

## Strategies of Elimination: “Exempted” Aborigines, “Competent” Indians, and Twentieth-Century Assimilation Policies in Australia and the United States

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Résumé de l'article

En dépit des différences de leur politique, de leur population et de leur histoire, il existe certaines similitudes frappantes entre les politiques d'assimilation des Autochtones adoptées par les États-Unis et l'Australie. De tels parallèles sont très révélateurs des dures pratiques sous-jacentes à la rhétorique de l'édification humanitaire, de la civilisation et de l'assimilation culturelle dans ces nations pionnières. Cet article compare les lois qui ont fourni des moyens d'assimiler les Aborigènes et les Autochtones américains que les représentants blancs percevaient comme acculturés. Certains Autochtones se sont vu offrir des certificats d'« exemption » qui les libéraient des restrictions légales imposées au mouvement des peuples autochtones, droit de résidence, achat d'alcool, et autres contrôles. De façon semblable, les Autochtones américains pouvaient recevoir des lettres patentes les déclarant « compétents ». Celles-ci interrompaient la tutelle gouvernementale et leur permettaient de vendre, de transférer par acte notarié et de payer des taxes sur leurs terres. L'auteur a analysé à fond le Comité qui a été envoyé à Oklahoma pour examiner la compétence des Cheyenne et des Arapaho en janvier et février 1917, ainsi que le New South Wales Aborigines' Welfare Board, qui combinait l'attribution des certificats d'exemption à leurs efforts pour assimiler le peuple Koori dans la société australienne des années 1940 et 1950. Ces études de cas révèlent que les personnes de descendance mixte blanc/indigène avaient davantage de chance d'être déclarées compétentes ou d'être exemptées. Ainsi, de pair avec les efforts d'assimiler culturellement les Aborigènes et les Autochtones américains sont venues les tentatives de réduire les populations indigènes et la taille de leurs propriétés foncières en dégageant les personnes de descendance mixte du contrôle gouvernemental, et d'éliminer la reconnaissance officielle de leur identité autochtone.

# Strategies of Elimination: “Exempted” Aborigines, “Competent” Indians, and Twentieth-Century Assimilation Policies in Australia and the United States

KATHERINE ELLINGHAUS

## *Abstract*

*Despite their different politics, populations and histories, there are some striking similarities between the indigenous assimilation policies enacted by the United States and Australia. These parallels reveal much about the harsh practicalities behind the rhetoric of humanitarian uplift, civilization and cultural assimilation that existed in these settler nations. This article compares legislation which provided assimilative pathways to Aborigines and Native Americans whom white officials perceived to be acculturated. Some Aboriginal people were offered certificates of “exemption” which freed them from the legal restrictions on Aboriginal people’s movement, place of abode, ability to purchase alcohol, and other controls. Similarly, Native Americans could be awarded a fee patent which declared them “competent.” This patent discontinued government guardianship over them and allowed them to sell, deed, and pay taxes on their lands. I scrutinize the Board that was sent to Oklahoma to examine the Cheyenne and Arapaho for competency in January and February 1917, and the New South Wales Aborigines’ Welfare Board, which combined the awarding of exemption certificates with their efforts to assimilate Koori people into Australian society in the 1940s and 1950s. These case studies reveal that people of mixed white/indigenous descent were more likely to be declared competent or exempt. Thus, hand in hand with efforts to culturally assimilate Aborigines and Native Americans came attempts to reduce the size of indigenous populations and their landholdings by releasing people of mixed descent from government control, and no longer officially recognizing their indigenous identity.*

## *Résumé*

*En dépit des différences de leur politique, de leur population et de leur histoire, il existe certaines similitudes frappantes entre les politiques d’assimilation des Autochtones adoptées par les États-Unis et l’Australie. De tels parallèles sont*

*très révélateurs des dures pratiques sous-jacentes à la rhétorique de l'édification humanitaire, de la civilisation et de l'assimilation culturelle dans ces nations pionnières. Cet article compare les lois qui ont fourni des moyens d'assimiler les Aborigènes et les Autochtones américains que les représentants blancs percevaient comme acculturés. Certains Autochtones se sont vu offrir des certificats d'« exemption » qui les libéraient des restrictions légales imposées au mouvement des peuples autochtones, droit de résidence, achat d'alcool, et autres contrôles. De façon semblable, les Autochtones américains pouvaient recevoir des lettres patentes les déclarant « compétents ». Celles-ci interrompaient la tutelle gouvernementale et leur permettaient de vendre, de transférer par acte notarié et de payer des taxes sur leurs terres. L'auteur a analysé à fond le Comité qui a été envoyé à Oklahoma pour examiner la compétence des Cheyenne et des Arapaho en janvier et février 1917, ainsi que le New South Wales Aborigines' Welfare Board, qui combinait l'attribution des certificats d'exemption à leurs efforts pour assimiler le peuple Koori dans la société australienne des années 1940 et 1950. Ces études de cas révèlent que les personnes de descendance mixte blanc/indigène avaient davantage de chance d'être déclarées compétentes ou d'être exemptées. Ainsi, de pair avec les efforts d'assimiler culturellement les Aborigènes et les Autochtones américains sont venues les tentatives de réduire les populations indigènes et la taille de leurs propriétés foncières en dégageant les personnes de descendance mixte du contrôle gouvernemental, et d'éliminer la reconnaissance officielle de leur identité autochtone.*

Applying a global, transnational or comparative framework to indigenous history is a task that should be undertaken with some caution. With their seductively broad perspectives, such methodologies run the risk of utilizing conceptions of space and place that override indigenous viewpoints and let us forget that transnational encounters could occur between different language groups in very small geographical areas, not just across oceans between large and powerful nations. As Phillip Deloria has argued, we must be careful to recognize that the "dynamic, open, progressive global circulation [we celebrate] today might as easily be named as one practice of colonial knowledge-making that was, and continues to be, all about the exercise of power and domination."<sup>1</sup> Australian historians Marilyn Lake and Ann Curthoys similarly urge us not to forget the importance of the nation in our global studies. "The implications of the tension between national histories and transnational scholarship," they argue, "are especially evident in the example of the history of indigenous peo-

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1 Philip J. Deloria, "Places Like Houses, Banks, and Continents: An Appreciative reply to the Presidential Address," *American Quarterly* 58, no. 1 (March 2006): 29.

ples ... the danger is disconnection from local audiences and politics, the very connections that have made Indigenous histories so important and vibrant in the first place.”<sup>2</sup>

At the same time, there are numerous examples of scholars who have heeded these warnings and demonstrated the potential of transnational or comparative studies to enlighten us about the international networks employed by indigenous activists,<sup>3</sup> the important story of settler societies looking to each other for tips on how to usurp territory and control indigenous populations,<sup>4</sup> and the insights that can be gained from broadly thinking about the fluctuations discernable in colonial discourses according to when and where they appeared.<sup>5</sup> There is no doubt that comparing settler societies allows us to see colonialism’s cynical, strategic, pragmatic roots with greater clarity. There was nothing inevitable or organic about the colonial project, and noting its infinite variations helps us to understand that.

In Australia and the United States in the twentieth century, for example, settler governments were busy attempting a similar task — assimilating Aborigines and Native Americans — using very different policies, vocabularies and systems of governance. In the late nineteenth century in the United States a humanitarian movement, the younger sibling of the anti-slavery lobby, had focussed its attentions on the plight of American Indians and orchestrated an assimilation policy that centred on the Dawes Act of 1887. This Act began the process of dividing the reservations into individual allotments, and was supposed to transform American Indians with Christianity and education into self-supporting farmers. In Australia in the late nineteenth and early twentieth centuries, separate legislation was passed by each colony and (after Federation in 1901) state that promised to protect Aborigines. In reality, these “Protection Acts” segregated Aborigines onto reserves, controlled every aspect of their lives, and presumed that those of full descent would slowly die out, while those of mixed descent would be absorbed into the white population through inter-

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2 Marilyn Lake and Ann Curthoys, “Introduction,” in *Connected Worlds: History in Transnational Perspective*, eds. Ann Curthoys and Marilyn Lake (Canberra: ANU e-press, 2005), <[http://epress.anu.edu.au/cw/mobile\\_devices/index.html](http://epress.anu.edu.au/cw/mobile_devices/index.html)>, (viewed April 2007)

3 See, for example, John Maynard, “Transcultural/transnational interaction and influences on Aboriginal Australia in Connected Worlds” in *Connected Worlds: History in Transnational Perspective*, eds. Ann Curthoys and Marilyn Lake (Canberra: ANU e-press, 2005), <[http://epress.anu.edu.au/cw/mobile\\_devices/index.html](http://epress.anu.edu.au/cw/mobile_devices/index.html)>, (viewed April 2007)

4 See, for example, Julie Evans, Patricia Grimshaw, David Philips, and Shurlee Swain, *Equal Subjects, Unequal Rights: Indigenous Peoples in British Settler Societies, 1830-1910* (Manchester: Manchester University Press, 2003).

5 See, for example, Patrick Wolfe, “Land, Labor, and Difference: Elementary Structures of Race,” *American Historical Review* 106, no. 3 (June 2001): 1866-905, and Arthur J. Ray, “Aboriginal Title and Treaty Rights Research: A Comparative Look at Australia, Canada, New Zealand and the United States,” *New Zealand Journal of History* 37, no. 1 (2003): 5-17.

breeding. Assimilation thus had a very different trajectory in each of these nations. Nevertheless, there are some striking similarities, which reveal much about the harsh practicalities behind the rhetoric of humanitarian uplift, civilization, and assimilation which existed in each place. This rhetoric was the more humane answer to the so-called "Indian problem" and "Aboriginal problem" that these settler societies found themselves facing, but often these policies were just as damaging to indigenous culture and lives as the alternative. In this article, I focus on one particular way that the outwardly humanitarian policy of assimilation could oppress indigenous people that both Australia and the United States had in common: the ways the Australian and United States governments attempted to manipulate who was or was not a member of indigenous populations as a method of assimilation.

In both places legislation provided assimilative pathways to Aborigines and Native Americans whom white officials perceived to be acculturated. Aboriginal people who showed outward signs of assimilation were offered certificates of exemption which freed them from the legal restrictions on aboriginal people's movement, place of abode, ability to purchase alcohol, and other controls. Similarly, Native Americans could be awarded a fee patent which declared them "competent" after an application process that supposedly measured their level of acculturation and business acumen. This patent discontinued government guardianship over them and allowed them to sell, deed, and pay taxes on their lands.

Competency and exemption policies have featured only briefly in historians' discussions of the assimilation policies of the United States and Australia.<sup>6</sup> They deserve, however, more focussed discussion because of the part they played in what Annette Jaimes has termed "statistical extermination" — the use of legal definitions of indigenous identity to reduce the numbers of indigenous people. "If the government could not repeal its obligations to Indians," Jaimes writes, "it could at least act to limit their number, thereby diminishing the cost associated with underwriting their entitlements on a per capita basis."<sup>7</sup> Such definitions could be, and most often were, on the basis of "blood," or the amount of indigenous ancestors an individual claimed; but they could also rely on excluding those who did not live in indigenous communities, or those who had married outside those communities, or those who did not appear in the proper place in the enormous amount of complicated paperwork created by colonial governments during the assimilation period. Thus, fee patents and

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6 The work of historian Janet McDonnell is the significant exception. Janet A. McDonnell, *The Dispossession of the American Indian, 1887-1934* (Bloomington: Indian University Press, 1991).

7 M. Annette Jaimes, "Federal Indian Identification Policy: A Usurpation of Indigenous Sovereignty in North America" in *The State of Native America: Genocide, Colonization, and Resistance* (Boston: South End Press, 1992), 126.

exemption certificates can be seen to play a recognizable part in Patrick Wolfe's "logic of elimination," the underlying philosophy of the colonial project that, he says, is premised on the securing of land through the disappearance of indigenous populations.<sup>8</sup>

Seeing fee patents and exemption certificates as statistical extermination goes directly against the humanitarian rhetoric in which they were couched. The Australian and United States governments introduced these policies as pathways to assimilation. They were supposed to release particularly acculturated Aborigines or American Indians from the jurisdiction of laws that "protected" indigenous people with some form of special status, but which potentially limited those "ready" to take their place in the community without the protection of special laws. But by "exempting" Aborigines from protection legislation, or pronouncing Indians "competent," settler governments were not just offering partial equal citizenship — they were engaged in drawing sharp lines between indigenous communities by declaring some members a different identity to others. This was not only a "divide and rule" strategy; rather it worked to lessen the population of people classified as indigenous and therefore eligible for settler government support.

The particular ways in which fee patents and exemption certificates worked to reduce the numbers of Aborigines and Native Americans are revealing of the different methods employed by the United States and Australia to assimilate indigenous people. In the United States, where the 1887 Dawes Act had allocated land to individual Indians, competency and fee patents were quite clearly methods of regaining that land back for the use of white settlers. In Australia, where aboriginal landholdings consisted only of small reserves and stations that were merely set aside by the government for their use, exemption certificates were used to keep holders away from reserves where they received government support. Thus both were practical ways of reducing government spending and/or reducing indigenous landholdings.

They were also, I argue, policies which took advantage of the intimate side of colonialism, which saw many interracial relationships and mixed descent children blur the boundaries between settler and indigenous. Interracial relationships are an important aspect of assimilation policies in settler societies, even though often "assimilation" is not seen as anything more than a cultural process. In fact, cultural assimilation — the process by which indigenous people were taught to "act white" — was often immensely complicated by, and intertwined with, the process of biological absorption — the idea that indigenous identity was slowly being "bred out." In Australia, where biological absorption was talked about openly and even became part of government pol-

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<sup>8</sup> Patrick Wolfe, *Settler Colonialism and the Transformation of Anthropology* (London: Cassell, 1999), 181.

icy at certain times and places, this is a well recognized phenomenon by scholars.<sup>9</sup> In the United States, where the presence of an African-American population made miscegenation uniquely resonant, biological absorption has not yet been recognized by scholars as existing in the same way.<sup>10</sup> Yet as I will show in the following case studies, the kind of statistical extermination made possible by competency and exemption was underpinned in both countries by both kinds of assimilation: biological and cultural.

The best evidence that fee patents and exemption certificates were not introduced with the best interests of indigenous people at heart is the reaction of indigenous people to them. Aboriginal people made their feelings clear by referring to exemption certificates as "dog tags." Indian resistance to being declared "competent" took all kinds of forms — written, spoken, organized, and individual. The next best evidence, in the United States, is the sheer amount of land lost. In 1934, Commissioner of Indian Affairs, John Collier, reported to the Senate and House Committees on Indian Affairs a shocking statistic: due to allotment policy Indian landholdings had been reduced from 138,000,000 acres in 1887 to 48,000,000 acres.<sup>11</sup> Janet McDonnell, whose 1991 study of assimilation policy is perhaps the best source of information about fee patents, estimates that 23 million acres of this loss was land that had been fee patented.<sup>12</sup>

In the remainder of this essay, I compare two government "Boards": groups of (mostly) white public servants who made decisions about the legal status of individual indigenous people in two very different settler societies.<sup>13</sup> Such decisions were made by similar administrative bodies on a huge scale

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9 Warwick Anderson, *The Cultivation of Whiteness: Science, Health and Racial Destiny in Australia* (Carlton South: Melbourne University Press, 2002), 216-43; Russell McGregor, *Imagined Destinies: Aboriginal Australians and the Doomed Race Theory, 1880-1939* (Carlton South: Melbourne University Press, 1997), chapter 4; Russell McGregor, "'Breed out the Colour' or the Importance of Being White," *Australian Historical Studies* 33, no. 120 (October 2002): 286-302; Patrick Wolfe, *Settler Colonialism and the Transformation of Anthropology: The Politics and Poetics of an Ethnographic Event* (London: Cassell, 1999), 175-6; Robert Manne, "The Stolen Generations," in *The Way We Live Now: Controversies of the Nineties* (Melbourne: Text Publishing, 1998), 15-41.

10 See, for example, David D. Smits, "'Squaw Men,' 'Half-Breeds,' and Amalgamators: Late Nineteenth-Century Anglo-American Attitudes Toward Indian-White Race-Mixing," *American Indian Culture and Research Journal* 15, no. 3 (1991): 29-61, and Brian W. Dippie, *The Vanishing American: White Attitudes and U.S. Indian Policy* (Lawrence: University Press of Kansas, 1982).

11 Felix S. Cohen, *Handbook of Federal Indian Law* (Washington: United States Government Printing Office, 1945), 216.

12 McDonnell, *The Dispossession of the American Indian*, 121.

13 After 1943 the New South Wales Aborigines Welfare Board was supposed to include a member of "full blood" and another of "full blood or person apparently having an admixture of aboriginal blood." *Aborigines Protection (Amendment) Act, 1943* (NSW), Section 3.

across the many decades when exemption and competency policies were enacted, but here I narrow my focus to two small, contained examples: the Board that was sent to Oklahoma to examine the Cheyenne and Arapaho for competency in January and February 1917, and the New South Wales Aborigines' Welfare Board, which combined the awarding of exemption certificates with their efforts to assimilate Koori people into Australian society in the 1940s and 1950s. Despite the enormous differences in the origins of the nations of Australia and the United States, and in the ethnicities and size of their populations, Oklahoma (formerly Indian Territory) and New South Wales had some important similarities. Both became states in the first decade of the twentieth century: New South Wales along with the rest of the Australian colonies on federation in 1901, and Oklahoma after much lobbying losing its frontier status in 1907. Both had significant indigenous populations who had long histories of contact with Europeans. In 1910 Oklahoma had by far the greatest number of Indians reported for any state, 74,825 or more than one quarter of all the Indians in the United States.<sup>14</sup> A high proportion of this population, 62.6 percent were reported by the 1910 census as being of mixed descent.<sup>15</sup> In the 1940s, the New South Wales Aborigines Welfare Board reported an aboriginal population of 11,485. Mixed descent people apparently made up 92.3 percent of this population.<sup>16</sup>

### **The Cheyenne and Arapaho Competency Board**

By 1917 in the United States competency was nearly three decades old. The concept of a "competent" Indian person had been made necessary by the stipulation in the Dawes Act that the government would hold the title to each allotment in trust for twenty five years. It was not long before individuals began to request their trust period be lifted and the fee patents to their land be handed over to them. In each case, Congress had to enact special legislation to grant a fee patent, or tag an extra clause onto some Indian-related legislation. By 1906 some government officials recognized the potential benefits of broadening this process, and making competency easier and more widely available. The Burke Act of that year allowed the Secretary of the Interior to issue fee patents, after an application process that began when an individual approached a local superintendent, who completed an application, posted it on the reservation for thirty days, and forwarded it to the Commissioner of Indian Affairs. If the Commissioner approved it, it was forwarded to the Secretary of the Interior for his signature.

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14 "Statistics of the Indian Population — Number, Tribes, Sex, Age, Fecundity, and Vitality," *Bulletin: Thirteenth Census of the United States 1910* (Washington, DC: Department of Commerce and Bureau of the Census, 1910), 5.

15 *Ibid.*, 6-7.

16 "Annual Report of the Aborigines Welfare Board, New South Wales, 1948," *New South Wales Parliamentary Papers* 3 (1948-1950-1951), 1.



At first competency was used cautiously because government officials were aware that fee patents often led to Indians losing their land to immoral white real estate agents, mortgage brokers or lawyers. But the Bureau of Indian Affairs was under pressure from western congressmen to release Indian lands and slowly became determined to do so using competency as a tool. Of course, this was not how the policy was officially couched. Rather, government officials talked about "releasing Indians from federal control" and enabling "the Indian Office to manage the affairs of the helpless class with undisputed authority, but, on the other hand, [removing] from the roll of dependents the ever-increasing number of Indians who no longer need Government supervision."<sup>17</sup>

Competency implied equality — it gave individuals a form of citizenship and allowed them to be treated as white persons under the law, giving them the right to sell, lease, or mortgage their land. For those in charge of dictating Indian policy and solving the "Indian Problem," competency seemed a further extension of the principles that underlay the Dawes Act. Competency would only hasten the removal of any special status from Indian lands, allowing them to pass into the mainstream market, open to demands of capitalism without any of the protections of their previous special status. But while this impartiality sounded good in the cool marble halls of Congress, it masked the complexity of the situation on the reservations where land-hungry white people found it all too easy to exploit the system. Once an Indian person was declared competent, they were open to manipulation and deceit. An enormous number would lose their land.

The Cheyenne and Arapaho were well aware of this danger in 1917. Indeed according to Donald Berthrong, while the Competency Board was on the way to Oklahoma to interview the community, a Cheyenne-Arapaho delegation was travelling in the opposite direction to ask the Commissioner of Indian Affairs to call the Board off. One member of the delegation told Assistant Commissioner E. B. Merritt that, "[w]e realize that if we were given ... the right of conducting our own business affairs and our land turned over to us, that then all of our property and money would fall into the hands of grafters. We are not ready to prepare ourselves to compete with civilized people in a business way."<sup>18</sup> The Competency Board's records indicate that only 11.2 percent of the people it interviewed indicated that they wanted a fee patent. The vast major-

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17 *Twenty-Seventh Annual Report of the Indian Rights Association, 1919* (Philadelphia: Indian Rights Association, 1919), 30; Francis E. Leupp, "Indian Lands: Their Administration with Reference to Present and Future Use," *Annals of the American Academy of Political and Social Science* 33, no. 3 (May 1909): 141.

18 Donald J. Berthrong, "Legacies of the Dawes Act: Bureaucrats and Land Thieves at the Cheyenne-Arapaho Agencies of Oklahoma," in *The Plains Indians of the Twentieth Century*, ed. Peter Iverson (Norman: University of Oklahoma Press, 1985), 43-4.

ity, 87.4 percent, stated firmly that they did not want a patent. For ten percent of this latter group their wishes would mean nothing — the Board declared them competent anyway.

The Board covered an impressive amount of ground in the month it was at work, interviewing between twenty and seventy people a day in six different towns between 19 January and 23 February. Their record, on 6 February, was an impressive 84 interviews at Cantonment. For each interviewee the Board recorded a variety of information: their age, their racial background, the amount of land they held (most held the standard 160 acres as per the Dawes Act), whether or not they spoke English, what kind of schooling they had undergone, and often some comment about their state of health. As time went on the Board got more efficient at working out exactly what information it needed, and its entries in the minute books which provide the main evidence for its work got shorter and to the point.<sup>19</sup>

The information recorded by the Board reflected Bureau of Indian Affairs policy on competency. According to the federal government, competency was predicated on the realization that, as Francis E. Leupp, who was Commissioner of Indian Affairs from 1905 to 1909, put it, “[l]ike their white neighbours, Indians are of more than one sort, ranging from good degrees of intelligence, industry and thrift to the depths of helplessness, ignorance and vice.”<sup>20</sup> Intelligence, industry, and thrift were, in reality, quite difficult to measure. The applications for Certificates in Competency that came into the Bureau of Indian Affairs from all over the country varied in form at different times. Some required a report from the superintendent, answering questions about the applicant that ranged from: “Is the applicant a person of good character and reputation,” “industrious and self-supporting,” “addicted to intoxicants,” and “has the necessary business qualifications to enable [them] to manage [their] own affairs successfully?”<sup>21</sup> Other forms, filled in by the applicant, asked: “Why do you wish restrictions removed?”; “If the restrictions are removed what will you do with your land?”; “Give the name of two business men who know you well.”<sup>22</sup> Other applications contained letters of recommendations, photographs of the applicant, and even handwritten “autobiographies” describing the applicant’s life to date.<sup>23</sup>

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19 National Archives and Records Administration, Washington, DC (hereafter NARA), RG 75, Journal of Cheyenne and Arapaho Competency Board, January-February 1917, Entry 485.

20 Francis E. Leupp, “Indian Lands,” 141.

21 NARA, CCF 1907-1939, Report on Application for a Certificate of Competency for Elsie Dardenne-Sahiler, Quapaw Agency, September 1916, Box 5, Seneca 127 (Competency).

22 *Ibid.*, Examination of Indian Allottee Julia Adams, 1910, Quapaw Indian Competency Commission, Box 5, Seneca 127 (Competency).

23 *Ibid.*, Application for Competency of Arthur William Johnson, 1921, Box 5, Seneca 127 (Competency).

Commissioner Leupp said that he put capacity for business above moral values, education and racial descent. "In judging of an Indian's fitness to be cut loose from the Government's leading-strings," he wrote, "a broad distinction has always to be recognized between capacity and wisdom or moral excellence." Leupp even described awarding a fee patent to a convicted murderer who "did not even plead that he was innocent."<sup>24</sup> According to Janet McDonnell, Leupp also "opposed using blood quantum and degree of education as the criteria for determining whether an Indian was competent because there were full bloods who could not speak or write English but who were successful farmers, freighters, and boatmen." Rather, Leupp said the capacity for industry was the most important criterion for competency.<sup>25</sup> The complexity of the system, however, meant that it was not always Leupp who got to decide. In his annual report for 1907 he recorded his puzzlement at some of the "curious reasons [that] have been advanced in support of conclusions for or against the capacity of an allottee." Sometimes, Leupp marvelled, agents made their decisions simply because an applicant "wore short hair. Others make the educational test paramount."<sup>26</sup>

In reality, the government's endless discussions about criteria masked an enthusiasm for declaring as many Indians as possible to be competent. Indeed, the insistence of the government that fee simple patents were a reward for acculturation and industry was undermined by the proposal, made in 1908, that the Burke Act of 1906 be amended so that patents be forced upon an Indian allottee who "persists in disobedience to the laws of the State ... or of the United States." More specifically, the framers of the bill had in mind "cases where parents refuse to permit their children to be educated by attendance at school, and, second, to such Indians as persist in the habit of drunkenness." The Indian Rights Association submitted a memorial protesting against the bill, pointing out the way it contradicted the philosophy of the Burke Act: "While it seems that capability and competency have been heretofore the requisites to entitle an allottee to full control of his lands, to be bestowed by way of reward and honor on highly deserving Indians, it is now proposed to force similar control of their allotments upon *incompetent* and *incapable* Indians as a punishment."<sup>27</sup> A less punitive, but similar proposal was made in 1906 that "allottees who are blind, crippled, decrepit, or helpless from old age, disease,

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24 Francis E. Leupp, *The Indian and His Problem* (New York: Charles Scribner's Sons, 1910), 71-3.

25 McDonnell, *The Dispossession of the American Indian*, 89.

26 U.S. Congress, House, *Annual Report of the Commissioner of Indian Affairs*, 60<sup>th</sup> Congress., 1<sup>st</sup> session, 1907, 64.

27 U.S. Congress, Senate, *Memorial Protesting Against Legislation Authorizing Issuance of Fee-Simple Patents for Indian Allotments, Etc.* Senate Document 448, 60<sup>th</sup> Congress, 1<sup>st</sup> session, 1908.

or accident, and without any visible means of support” be allowed to dispose of their allotments.<sup>28</sup> Neither of these policies became law, but they exposed the government’s underlying urge to impose competency on as many Indians as they possibly could. Protecting native land or rewarding assimilation were far from their first priorities.

So it is hardly surprising that, according to Donald Berthrong, the Cheyenne-Arapaho Board’s “criteria of business competency were unclear.” Berthrong notes that many fee patents were issued to Indians who showed no sign of “industry” — those that “pursued no vocation and lived on lease money” and “little consideration was given to the allottee’s previous record of handling his or her money and property.” It also seems reasonable to describe the Cheyenne and Arapaho Board’s decision-making process as “inherently coercive,” a phrase Janet McDonnell has applied to the competency commission sent to the Omaha Reservation in Nebraska in 1910. There, she says, the “government issued fee patents on the basis of the commission’s recommendation without any application or consent from the individual involved and sometimes over his protests.”<sup>29</sup>

Although the Cheyenne-Arapaho Competency Board clearly did not use “industry” as its most important criteria, neither did they simply award competency randomly. Donald Berthrong has noted that age was an important factor. “Of the 167 whose restrictions on the land were removed,” he says, “76.5 percent were between the ages of twenty-one and thirty-nine.”<sup>30</sup> In its minute books, the Board described many interviewees as “old and ignorant,” “old, ignorant and blind,” “old and deaf,” “old, crippled, ignorant,” and “old and feeble” — none of the people described in this way were awarded competency. Similarly, being able to speak English was also important. One hundred and five of 128 people (82.03 percent) who were declared competent could speak English or had some English. Every single person declared competent had had some schooling, whether at one of the large, well-known off-reservation boarding schools, such as Carlisle, Haskell, or Chilocco, or at local schools where they received a rudimentary education at best (the Board’s records show that some of those who attended the latter could still not read or write English).

Significantly, Indians of mixed descent were more likely to be declared competent. The Cheyenne and Arapaho who were interviewed in 1917 were mostly of full Indian descent — only 5.72 percent were recorded as being of

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28 U.S. Congress, House, *Authorizing Noncompetent Indian Allottees to Dispose of Allotments*, House Document 80, 59<sup>th</sup> Congress, 2<sup>nd</sup> Session, 1906.

29 Janet McDonnell, “Land Policy on the Omaha Reservation: Competency Commissions and Forced Fee Patents,” *Nebraska History* 63, no. 3 (Fall 1982): 405.

30 Donald J. Berthrong, “Legacies of the Dawes Act: Bureaucrats and Land Thieves at the Cheyenne-Arapaho Agencies of Oklahoma,” in *The Plains Indians of the Twentieth Century*, ed. Peter Iverson (Norman: University of Oklahoma Press, 1985), 44-45.

mixed white ancestry. Nevertheless, statistically, an interviewee of mixed descent was more likely to be declared competent than someone of full descent. Twenty-five percent of those declared competent were of mixed descent, meaning that a larger proportion of mixed bloods were declared competent than mixed bloods were of the whole sample. Being of mixed descent was not an instant path to competency, but it certainly helped to sway the Board in that direction. This is no surprise in a climate in which racial background was so closely connected with particular traits. Leupp was clear about his belief that the descent Indian inherited "keenness of observation, stoicism under suffering, love of freedom, a contempt for the petty things which lay so heavy a burden on our convention-bound civilization" with "his Indian blood". Meanwhile, with "his white blood" came "competitive instinct, individual initiative, resourcefulness in the face of novel obstacles, and a constitution hardened to the drafts made upon its strength by the artificialities of modern life."<sup>31</sup>

In the belief system of the period, white blood was aligned with business competency. As Alexandra Harmon has argued, those Indians accused of monopolizing land at the expense of their countrymen in Oklahoma were nearly always, by both white and Indian, assumed to be of mixed descent.<sup>32</sup>

This tendency to link white ancestry with competency culminated at a federal level in April 1917 when Commissioner of Indian Affairs Cato Sells issued his "Declaration of Policy," which immediately declared competent all Indians with less than one-half Indian blood, Indians with one-half or more Indian blood who after careful examination were found competent, and Indian students twenty-one years or older who had completed course work at a government school, received a diploma, and demonstrated competency. Cato Sells had taken up the position of Commissioner of Indian Affairs in 1913, and was determined from the beginning to declare Indians competent whether they wanted it or not. From the beginning of his term as Commissioner he began actively seeking the names of Indians who might be declared competent, ordering superintendents to supply lists of potential candidates and sending competency commissions into the field to seek out those who might fulfil the criteria for a fee patent.

Sells was the most enthusiastic supporter of competency among the various Commissioners of Indian Affairs, despite growing evidence that most Indians with fee patents quickly lost their land and became destitute. It was under Sells' direction that, in 1916, the Indian Office began the practice of distributing patents at "last-arrow ceremonies," which took place in front of the entire reservation. As Frederick Hoxie has described:

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31 Leupp, *The Indian and His Problem*, 344.

32 See Alexandra Harmon, "American Indians and Land Monopolies in the Gilded Age," *Journal of American History* 90, no. 1 (June 2003): 113-4.

[T]he candidates for land titles were dressed in traditional costume and armed with a bow and arrow. After ordering a candidate to shoot his arrow into the distance, the presiding officer, usually the agent, would announce, "You have shot your last arrow." The arrowless arches would then return to the tipi and re-emerge a few minutes later in "civilized" dress. He would be placed before a plow. "Take the handle of this plow," the government's man would say, "this act means you have chosen to live the life of the white man — and the white man lives by work." The ceremony would close with the new landowner receiving a purse (at which point the presiding officer would announce "this purse will always say to you that the money you gain from your labor must be wisely kept") and an American flag.<sup>33</sup>

This ceremony made competency seem to be a stage in an uncomplicated process of assimilation, but competency was, in fact, many things — it was a legal status, a moral judgment, a recognition of business sense, and a removal of special rights and protections that came with Indian status. Indeed, in some cases competency had little to do with actual "competency," industry, or business acumen, and those awarded this status did not disappear into the white community, but for the most part stayed on the reservation in financially worsened circumstances. In the case of the Cheyenne-Arapaho Board in 1917, it was about being young, and having some white ancestry and rudimentary signs of acculturation. Thus, competency was part of a process of removing Indians, and particularly Indians of mixed descent, from government supervision and responsibility.

### **The New South Wales Aborigines Welfare Board**

In Australia there were similar underlying agendas to an ostensibly assimilative policy. Exemption certificates were introduced haphazardly by some states and not others (aboriginal policy was the responsibility of state, not federal, governments resulting in a significant diversity among state policies). They were never introduced in Victoria and Tasmania. Exemption certificates were introduced relatively early in Queensland (1897) and Western Australia (1905), two states with large aboriginal populations, as part of the legislative acts that set up the protection regimes which characterized Australia's assimilation policy in the early twentieth century. The Northern Territory (which was administered by the federal government) introduced exemption in 1936, and South Australia three years later in 1939. New South Wales was the last state to adopt exemption certificates, introducing them with great fervour in 1943, along with a significant government effort to culturally assimilate Aborigines once and for all.

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33 Frederick Hoxie, *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920* (New York: Cambridge University Press, 1984), 180.

Rather than a widespread policy, exemption certificates were clauses in state protection legislation that released the holder from control by that legislation. In reality, protection legislation did little to either "protect" Aborigines or promote the cultural assimilation of aboriginal people (especially when compared with the United States in the same period). Instead of allocating land or providing funding for education, protection legislation was a system of control and segregation which limited the lives of aboriginal people in terms of where they could live, who was guardian of their children, how they could be employed, and even who they could marry and associate with. Thus, the reason why exemption certificates were introduced cannot be linked to any particular shift in government policy or ideas about aboriginal people at a particular time. Rather, they seemed to be a kind of escape clause — a way for politicians, reformers, and administrators to reassure themselves that although their state had done little to promote the assimilation of aboriginal people, if there were some that were acculturated, there was a way for them to become exempt from the "Act" under which their lives would otherwise be ruled.

Being exempt from protection legislation meant slightly different things to Aborigines from different states, depending on what controls were imposed on them. In general, the most immediate consequence to holders' lives was the ability to buy and consume alcohol publicly (although it was illegal to sell alcohol to Aborigines in most states, a "back door" system meant that it was nevertheless obtainable). Potential independence from control by government officials was balanced by the inability to claim for assistance in bad times, and the requirement that exempted persons live separate lives from unexempt family members still living on reserves and stations. There were some advantages to being exempted, including the possibility of being enfranchised. Neve Grzybowicz remembered that her mother and father "were very glad to be able to vote because if you weren't exempted you had no voting rights ... it allowed you access to various places you couldn't go to before, like hotels and restaurants." Her sister had a more specific reason: "She had a lot of problems because she was going out with her boyfriend at the time who happened to be a white man. You weren't allowed to go out with white men because it was called 'consorting.' Each time they walked down the street he would get arrested and probably spend a few hours in jail. Every time this happened she thought, 'Well, I may as well get exempted.' This gave her the right to go out with him."<sup>34</sup> In the post-World War II period, when New South Wales implemented its system of exemption, exemption certificates became the only way an aboriginal person could gain access to federal government welfare programs. The Social Services Consolidation Act of 1947 (Commonwealth)

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34 Neve Grzybowicz (née Wilson), "Reflections on Growing Up as an Aborigine in Adelaide," *Journal of the Anthropological Society of South Australia* 27, no. 6 (November 1989): 4.

entitled an exempt aboriginal person to receive only government benefits such as the old age, invalid, and widows' pensions, as well as maternity allowances. The linking of social security eligibility to exemption certificates "gave the Commonwealth a convenient excuse when it was criticized for not broadening its eligibility criteria" to cover Aborigines — the federal government could conveniently blame the states for not having exempted more people.<sup>35</sup>

Between 22 August 1944 and 21 December 1954, the New South Wales Aborigines Welfare Board made 648 decisions about whether or not to award certificates of exemption to applicants.<sup>36</sup> Thus, we see in Australia a much slower process: the New South Wales Board took ten years to consider 648 applications compared with the Cheyenne-Arapaho Board considering 786 applications in only 36 days. Indeed, across Australia the numbers of exemption certificates applied for and granted were very low compared with the United States. In Queensland, as John Chesterman and Brian Galligan have argued, exemption certificates were introduced in 1896, but by the end of 1903, only two had been granted and two refused, and "[i]n each of the years between 1907 and 1909, the number of certificates of exemption granted by the Chief Protector were five, sixteen, and eleven."<sup>37</sup> In New South Wales "[o]nly 1500 applications of exemption were made between 1945 and 1964 from a population of 14,000."<sup>38</sup> In Western Australia administrators "issued [only] 276 certificates of exemption, and revoked 75, in the years between 1937 and 1944."<sup>39</sup> In 1938 the Western Australian Commissioner of Native Affairs, A.O. Neville, revealed that it was both official reluctance to grant exemption and hesitation on the part of aboriginal people that kept the numbers low. He complained about "well intentioned persons" who encouraged applications from Aborigines who were "quite unfitted to be exempted." On the other hand, he noted disbelievingly, "[t]hen there are some few natives who scorn to even apply for or accept exemption because they claim, and it is a doubtful claim usually, that they have already qualified to live as whites and the suggestion that they should be granted the privilege is felt to be an insult!"<sup>40</sup>

The considerable resistance to the exemption system among the aboriginal community cannot be discounted. Neville found it curious that aboriginal people who held certificates "disliked having to possess exemption certificates,

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35 John Chesterman and Brian Galligan, *Citizens Without Rights: Aborigines and Australian Citizenship* (Melbourne: Cambridge University Press, 1997), 162.

36 Some applications came before the board more than once, as decisions were deferred pending improvements in behaviour or further information about individual cases.

37 Chesterman and Galligan, *Citizens Without Rights*, 55.

38 *Ibid.*, 179.

39 *Ibid.*, 131.

40 Annual Report of the Commissioner of Native Affairs, 1938, *West Australian Parliamentary Papers* 1, no. 2 (1938), 16.



that is documents indicating that they are exempt from the provisions of the Native Acts. They feel that the production of such a document upon demand belittles them and affects their pride"<sup>41</sup> In New South Wales, Chesterman and Galligan suggest that the segregation of public spaces that existed in country towns in the 1950s and 1960s was one reason "why many Aborigines refused to surrender their dignity by applying for exemption certificates."<sup>42</sup> Christobel Mattingly and Ken Hampton observed that "Nungas who were exempt resented having to carry a piece of paper which declared them 'honorary whites' ... this was felt as a stigma, an invidious form of discrimination."<sup>43</sup> Nunga Yvonne Cook told an interviewer that, "[m]y exemption card looks like new because I never used it. I didn't dare put myself in that position, in a social position where someone could come up and tap me to ask if I had it."<sup>44</sup> Another Nunga, Cyril Coaby, remembered that he never applied for exemption because he "didn't like the wording 'Cease to be an Aboriginal' ... my pride was stronger than my need for alcohol. No way in the world would I give up my Aboriginality for anything. I considered it an insult to my mother."<sup>45</sup> In 1951, a group of Northern Territory Aborigines of mixed descent began lobbying for their rights after a series of arrests of non-exempt Aborigines for drinking in restricted areas of Darwin. They formed the Australian Half-Caste Association (Darwin) who appealed to the federal government for full citizenship. In particular, they felt that "the exemption clause was an affront to their freedom, that they did not enjoy security either for themselves or their children, that when asked to serve their country in the last war they were not required to have exemption and that they, as true Australians, did not enjoy the same citizenship rights as the New Australians now migrating to Australia."<sup>46</sup>

Another reason for low numbers of applications was the invasive application process. In New South Wales those hoping to get a certificate had to fill out

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41 Auber O. Neville, *Australia's Coloured Minority: Its Place in the Community* (Sydney: Currawong Publishing Co., 1947), 243-4.

42 Chesterman and Galligan, *Citizens Without Rights*, 179.

43 Christobel Mattingly and Ken Hampton, *Survival in Our Own Land: 'Aboriginal' Experiences in 'South Australia' Since 1836* (Adelaide: Wakefield Press, 1988), 49.

44 *Ibid.*, 51.

45 *Ibid.*, 52.

46 The government's response was hesitant. The Director of Northern Territory affairs told the Prime Minister that the question of "restricting" the Native Affairs Ordinance "exclusively to full-blood aboriginals, and that half castes etc. should be excluded and treated as possessing full citizenship rights from birth" is "rather a difficult one." Australian Half-Caste Progressive Association (Darwin) (hereafter AHCPA), B. Damaso, Sec. AHCPA, 12 March 1951; AHCPA, A. S. Brown, Secretary to the Administrator, NT, to Director of Northern Territory Affairs, Department of the Interior, 9 April 1951; AHCPA, E. R. Lambert, Director, Northern Territory Affairs, to Sec, Prime Minister's Department, 17 April 1951. National Archives of Australia, Canberra (hereafter NAA), Appeal for Full Citizenship Rights for Part-Aborigines, 1951-1953, A431 1951/889.

a form declaring that they had not been convicted of drunkenness or any other crime in the last two years, that they understood that the certificate could be cancelled at any time, and that they had to accept the final decision of the Board regarding their application. Exempted Aborigines were no longer “eligible to receive any benefit, assistance or relief” from the government. A person awarded a certificate was, according to the Board, “deemed not to be an aborigine or person apparently having an admixture of aboriginal blood.”<sup>47</sup> Once an application form had been received, the process became even more intrusive. The New South Wales Board sent personal report forms to local police, supervisors of reserves and stations, and Aboriginal Welfare officers. These confidential reports contained information about racial caste, skin colour, family, employment, work habits, general conduct, drinking habits, gambling habits, thrift, morality, whether or not the applicant’s house was clean, how well the children were taken care of, and the amount in any savings accounts.

Despite the state governments’ urge to collect all this information about individuals, their criteria for granting exemption certificates were vague. In Queensland, there was a racial requirement: “[o]nly half-castes who are civilised and have no intercourse with aboriginals can obtain them and then only on satisfying the department of their ability to manage their own affairs.”<sup>48</sup> The Northern Territory gave no reason at all, simply allowing the Chief Protector to declare that “any person shall not be deemed to be a half caste for the purposes of this Ordinance.”<sup>49</sup> In South Australia the Board needed only to be of the opinion that an exemption certificate was warranted “by reason of his character and standard of development.”<sup>50</sup> The Western Australian legislation simply said the minister might issue a certificate to “any aboriginal or half-caste who, in his opinion, ought not be subject to the Act.”<sup>51</sup> But Anna Haebich reports that a standardized form was issued to police to report on applicants for exemption, in which, “in addition to providing details on the applicant’s name, age, occupation and marital status, they were to forward detailed information on his or her racial background, contacts with Aborigines and drinking habits, and they were to assess whether the applicant had a ‘good character’ and was ‘likely to introduce alcohol amongst other natives or half-castes.’”<sup>52</sup> Then, in

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47 State Records Office, New South Wales (hereafter SRO-NSW), Aborigines Welfare Board Records, NRS 11 Applications for Certificates of Exemption, Memo 7/4/55, M.H. Saxby to [white hotel owner].

48 “Annual Report of the Chief Protector of Aborigines for the year 1909,” *Queensland Parliamentary Papers* 3 (1910): 12.

49 Aborigines Ordinance 1936 (Commonwealth), section 3a.

50 Aborigines Act Amendment Act 1939 (South Australia), clause 11a.

51 Aborigines Act 1905 (Western Australia), section 63.

52 Anna Haebich, *For Their Own Good: Aborigines and Government in the South West of Western Australia, 1900-1940* (Nedlands: University of Western Australia Press, 1992), 163.

1944 Western Australia became the only state to take the philosophy of exemption certificates a step further. The "Certificate of Citizenship" required that an application be submitted to a magistrate, accompanied by two written references which demonstrated the "good character and industrious habits" of the applicant. Applicants were evaluated as to whether they had "adopted the manner and habits of civilized life" for two years previous, could speak English, were not suffering from "active leprosy, syphilis, granuloma or yaws," were of "industrious habits and ... of good behaviour and reputation," and was "reasonably capable of managing his own affairs."<sup>53</sup>

In its official rhetoric, New South Wales awarded certificates to "advanced aborigines" or to someone they thought was "a fit and proper person."<sup>54</sup> On the whole, the New South Wales Board was enthusiastic about approving applications. Out of 648 decisions, it approved 519 applications or just over 80 percent (compared with the Cheyenne-Arapaho Board's 16.8 percent). The Board had high expectations of exempted Aborigines, who were not only "expected to provide homes for themselves and to live as ordinary citizens of the community," but should also "develop a more desirable social attitude and in due course become a respected member of the community."<sup>55</sup> They were also presumably supposed to influence other Aborigines toward good behaviour and assimilation. In reality good behaviour was the prime factor in the Board's decision. An applicant should drink only moderately, if at all, should have a clean home, be employed, show evidence of a thrifty nature, and be moral (although this was not always a deal-breaker — de facto relationships, for example, were tolerated).<sup>56</sup> Debts, public drunkenness, a dirty or temporary-looking dwelling were all counted as black marks against an applicant. A good reputation in the community was very important. Thus, a prime candidate was described, for example, as "regarded in the district as a reliable, steady worker. Her general conduct is good and she has no known drinking or gambling habits .... [she] bears a good character in the district, is recognized as a conscientious and will-

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53 Quoted in Chesterman and Galligan, *Citizens Without Rights*, 132.

54 "Annual Report of the Aborigines Welfare Board, New South Wales, 1944," *New South Wales Parliamentary Papers* 2 (1945-1946): 9-10; "Report of the Aborigines Welfare Board, 1951," *New South Wales Parliamentary Papers* 1 (1952-1953): 9; "Annual Report of the Aborigines Welfare Board, New South Wales, 1945," *New South Wales Parliamentary Papers* 2 (1945-1946): 6.

55 "Annual Report of the Aborigines Welfare Board, 1948," *New South Wales Parliamentary Papers* 3 (1948-1950-1951): 4.

56 One woman's application, for example, was approved even though her morals were viewed as "unsatisfactory, as before her present marriage [she] was living as de-facto wife of three different aboriginal men." But the Board felt that it was pointless to deny her application as her white husband could easily obtain liquor for her anyway. SRO-NSW, Aborigines Welfare Board Records, Applications for Certificates of Exemption, NRS 11, Memo 31/1/58.

ing worker, is self-respecting and pays her way in the community”<sup>57</sup> Some factors also overrode bad reports. Ex-servicemen were approved even if bad on other counts.<sup>58</sup> A white wife or husband also seemed to influence the Board favourably.<sup>59</sup>

Across Australia, exemption certificates were used as a means of control.<sup>60</sup> They could be revoked at the whim of a government official, placing many holders under considerable pressure in their daily life. The Western Australian Aborigines Act of 1905 contained a typical clause: “any such certificate may be revoked at any time by the Minister, and thereupon this Act shall apply to such aboriginal or half-caste as if no such certificate had been issued.”<sup>61</sup> J.W. Bleakley saw exemption certificates as a “well-earned privilege, but one that can be withdrawn if the recipient fails to live up to its responsibilities. This is as it should be, for even in his tribal life, the native had had to prove his worthy before he was admitted to man’s estate.”<sup>62</sup> The Australian Aborigines’

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57 SRO-NSW, Aborigines Welfare Board Records, Applications for Certificates of Exemption, NRS 11, Memo 2/7/56.

58 SRO-NSW, Aborigines Welfare Board Records, Applications for Certificates of Exemption, NRS 11, Memo 16/10/52, A.W.G. Lipscombe to Officer-in-Charge, Police, Swan Hill, Victoria.

59 The Board noted of one applicant, for example, that she “desires the grant of Exemption as her [white] husband’s people would wish her to be in possession of this means of allowing her to accompany the husband where ever he goes .... [She] will not associate with the undesirable element in the town.” SRO-NSW, Aborigines Welfare Board Records, Applications for Certificates of Exemption, NRS 11, Memo 28/11/58. In contrast with the Cheyenne and Arapaho Board, old age was not a reason to refuse applications for exemption. Rather, for those of full descent, it was a reason to grant exemption because federal law said that exempted Aborigines and Aborigines of half or less than half aboriginal descent could receive the old age, widowed, or disability pension. Thus, granting older aborigines of full descent exemption, even if they lived on reserves or did not conform to the usual requirements of the board, was another way of reducing the numbers of dependents.

60 An exemption certificate could also cause some significant tensions in the life of the holder, which are demonstrated most famously in the life of exempted artist Albert Namatjira. Namatjira was prosecuted for supplying alcohol to members of his own community and sentenced to six months imprisonment with labour. After two appeals, the sentence was reduced to three months. Namatjira served only two months before his health began to fail and he died of heart failure a short time later. Namatjira’s success as an artist, and the financial freedoms that success brought with it, demonstrate the unreadiness of white Australia to find a place for aboriginal people who were not completely dependent on, and therefore under the control of, the government. Years before his arrest, Namatjira had come under considerable criticism from the Aborigines’ Friends’ Association, which complained of his bad influence on others in his community, and especially of his habit of collecting “up to fifteen men and tak[ing] them to town” where they enjoyed his “lavish hospitality” and forgot all about “work and other matters which have a claim on us in our daily life.” “Aborigines’ Friends’ Association Annual Report, 1950” (Adelaide: The Association, 1950), 25.

61 1905 West Australia Aborigines Protection Act, clause 63.

62 John William Bleakley, *Aborigines of Australia: Their History, Their Habits, Their Assimilation* (Brisbane: Jacaranda Press, 1961), 304.

League, which was an aboriginal-run lobbying group, had concerns in the 1940s about the ways in which exemption certificates could be allowed, deferred, rejected, or cancelled according to the will of a Welfare Board or government official. They particularly did not approve of the emphasis on good character, which meant that a certificate could be cancelled because of one report about any "bad" behaviour by an applicant.<sup>63</sup>

Exemption could, in rare cases, be used as a punitive measure. In 1935 a Nunga couple were informed by the Secretary of the South Australian Aborigines' Protection Board that because of their "misconduct" they were expelled from all "Aboriginal Institutions and Reserves in South Australia ... Moreover the Board will probably exempt you and your Wife .... If this course is adopted you will not be permitted to live with or have any relations with the Aborigines of South Australia. My advice to you is to make your home in Victoria."<sup>64</sup> Similarly, Eddie Sansbury was told to leave the mission on which he was born, lived, and worked with his large family in order to get the old age pension. Despite his protests — "Why can't I get my pension on the mission? That's what I worked for. That's where I belong. That's my home. Why should I have to leave?" — Sansbury was granted exemption and was no longer allowed to visit the mission without permission from the authorities.<sup>65</sup>

Significantly, in New South Wales in the 1940s and 1950s there was also, as there was in Oklahoma, a similar pattern of awarding certificates most often to those of mixed descent. 76.9 percent of applications from people of mixed descent were awarded exemption. That said, by this time, New South Wales was showing the results of many decades of interracial relationships. There were, in fact, very few applications from Aborigines of full descent in New South Wales (a mere 6.2 percent), a statistic that reflected the high proportion of people of mixed aboriginal descent in the state. The ideal of biological absorption is also discernable, for example, in applications that noted of an applicant, "She shows very little of the aboriginal features,"<sup>66</sup> or described another as "a well built, healthy specimen of manhood, light in colour and alert and intelligent."<sup>67</sup> The assumption that Aborigines of mixed descent who did not 'look' aboriginal no longer deserved any special rights or benefits was demonstrated by the campaign in the 1950s to find a recipient of a scholarship to teach an aboriginal man to fly a plane. The conditions of the scholarship contained

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63 Jack Horner, *Vote Ferguson for Aboriginal Freedom* (Sydney: Australian and New Zealand Book Company, 1974), 156.

64 South Australia Archives (hereafter SAA), GRG 52/1/1935/2, quoted in Mattingly and Hampton, *Survival in Our Own Land*, 48.

65 Mattingly and Hampton, *Survival in Our Own Land*, 52.

66 SRO-NSW, Aborigines Welfare Board Records, Applications for Certificates of Exemption, NRS 11, Memo 31/10/55.

67 *Ibid.*, Memo 13/1/51.

the requirement that “[w]hile it is desirable that the applicant have a preponderance of aboriginal blood, consideration will be given to applicants who are dark skinned and have sufficient aboriginal facial characteristics to be recognizable as such, despite their blood mixture.” It was clear the selection committee did not want the scholarship to go to someone who might look white in publicity shots.<sup>68</sup>

Indeed, the assumption that the motivation and ability to acculturate came from white ancestry was so deeply entrenched that in Queensland actual ancestry became a matter of perception. John Chesterman and Brian Galligan point out that the 1897 Queensland Act made only half-castes eligible for exemption certificates, the only way in which Queensland legally distinguished between people of full and mixed descent; the law actually allowed the Queensland minister to decide whether he wanted to treat individual people of mixed descent as Aborigines or not.<sup>69</sup> Darlene Johnson argues that exemption certificates should “be read as a process of *codification* of identity” and argues that “Ab/original people have learned to play the codes of exemption strategically — a new construction of identity as masquerade, of becoming, as ‘passing.’”<sup>70</sup>

That exemption certificates were in part a reaction to the national discomfort when Aborigines with white ancestry were treated as unkindly as those of full indigenous descent is demonstrated by the parliamentary discussions of the 1905 Aborigines Act in Western Australia. One member of the Assembly asked about the “real meaning” of the exemption clause, and suggested it might be used by white men who committed “acts of indiscretion ... with [aboriginal] women and who have had half-caste children by them” and who, because of their “paternal instincts” hope to make them “recognised [by] civilised life if possible.”<sup>71</sup> In Queensland in 1939, a discussion of the wholesale exemption of half-castes prompted Mr. Jesson, member for Kennedy, to proclaim that the “greatest tragedy of all ... is to see almost white aboriginal children sitting amongst others totally black .... I agree with the hon. Member for Wynnum that the quarter-castes, or the near-whites, could be readily absorbed into our population.”<sup>72</sup>

In reality, therefore, despite the very different kinds of assimilation policy attempted in Australia and the United States, and despite the far greater commitment to cultural assimilation espoused in the United States, neither country can be seen to have introduced the ideas of exemption and competency in order to assist indigenous people to become truly self-sufficient and equal.

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68 “Aboriginal Pilot Sought: Do You Want to Fly,” *Dawn* 6, no. 5 (May 1957): 14.

69 Chesterman and Galligan, *Citizens Without Rights*, 40.

70 Darlene Johnson, “Ab/originality: Playing and Passing Versus Assimilation,” *The Olive Pink Society Bulletin* 5 no. 2 (1993): 21.

71 *Western Australian Parliamentary Debates* 28 (1905), 319.

72 *Queensland Parliamentary Debates* 174 (1939), 459.

Exemption certificates were not part of a general program of cultural assimilation. There was little support for Aborigines who wished to become financially self-sufficient and to live away from stations and reserves, and almost no government effort to ensure that aboriginal people were treated with equality in the labour force. They were simply a method of releasing aboriginal people from government supervision, after which they were supposed to sink or swim, or, if they failed, to have their certificates revoked and to return to their communities.

Nor in fact, despite the rhetoric, was the system of competency really part of the push to culturally assimilate American Indians. In the United States competency was a neat solution to the pressure to turn over Indian lands to white settlers. The Dawes Act had managed to overturn the promises made in treaties to keep land in Indian hands, and had already released significant "surplus" lands into white possession; competency came very near to completing this process by opening up allotted lands to whites by removing any special protections. In Australia, where land was not an issue, exemption was much more about reducing the numbers of aboriginal people dependent on the government — crucially, a key component of exemption was its attempt to sever intimate family and community relationships. Exempted Aborigines were expected to disappear into the white community. Exemption was also a method of control and a means of encouraging "good" behaviour and acculturation. Exemption certificates could be cancelled at any time, and were therefore an effective means of shaping Aborigines' social and cultural behaviour. Thus, while Native Americans were to be transformed (at least briefly) into capitalist landholders and farmers, Australian Aborigines were being assimilated into leading the correct kind of white lifestyle — upholding the qualities of temperance, thrift, cleanliness, and morality.

There is a significant difference in how widely exemption and competency were awarded: in the United States the government made more and more frantic attempts to declare Indians competent, with or without application; in Australia there was a resistance by government officials to awarding exemption on anything like such a wholesale scale. This difference could be partly explained by sheer racism: by the way in which Aborigines were seen as so far down the evolutionary scale, whereas Native Americans were burdened with the "noble savage" stereotype and favourably compared with African Americans. A. O. Neville, Western Australia's most well-known Chief Protector, was firmly against generous terms when granting the certificates. He argued that such a policy would be dangerous; that those unready to acculturate would simply "beat it back to their old haunts and revert to what they were before — aboriginal in thought and in manner of living, and their children will follow them into this undesirable retreat. Exemption embracing full rights of citizenship should only be granted in the case of those completely emancipated

— to those who live in all respects as we do and are socially acceptable, or at least living on an equal plane beside us.”<sup>73</sup> With its comforting “dying race theory” and emphasis on biological absorption rather than cultural assimilation, which assumed that most Aborigines would die out while those of mixed descent would become absorbed into the white population through interbreeding, Australia had far less need to utilize exemption widely. Another reason lay in the centrality of land in the United States. The Australian government had no need to use exemption to gain land — all but the tiniest areas had already been stolen. In the United States, where land allocation was part of assimilation, competency was about taxes, mortgages and leasing. In Australia, exemption was more about personal rights (the right to buy alcohol, to travel, to be exempt from the controls of protection legislation) and about disappearing into the white community. Finally, both exemption and competency can be seen as reactions to legislation passed in late nineteenth and early twentieth centuries that were meant to provide solutions to the “Aboriginal” and “Indian” “problems.” The Dawes Act did not transfer land quick enough, therefore the Burke Act was passed to create a further method of land transferral. Protection Acts worked well to control aboriginal populations, but did not contain actual opportunities to remove Aborigines from government supervision. Exemption certificates filled the gap.

Significantly, both countries linked the concept of competency and exemption to people of mixed descent — demonstrating that government officials linked white ancestry either implicitly or explicitly to acculturation, and thus it can also be argued that biological absorption was an idea present in both countries. In the United States, where biological absorption was largely irrelevant to American assimilation policy, it is clear that the 1917 Declaration of Policy took advantage of the large numbers of Indians of mixed descent and used racial heritage as a means of removing their Indian status under the law. American politicians were thus far more familiar with biological absorption than perhaps previously acknowledged. They could hide their motives under the humanitarian rhetoric surrounding the Dawes Act — but the success of competency, based on blood quantum, successfully masked their biological motives.

The different time-frames of exemption and competency discussed here are, from the perspective of old-fashioned comparative history, almost incomparable. If we view settler colonialism as having a trajectory from a certain moment, however, it makes sense that different places will reach the different phases of colonialism at different times. And although we must also keep in mind how the world impacts on that trajectory in particular places through transnational ideas and discourses, the same transnational focus means that it is

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73 Neville, *Australia's Coloured Minority*, 243.



no surprise that Australia and the United States, when compared, came up with such cynical strategies of elimination, even as they espoused their humanitarian approaches and regret for indigenous suffering. Stepping back from the boundaries of national histories helps to show us how colonialism brought insidiously similar ideas to vastly different locations, time periods, and populations, and thus come closer to understanding the global colonial project, and in particular the way discourses about mixed descent indigenous people worked within it.

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