history of bargained-for exchange, treaties and reservations are often misconstrued as unilateral, revocable acts of majority and federal largesse. Tribes gave up much for what they received—homelands, often reduced in size, with the right to govern their own affairs. If this mutuality had been preserved and legally vouchsafed, then the original purpose of reservations might have been achieved and maintained. But the treaty-based promises were often eroded and the “strong fences” of federal protection torn down.

“Measured Separatism” Under Assault

Western expansion did not abate with the signing of treaties, and the federal policy of “measured separatism” soon gave way to a policy of vigorous assimilation. The homelands were cut open, and the line separating Indians and non-Indians was obliterated. Much Indian land was lost as non-Indian settlers came into Indian country. Cultural ways were strained, and traditional tribal institutions were undermined and weakened. For many tribes, this was the most devastating historical blow to traditional Indian life.¹⁷

The linchpin for this policy was the Dawes Severalty Act, also known as the General Allotment Act of 1887. President Theodore Roosevelt forcefully described the act as “a mighty pulverizing engine to break up the tribal mass. It acts directly upon the family and the individual.”¹⁸ The General Allotment Act authorized the Bureau of Indian Affairs to allot 160 acres of tribal land to each head of household and 40 acres to each minor. Allotments were originally to remain in trust for twenty-five years, where they would be immune from

local property taxes during the transition from a tribally owned communal resource to an individually owned piece of land managed like surrounding non-Indian farms and ranches.

The twenty-five-year trust period was undermined by the Burke Act of 1906, which allowed the transfer of a fee patent to "competent" Indians prior to the expiration of the trust period. Competency commissions were quickly established to determine whether or not individual Indians were "competent" to receive fee patents that would remove restrictions against alienation and tax obligations. The commissions often made competency determinations based on the most perfunctory of findings, including whether the individual was one-half degree Indian blood or less. In addition to authorizing allotments, the act permitted the opening of "surplus" reservation lands for homesteading by non-Indians.

The allotment policy may be best understood as a land reform policy imposed from above without tribal input and consent; grossly undercapitalized, providing ten dollars and less per allottee for implements, seeds, and instruction; insensitive to the hunting and food gathering traditions of nonagricultural tribes; and devoid of any cultural understanding of the roles of the *tiyospaye* (the extended family of the Lakota) in which the allotments that were assigned to individuals were often located outside their home communities. Seen from this perspective, it is not difficult to understand why the allotment policy failed.

The results of the policy were devastating. The national Indian land estate was reduced from 138 million acres in 1887 to 52 million acres in 1934. More than 26 million acres of allotted land were transferred from tribes to individual Indians and then passed to non-Indians through sale, fraud, mortgage foreclosures, and tax sales.¹⁹

Sixty million of the 86 million acres lost by Indians during the allotment era were lost because of the "surplus" land provisions of the Burke Act. Thirty-eight million acres of unallotted tribal lands were declared "surplus" to Indian needs and were ceded to the federal government for sale to non-Indians. The federal government opened another 22 million acres of "surplus" tribal land to homesteading.²⁰ The ravages of the allotment policy were halted only by the Indian Reorganization Act of 1934, which permanently extended the trust status

of all existing allotments and halted the issuance of new allotments.

These ravages had equally scarring collateral effects. For the first time, the reservations became checkerboards of lands owned by tribes, individual Indians, individual non-Indians, and corporations. Individual Indian allotments quickly fractionated within two to three generations, often resulting in dozens or even hundreds of heirs. Even land that remained in trust was more often leased to non-Indians than used by the allottees.

More difficult to assess is the direct effect of the allotment process on tribal government and institutions. When the reservations were opened, some commentators have argued, true traditional governments were essentially doomed in most tribes, and the authority of any form of tribal government was undermined.²¹ The great influx of non-Indian settlers coupled with the loss of communal lands and the attendant yoke of federal support of these policies eradicated much of the tribes' ability to govern. In the resulting void, the Bureau of Indian Affairs, in league with Christian missionaries, became the true power brokers and the *de facto* governing forces.

The missionaries wreaked a debilitating havoc on the tribes with their religious and educational programs, particularly the boarding school program that took Indian children from their families for long periods of time and forbade the speaking of tribal languages in school.²² Under these circumstances, it is not difficult to perceive the strain and pressure placed on traditional Indian culture. The strain was even more apparent when these policies were joined with Bureau of Indian Affairs directives outlawing traditional religious practices, such as the Sun Dance. The heart of the culture was driven underground.

Many people on the reservation vividly recall those times. Albert White Hat, an instructor of Lakota thought and philosophy at Sinte Gleska College on the Rosebud Sioux Reservation, remembered many times when he and his classmates at St. Francis Indian School had their mouths washed out with soap for speaking Lakota. As White Hat eloquently summarized: "You gave us the Bible, but stole our land. You taught us English only so we could take orders, not so that we might dream."²³

The point here is not to assign blame, but to comprehend more

deeply the forces at work on reservations. The governmental and religious policies of assimilation were clearly mistakes, but they were at least partly driven by worthy motives. The more sinister motives of greed, ethnocentrism, and religious exclusivity are clear, and even glaring, but there were also many well-meaning individuals and groups who believed that the policies of allotment and assimilation were the only ways to stave off the obliteration of Indian culture by the forces of manifest destiny. The leading historian of the allotment era, D. S. Otis, concluded:

That the leading proponents of allotment were inspired by the highest motives seems conclusively true. A member of Congress, speaking on the Dawes bill in 1886 said, "It has . . . the endorsement of the Indian rights associations throughout the country, and of the best sentiment of the land."²⁴

A minority of congressional opponents on the House Indian Affairs Committee saw it differently in 1880:

The real aim of this bill is to get at the Indian lands and open them up to settlement. The provisions for the apparent benefit of the Indian are but the pretext to get at the lands and occupy them. . . . If this were done in the name of greed it would be bad enough; but to do it in the name of humanity, and under the cloak of an ardent desire to promote the Indian's welfare by making him like ourselves whether he will or not is infinitely worse.²⁵

The cultural and institutional loss was inevitable.

The federal government's endorsement of these policies was reversed with the Indian Reorganization Act of 1934, which ended the allotment era and supported the development of tribal self-government. The IRA reforms, including explicit authorization and assistance in the adoption of tribal constitutions, sought to engender recovery from stultification. Yet, the "new" opportunity held out in the IRA often was—and still is—perceived on reservations as further evisceration of traditional tribal government with its emphasis on the "white man's way" of holding elections, speaking English, and communicating by writing. For some, the apparatus of IRA tribal

governments further disturbed the cultural balance necessary to support traditional forms of self-rule that are often associated with tribal governance when treaties were made. As a result, IRA-elected tribal governments often remain controversial and occasionally have a hint of illegitimacy about them.

The dismal effects of allotment and assimilation have been halted and the thrust of self-rule reworked and reinvigorated. But the scars of the severe loss of land and the reminders of social weakening serve to verify the inextricable bond that connects the people, the culture, and the land.

The South Dakota Experience

All reservations in South Dakota have felt the battering of the allotment and assimilation process.²⁶ Some, such as the Sisseton-Wahpeton and the Yankton Sioux reservations, were completely allotted, with the remainder ceded to the federal government and subsequently made available to non-Indian homesteaders.²⁷ On both of these reservations, only 15 to 20 per cent of the original reservation's territory was allotted to tribal members. No longer is any land held in common by these tribes. In other instances, such as on the Pine Ridge and Rosebud reservations, the tribes were able to retain approximately one-third of the reservation land, with approximately one-third held by Indians and one-third by non-Indians.²⁸

Along with the allotment and assimilation processes was the related process of diminishment, which often reduced the boundaries of a reservation. The diminishment issue focuses not on the question of who *owns* the land, but more precisely on whether the process through which the federal government obtained "surplus" unallotted tribal lands for non-Indian homesteading resulted in a corresponding reduction of the reservation's boundaries. The concept of diminishment addresses the size of the reservation, not the composition of landownership patterns within the reservation. Therefore, the question of diminishment focuses most directly on the potential territorial scope of tribal governmental authority.

The principal legal issue in diminishment cases has been whether Congress, in "opening" unallotted portions of reservations for non-

Indian settlement, intended to reduce the size and boundaries of the reservation or whether it simply intended to allow non-Indians to settle on the reservation.²⁹ The authority to do either is clearly within the scope of Congress' plenary authority in Indian affairs; but because Congress never directly addressed the issue in any of the acts that encouraged non-Indian settlement in Indian country, the question has tended to center on congressional intent.³⁰ It seems remarkable that Congress never directly addressed the issue, given the potentially serious consequences attendant on its actions.

The Supreme Court noted the incongruity. Justice Marshall pointed out in his dissent in *Rosebud Sioux Tribe v. Kneip*:

Congress manifested an "almost complete lack of . . . concern with the boundary issue." This issue was of no great importance in the early 1900s as it was commonly assumed that all reservations would be abolished when the trust period on allotted lands expired. There was no pressure on Congress to accelerate this timetable, so long as settlers could acquire unused land. Accordingly, Congress did not focus on the boundary question. . . . For the Court to find in this confusion and indifference a "clear" congressional intent to disestablish its reservation is incomprehensible.³¹

The test for determining congressional intent in diminishment cases finds its most recent elucidation in *Solem v. Bartlett*.³² Justice Marshall, writing for a unanimous Court, held that a 1908 act of Congress opening part of the Cheyenne River Sioux Reservation to non-Indian settlement did *not* evince any congressional intent to diminish the boundaries of the reservation.³³ The Court stated that diminishment will not be lightly inferred and that the examination of surplus land acts requires that Congress clearly evince an "intent" to change "boundaries" before diminishment will be found.³⁴ Pertinent indicia of congressional intent include the statutory language used to open the Indian lands, regarded by the Court as "most probative," as well as surrounding circumstances, particularly the manner in which the transaction was negotiated and the tenor of congressional reports.³⁵ "To a lesser extent," the Court has "looked to events that occurred after the passage of a surplus land act to decipher Congress's intentions." And finally, "on a more pragmatic level, [the Court] recognized

that who actually moved into open reservation lands is also relevant to deciding whether a surplus land act diminished a reservation."³⁶

Five reservations in South Dakota have been diminished under this analysis: Sisseton-Wahpeton, Yankton, Rosebud, and Pine Ridge.³⁷ The result in each instance was to reduce the boundaries of the reservation and, in effect, to contract the size of the "homeland." Diminishment can also have the anomalous effect of placing substantial numbers of Indian people and their communities *outside* the reservation. For example, one of the results of the Supreme Court's decision in *Rosebud Sioux Tribe v. Kneip*, which upheld the diminishment of the Rosebud Sioux Reservation, was to place two thousand tribal members and seven recognized tribal communities outside the official reservation boundaries.³⁸ The social, cultural, psychological, and legal effects of such decisions clearly exacerbate the stress and burden of attempting to maintain individual and tribal well-being and integrity.

This wrenching epoch of allotment and diminishment was not the last of its kind in South Dakota. Another round of federal "takings" of Indian lands occurred during the 1940s as part of the Missouri River Basin Development Program, better known as the Pick-Sloan project. Pick-Sloan was a joint water development plan developed by the Army Corps of Engineers and the Bureau of Reclamation in 1944 for the Missouri River Basin.³⁹ As adopted by Congress, the Pick-Sloan plan included 107 dams, 13 of which had previously been authorized. The key structures were the five Corps of Engineer dams on the Missouri: the Garrison Dam in North Dakota and the Oahe, Big Bend, Fort Randall, and Gavins Point dams in South Dakota.⁴⁰ The primary goals of the project were to provide flood control, irrigation, and hydroelectric power.

The five main stem dams destroyed more than five hundred and fifty square miles of tribal land in North Dakota and South Dakota and dislocated more than nine hundred Indian families. Most of this damage was sustained by four Sioux reservations in South Dakota: Standing Rock and Cheyenne River, reduced by the Oahe project; Yankton, affected by Fort Randall Dam; and Crow Creek and Lower Brule, damaged by both the Fort Randall and Big Bend projects.⁴¹ Army Corps of Engineer dams on the Missouri inundated another 200,000 acres of Sioux land and uprooted an additional 580 families.⁴²

The results of this destruction were summarized by a leading chronicler of the Pick-Sloan project:

[Sioux families were] uprooted and forced to move from rich sheltered bottomlands to empty prairies. Their best homesites, their finest pastures, croplands and hay meadows, and most of their valuable timber, wildlife, and vegetation were flooded. Relocation of the agency headquarters on the Cheyenne River, Lower Brule, and Crow Creek reservations seriously disrupted governmental, medical, and educational services and facilities and dismantled the largest Indian communities on these reservations. Removal of churches and community centers, cemeteries, and shrines impaired social and religious life on all five reservations. Loss not only of primary fuel, food, and water resources but also of prime grazing land effectively destroyed the Indians' economic base. The thought of having to give up their ancestral land, to which they were so closely wedded, caused severe psychological stress. The result was extreme confusion and hardship for tribal members.⁴³

The Sioux knew little about the Pick-Sloan project until long after Congress had approved the plan. Despite treaty rights mandating that land could not be taken without their consent, none of the tribes were consulted prior to the program's enactment. The Bureau of Indian Affairs was fully informed, but it made no objections to Congress and did not inform tribes of their impending loss until 1947, three years after the project was approved. Financial settlements, generally regarded as grossly inadequate, were not achieved until 1957.⁴⁴

Vine Deloria Jr. observed that this flooding of ancestral lands ruthlessly took away old memories and led to the tribe's material and spiritual impoverishment. He characterized the Pick-Sloan plan as "the single most destructive act ever perpetrated on any tribe by the United States."⁴⁵ Yet, this legacy of loss has not reduced but has extended and deepened the emotional and cultural commitment of Lakota people to the land as the enduring repository of their ultimate well-being. Without the land, there is no center to resist the historical pressures created by the dominant society.

"The American West as Living Space"

Despite the pervasive conflict between tribes and state and federal governments and between Indians and non-Indians, there are some unitive factors that are often not perceived and occasionally even ignored. One such factor is the geographical conditions of living in the West—a unique environmental and ecological system that exacts a premium for successful living. The key attributes of this habitat are space and aridity.⁴⁶ Writer and critic Wallace Stegner has aptly described this western "living space":

In the West it is impossible to be unconscious of or indifferent to space. At every city's edge it confronts us as federal lands kept open by aridity and the custodial bureaus; out in the boondocks it engulfs us. And it does contribute to individualism, if only because in that much emptiness people have the dignity of rareness and must do much of what they do without help, and because self-reliance becomes a social imperative, part of a code. . . . It encourages a fatal carelessness and destructiveness because it seems so limitless and because what is everybody's is nobody's responsibility. It also encourages, in some, an impassioned protectiveness. . . . it promotes certain needs, tastes, attitudes, skills. It is those tastes, attitudes, and skills, as well as the prevailing destructiveness and its corrective, love of the land, that relate real Westerners to the myth.⁴⁷

The West is also arid, which is not only a physical and often brutal fact, but is also a determinant of the social fabric:

Aridity and aridity alone makes the various Wests one. The distinctive western plants and animals, the hard clarity . . . of the western air, the look and location of western towns, the empty spaces that separate them, the way farms and ranches are either densely concentrated where water is plentiful or widely scattered where it is scarce, the pervasive presence as dam builder and water broker, the snarling state's-rights and antifederal feeling whose burden Bernard DeVoto once characterized in a sentence—"Get out and give us more money"—those are all consequences . . . of aridity.⁴⁸

Aridity and space have combined to establish a unique environment in which there is often a sharp sense of independence poised against

an encroaching federal authority. Despite the vastness of the land and the claims of individualism and tribal sovereignty, there is significant and seemingly intractable dependence on and resentment of the federal presence in Indian country and the West. Stegner keenly summarized this bleak history: "Take for granted federal assistance, but damn federal control. Your presence as absentee landlord offends us, Uncle. Get out, and give us more money."⁴⁹

This description contains the necessary seeds to cultivate a renewed examination of the role that federal money and the federal government play in Indian country and the West. Although Indian tribes are often casually described as too dependent on the federal government, it is less often noted that many of their non-Indian "rugged individualist" neighbors are equally dependent, whether through federal farm subsidies or the below-cost access and use of water and grazing rights on federal lands. This knot of common dependency must be examined to determine whether or not there is sufficient common ground on which Indians and non-Indians, tribes and states, might define a clearer, more productive, and more satisfying relationship with the federal government.

This is not an easy matter. Tribal dependency on the federal government is based on a "trust relationship" that is grounded in the mutual covenants of the treaties. The object is not, or should not be, to end this important relationship but to redefine its contours so that the relationship is less asymmetrical and has a renewed infusion of mutuality. At the same time, western farmers and ranchers need to depend less on federal subsidies and the profligate use of the public domain. There is the potential for state and tribal conflict here, but the risk must be taken if there is to be a realignment of interests by people and entities that call the West home.

This federal dependence also has its nongovernmental analogue in the western suspicion and distrust of outsiders and do-gooders and the resultant insularity of vision. The history of the West

is a history of colonialism, both material and cultural. Is it any wonder we are so deeply xenophobic, and regard anything east of us as suspect? The money and power always came from the East, took what it wanted, and left us, white or Indian, with our traditions dismantled and our territory filled with holes in the ground.⁵⁰

This insularity, at least in South Dakota, remains more prominent in the non-Indian than in the Indian community, as tribes increasingly look to and find more congenial support for their efforts outside the state.⁵¹ Yet, it remains true for both communities that difficulty and exploitation have often come from outsiders. The aggravated insularity of South Dakotans needs to be set aside to allow each group to consider the potential coalition *against* outside exploiters and support for outsiders who have genuine empathy and commitment to both the Indian and non-Indian communities.

Implicit in the process of clarifying relationships with both governmental and non-governmental "external" forces is the opportunity to embrace a new concern for improving "internal" relations between Indians and non-Indians, between tribes and the state. This process is necessary if there is to be any unity on the issues central to the existence and reinvigoration of Indian and non-Indian rural communities, which often share the attributes of being underdeveloped, isolated, and easily ignored by the powers that be.

Indians and non-Indians, the tribes and the state, have more in common than they might think. Despite a history of conflict, their future is inextricably linked. Many of the dominant forces—such as the scarcity of capital, the shortage of human resources, the increased reliance on technology, and a disappearance of markets—act with equal devastation on Indian and non-Indian communities. But each side must accede to a condition before any common agenda can be addressed. Each group must recognize the permanency and legitimacy of the other.

What both sides already have is space and aridity. What they need most is a sense of place to meet the deep human need of belonging. Yet, this is unlikely without some painful introspection, particularly in the non-Indian community. The mythology of the non-Indian West is grounded in conquest and possession, and it no longer works. As writer William Kittredge suggested:

Our mythology doesn't work anymore. . . . We find ourselves weathering a rough winter of discontent, snared in the uncertainties of a transitional time and urgently yearning to inhabit a story that might bring sensible order to our lives—even as we know such a story can only evolve through an almost literally infinite series of recognitions of what,

individually, we hold sacred. . . . There is no more running away to territory. This is it, for most of us. We have no choice but to live in community. If we're lucky we may discover a story that teaches us to abhor our old romance with conquest and possession.⁵²

The outworn mythology has also been fueled by the excesses of individualism that have hindered the development of communities and traditions. American individualism, much celebrated and cherished, has developed without its essential corrective, which is *belonging*.⁵³ In South Dakota, particularly in the rural areas on or near Indian country, this sense of belonging in the non-Indian community may not be so sharply attenuated, which again suggests the potential for a coming together on these issues. There are many complex issues, such as the use of Missouri River and Oglala Aquifer water and the Black Hills issue, that have the potential to bring Indians and non-Indians together, but the development of a greater ethic or story is needed to hold them together. Of course, no one knows exactly how to do this, yet important work has begun:

We need to develop an ethic of place. It respects equally the people of a region and the land, animals, vegetation, water, and air. An ethic of place recognizes that Western people revere the physical surroundings and that they need and deserve a stable, productive economy that is accessible to those of modest incomes. An ethic of place ought to be a shared community value and ought to manifest itself in a dogged determination of the society at large to treat the environment and its people as equals, to recognize both as sacred, and to insure that all members of the community not just search for, but insist upon, solutions that fulfill the ethic.⁵⁴

Within this ethic of place, there must be a recognition that Indians

possess individuality as people and self-rule as governments, but they are also an inseparable part of the larger community, a proud and valuable constituent group that must be extended the full measure of respect mandated by an ethic of place.⁵⁵

Along with these encouraging beginnings, there are other signs of the Indian and non-Indian communities coming together. These

signs are found most often in the area of education, specifically in the Indian-controlled colleges in South Dakota. Sinte Gleska College at Rosebud and Oglala Lakota College at Pine Ridge, both funded during the early 1970s, represent successful acts of self-determination by local tribal leaders to meet the educational needs of tribal people.⁵⁶ At the same time, 10 per cent to 15 per cent of students and staff at these institutions are non-Indians who are preparing to be teachers, nurses, and counselors. The more extraordinary aspect of this arrangement is that the colleges have provided rare forums in which Indians and non-Indians have opportunities for face-to-face communication, which fosters personal, cultural, and political respect and understanding.

Conclusion

Gerald Clifford, an Oglala and chairman of the Black Hills Steering Committee, said, "Our relationships to one another as Lakota are defined by our relationship to the earth. Until we get back on track in our relationship to the earth, we cannot straighten out any of our relationships to ourselves, to other people."⁵⁷ The difficult question is *how* to get back on track. For many Indians on reservations, the relationship to the land has become more passive than active. The land does not provide economic livelihood for very many, and the detritus of the dominant society often invades and mars the landscape. The observations of one visitor to a reservation in the Southwest are salutary:

I was . . . impressed by the amount of junk on the reservation—the usual modern American assortment of cars and bottles, plastic jugs, old cars, blowing paper, etc. The junk surprised me, most people who write or talk about Indians, I think, try to see or imagine them apart from the worst—or at least the most unsightly—influence of white society. But of course one should not be surprised. When junk is everywhere—better hidden in some places than others—why should one not expect to find it here?⁵⁸

The rupture in the relationship of Indians to the land has also had adverse social effects. Ronnie Lupe, former chairman of the White

Mountain Apache Tribe in New Mexico, vividly articulated this view: "Our children are losing the land. It doesn't work on them anymore. They don't know the story about what happened to these places. That's why some get into trouble."⁵⁹ At Rosebud and other reservations in South Dakota, problems of teenage alcoholism and juvenile crime provide dispiriting confirmation of Lupe's observation. Yet, as Stanley Red Bird, founder and former chairman of the board of directors at Sinte Gleska College, observed: "You white people got a lot of our land and a lot of our heart, but we know you were wrong and now with the help of the Great Spirit, and the new warriors of education, we will live again."⁶⁰

The land must be retained, restored, and redefined. Its economic role must be resuscitated, its spiritual role must be revived, and its healing role must be revitalized. The land must hold the people and give direction to their aspirations and yearnings. In this way, the land may be seen to be part of the "sacred text" of Lakota religion and culture. As part of the "sacred text," the land is a principal symbol of—perhaps *the* principal symbol of—the fundamental aspirations of the tradition. In this sense, the "sacred text" constantly *disturbs*, serving a prophetic function in the life of the community.⁶¹ The land constantly evokes the fundamental Lakota aspirations to live in harmony with Mother Earth and to embody the traditional virtues of wisdom, courage, generosity, and fortitude. The "sacred text" guarantees nothing, but it does hold the necessary potential to successfully mediate the past of the tradition with its present predicament.

This concept of a "sacred text" also challenges non-Indians to examine their own traditions. For many in South Dakota, this would include a review of the Christian tradition and whether its aspirations include solidarity with the struggles of others for justice and self-realization. Non-Indians need to consider the deeper quandary of their Lakota neighbors' commitment to a "sacred text" so often assaulted by western history. Within the legal profession, this might include an examination of the aspirations of our constitutional "faith."⁶²

The breath of despair once so prevalent in Indian country seems to be yielding to the air of hope. The answers to the troubling questions about the land and its economic, cultural, and spiritual roles do not readily insinuate themselves, but they are increasingly recognized

and energetically posed. These questions also unerringly pierce the larger society's continuing assumptions about cultural diversity and the use and exploitation of the earth to sustain economic prodigality and waste.

Notes

1. Thomas McGrath, *Letter to an Imaginary Friend: Parts I & II* (Chicago: Swallow Press, 1970), 190.

2. "Lakota" is the traditional linguistic reference used by the Teton Sioux to describe themselves in their own language. "Sioux," a French corruption of a Chippewa word meaning snake or adder, was used by the Chippewas in a derogatory fashion to describe their traditional enemy, the Lakotas. For this reason, "Lakota" is the preferred term, although popular and legal usage has made "Sioux" a much more conventional and better known term. The terms are used here interchangeably.

The Teton, the Santee, and the Yanktonai Sioux are the three main divisions of the Sioux people. The Santees were basically woodland people who lived in Wisconsin and Minnesota; the Yanktonais were primarily riverine people who lived in Minnesota and eastern South Dakota; and the Tetons lived in the plains of the Dakotas. The Teton people spoke their language with an L(akota) emphasis, the Yanktonai with a D(akota) emphasis, and the Santee with an N(akota) emphasis. See, for example, James Satterlee and Vernon Malan, *History and Acculturation of the Dakota Indians*, Bulletin 613 (Brookings: Rural Sociology Department, South Dakota State University, 1973).

In South Dakota, the Santee division of Sioux people are found primarily on the Lake Traverse (Sisseton-Wahpeton) and Flandreau Santee reservations; the Yanktonais are on the Yankton, Standing Rock, and Crow Creek reservations; and the Tetons are on the Rosebud, Pine Ridge, Lower Brule, Cheyenne River, and Standing Rock Sioux reservations. It is reasonably accurate to state that today the strongest identification of Indians in South Dakota is with their reservation, rather than with their major Sioux branch. See, for example, M. Lawson, *Dammed Indians* (1982), 31-32.

3. Wallace Stegner, *Angle of Repose* (Garden City, N.Y.: Doubleday, 1971). This extraordinary novel has nothing to do with Native-Americans or South Dakota, yet the title and introspection of the work seem especially resonant in the context of this essay. "Angle of repose" is an engineering term that refers to the angle between the horizontal and the plane of contact between two bodies when the upper body is just about to slide over the lower. Repose, then, in the sense of rest, not from the demands of mutual problem solving but from antagonism.

4. See, for example, Francis Jennings, *The Invasion of America: Indians, Colo-*

nialism, and the Cant of Conquest (Chapel Hill: University of North Carolina Press, 1975), 32-42.

5. See, for example, Leslie Silko, "Landscape, History, and the Pueblo Imagination," in *On Nature*, ed. D. Halpern (1987), 83-94; Barry Lopez, *Crossing Open Ground* (New York: Scribner's, 1988), 61-71.

6. See, for example, Wendell Berry, *The Gift of Good Land: Further Essays, Cultural and Agricultural* (San Francisco: North Point Press, 1981), 50-52. Berry discusses the Papago Indians of the Southwest, but his descriptions are equally pertinent in the Lakota context.

7. Frederick W. Turner, *Beyond Geography: The Western Spirit Against the Wilderness* (New York: Viking Press, 1980), 238.

8. Frederick W. Turner, "Literature Lost in the Thickets," *New York Times Book Review*, February 15, 1987, 35. See also N. Scott Momaday, *House Made of Dawn* (New York: Harper & Row, 1968); Leslie Silko, *Ceremony* (New York: Viking, 1977); James Welch, *Winter in the Blood* (New York: Harper & Row, 1974); Welch, *Fools Crow* (New York: Viking, 1986); Louise Erdrich, *Love Medicine* (New York: Holt, Rinehart and Winston, 1985); Erdrich, *Tracks* (New York: Henry Holt, 1988).

9. Robert Logterman, interview with author, May 1986.

10. This policy of the Bureau of Indian Affairs was prominent from 1955 through 1961, the latter part of the termination period (1945-1961), when it was believed that reservations were inhospitable anachronisms that people should be encouraged to leave. See Donald Lee Fixico, *Termination and Relocation: Federal Indian Policy, 1945-1960* (Albuquerque: University of New Mexico Press, 1986).

11. See, for example, Keith Basso, "'Stalking with Stories': Names, Places, and Moral Narratives Among the Western Apache," in *On Nature*, 95-116. See also Momaday, *House Made of Dawn*, 115.

12. Charles F. Wilkinson, *American Indians, Time and the Law: Native Societies in Modern Constitutional Democracy* (New Haven, Conn.: Yale University Press, 1987), 4. It is important to note that the Lakota did not see the treaty as mere expedience and the power politics of the day, subject to future accommodation to other emerging national interests. See comments by Father Peter John Powell in Roxanne Dunbar Ortiz, *The Great Sioux Nation: Sitting in Judgment on America* (Berkeley, Calif.: Moon Books, 1977), 141-2.

13. Treaty with Chippewas, Ottawas, and Potawatomes, 9 Stat. 853 (1846); Speech of Commissioner in *Journal of Proceedings* (November 12, 1845).

14. See, for example, Francis Paul Prucha, *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1780-1834* (Cambridge, Mass.: Harvard University Press, 1962).

15. Art. II, 15 Stat. 635 (1868).

16. See, for example, Wilkinson, *American Indians*, 14-19.

17. *Ibid.*, 19-23.

18. Quoted in S. Lyman Tyler, *A History of Indian Policy* (Washington, D.C.: Bureau of Indian Affairs, 1973), 104.
19. Wilkinson, *American Indians*, 20.
20. Francis Paul Prucha, *The Great Father: The United States Government and the American Indians* (Lincoln: University of Nebraska Press, 1984), 896.
21. See, for example, Wilkinson, *American Indians*, 21; Walcomb E. Washburn, *Red Man's Land/White Man's Law: A Study of the Past and Present Status of the American Indian* (New York: Scribner's, 1971), 75-76.
22. See, for example, D. W. Adams, "Fundamental Considerations: The Deep Meaning of Native-American Schooling, 1880-1900," *Harvard Educational Review* 58 (1988): 1.
23. Albert White Hat, interview with the author, May 1983.
24. Delos Sacket Otis, *History of the Allotment Policy*, Hearings on H.R. 7902 Before the House Committee on Indian Affairs, 73d Cong., 2d sess., pt. 9, 428-89.
25. *Ibid.*
26. This discussion does not include the 7.7 million acres taken as part of the Black Hills Act of 1877, Act of February 28, 1877, 19 Stat. 254, or the 9 million acres lost as part of the Great Sioux Agreement of 1889, Act of March 2, 1889, 25 Stat. 889. The 1889 agreement carved out the six West River reservations (Pine Ridge, Rosebud, Cheyenne River, Standing Rock, Lower Brule, and Crow Creek) from the Great Sioux Reservation established as part of the Fort Laramie Treaty of 1868.
27. See the discussion in *DeCoteau v. District County Court*, 420 U.S. 425 (1975); *Wood v. Jameson*, 130 N.W.2d 95 (S.D. 1964).
28. See the discussion in *U.S. ex rel Cook v. Parkinson*, 525 F.2d 120 (8th Cir. 1975); *Rosebud Sioux Tribe v. Kneip*, 420 U.S. 584 (1977).
29. *Rosebud Sioux Tribe v. Kneip*, 586.
30. *Ibid.*, 585-6. See also *Lone Wolf v. Hitchcock*, 187 U.S. 553 (1903), for a discussion of Congress's plenary authority in Indian affairs.
31. *Rosebud Sioux Tribe v. Kneip*; *Rosebud Sioux Tribe* at 430 U.S. 629-30 (Marshall, J., dissenting).
32. *Solem v. Bartlett*, 465 U.S. 463 (1984).
33. Act of May 29, 1908, ch. 218, 35 Stat. 460; *Solem v. Bartlett*, 466.
34. *Solem v. Bartlett*, 470.
35. *Ibid.*, 471.
36. *Ibid.*
37. *DeCoteau v. District County Court*; *Wood v. Jameson*; *Cook v. Parkinson*; *Rosebud Sioux Tribe v. Kneip*.
38. *Rosebud Sioux Tribe*, 616.
39. Lawson, *Dammed Indians*, xxi.
40. *Ibid.*, 20.
41. *Ibid.*, 27.

42. Ibid., 29.
43. Ibid.
44. Ibid., 45, 95-107.
45. Vine Deloria Jr., Foreword to *Dammed Indians*, xiv.
46. Wallace Stegner, *The American West as Living Space* (Ann Arbor: University of Michigan Press, 1987), esp. 5. For this essay, I have included all of South Dakota in the West. It is interesting that most of the Indian population and Indian land in South Dakota are in the western part of the state, and there is a clear east/west distinction marked by the Missouri River in that state. East of the river the traditional crop agriculture of the Middle West dominates, and west of the river cattle ranching is prevalent.
47. Ibid., 80-81.
48. Ibid., 8-9.
49. Ibid., 15.
50. William Kittredge, *Owning It All* (St. Paul: Graywolf Press, 1987), 88. See also Patricia Nelson Limerick, *The Legacy of Conquest: The Unbroken Past of the American West* (New York: Norton, 1987).
51. The congressional bill for return of the Black Hills (S. 705) could not find a sponsor in the South Dakota delegation. The original sponsor was Senator Bill Bradley (D.-N.J.), who first heard about the Black Hills issue when conducting summer basketball clinics for the children of Pine Ridge.
52. Kittredge, *Owning It All*, 67-68.
53. Stegner, *American West as Living Space*, 22-23.
54. Charles Wilkinson, "Law and the American West: The Search for an Ethic of Place," *Colorado Law Review* 59 (1988): 401, 405.
55. Ibid., 407.
56. Each of these colleges has an enrollment of more than five hundred students with growth rates of 5 per cent or more annually. See, for example, *Lakota Times*, January 31, 1989. There are also smaller reservation-based colleges on the Cheyenne River, Standing Rock, Yankton, and Sisseton-Wahpeton reservations in South Dakota. More than twenty such colleges are located throughout Indian country. The national organization is known as the American Higher Education Consortium.
57. Quoted in William Grieder, "The Heart of Everything That Is," *Rolling Stone*, May 7, 1987, 62.
58. Berry, *Gift of Good Land*, 71-72.
59. Quoted in Basso, "'Stalking with Stories,'" 95.
60. Stanley Red Bird, interview with the author, May 1986.
61. Michael J. Perry, *Morality, Politics, and Law* (New York: Oxford University Press, 1988), 137.
62. See, for example, William Brennan, "The Constitution of the United States: Contemporary Ratification," *Southern Texas Law Review* 27 (1986): 433,

434. Brennan concluded: "the Constitution embodies the aspiration to social justice, brotherhood, and human dignity that brought this nation into being. we are an aspiring people, a people with faith in progress. Our amended Constitution is the lodestar of our aspirations."