American Indian Law Review

Volume 5 | Number 1

1-1-1977

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Recommended Citation

William E. Unrau, *Politics, Bureaucracy and the Bogus Administration of Indian Commissioner Lewis Vital Bogy, 1866-1867*, 5 AM. INDIAN L. REV. 185 (1977),
<https://digitalcommons.law.ou.edu/ailr/vol5/iss1/5>

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POLITICS, BUREAUCRACY AND THE BOGUS ADMINISTRATION OF INDIAN COMMISSIONER LEWIS VITAL BOGY, 1866-1867

*William E. Unrau **

On June 15, 1867, less than three months after he was appointed Commissioner of Indian Affairs, Nathaniel Green Taylor dispatched a comprehensive analysis of the constitutional status of his office to President Andrew Johnson.¹ This correspondence came not at the request of the White House, nor was it a response to queries from Capitol Hill. Even less did it carry the blessing of Interior Secretary Orville Hickman Browning. It came because a breach of profound proportions had developed between the Indian Office and the Interior Department. While not as significant as the seemingly endless struggle between the War and Interior Departments over the proper control and execution of Indian policy,² its ramifications did little to enhance the reputation of the federal bureaucracy, let alone the improvement of Indian-white relations in the distant trans-Missouri West.

To the perplexing Indian problem of the mid-1860's Taylor was at best a novice. He had the good fortune of being a native of Tennessee, the home of President Johnson, and was available at a time when the politically beleaguered chief executive was literally grasping at straws to secure second-line federal appointments that would not further alienate the congressional radicals. Taylor's principal qualifications were that as a lawyer, ordained Methodist minister, member of an affluent Tennessee family, and state politician who had extolled the Unionist cause as early as 1860, he had earned a reputation as a man of honor and integrity. He had delivered a number of significant speeches against secession, and following the disastrous occupation of east Tennessee by the armies of Generals Longstreet, Burnside, and Sherman, had journeyed north where in such cities as Philadelphia, New York, and Boston he had raised nearly a quarter of a million dollars to aid his suffering neighbors and friends in Tennessee. For his efforts he was elected to Congress on a moderate Republican platform, and it was near the end of his first term that President Johnson selected him to head the Indian Office.³ Visibly distressed that

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Taylor's predecessor, Lewis Vital Bogy of Missouri, had lost the confidence of Congress, and that Johnson had bypassed his recommendation that General Henry Hastings Sibley of Minnesota be the next Commissioner, Secretary Browning ridiculed Taylor's qualifications for the office. In his diary he wrote, "I now have a Methodist preacher at the head of the [Indian] Bureau and will do the best I can with him."⁴ Less than three months later Taylor penned his complaint to President Johnson.

Taylor made no effort to disguise the breach between him and Browning. It was counterproductive to administrative efficiency, and to fully understand the source of his frustration it is essential to consider the stormy—indeed bogus—administration of his predecessor. Like Taylor, Lewis Vital Bogy enjoyed good family connections and social status, but in the more remote setting of frontier Sainte Genevieve and then St. Louis, Missouri. He took a law degree in Transylvania University, fought in the Black Hawk War, and despite significant losses in various railroad, banking, and iron mining enterprises, amassed a real estate fortune in Missouri that by 1851 was assessed at \$191,000. His family had been prominent in Missouri politics and economic affairs dating back to the Spanish occupation of Louisiana, and his marriage to the daughter of an influential St. Louis merchant provided him with even better opportunities for getting ahead.⁵ In short, Bogy was far better advised than Taylor regarding the intricate and often profitable relationships between private enterprise and government operations in the Indian country.

Bogy was a flexible southern Democrat with a firm commitment to the development of the trans-Missouri West. On two occasions he was defeated in his quest for a national congressional seat, and he had to satisfy himself with membership on the St. Louis Board of Aldermen and occasional membership in the Missouri legislature. At the close of the Civil War he took a firm position against the radicals in his own state, and following several important speeches defending Johnson's veto of the Freedman's Bill, his popularity with the executive branch increased substantially. He advocated a national nonpartisan committee to oppose the radicals, and on one occasion characterized Johnson as "an instrument of high heaven who saved the country from destruction."⁶

In the final analysis, however, it was Johnson's disaffection with Interior Secretary James Harlan of Iowa—and the naming of Browning to take his place—that gave Bogy his chance. While Harlan had used his influence to support a group of Iowa and Connecticut speculators in their efforts to secure control of the

Delaware Reserve and Cherokee Neutral Lands in Kansas,⁷ this action was less distressing to the President than Harlan's failure to support him against the radical Republicans. Certainly in view of Browning's contempt for Taylor, and Taylor's subsequent memo to the President, it seems clear that with Browning's help Johnson attempted to sacrifice integrity in Indian affairs to his fight for political survival in 1867.

Certain aspects of Browning's public and private career add credence to this conclusion. As a prominent Ohio attorney, Browning had been a close confidant of Lincoln, and like Bogy, a strong opponent of radical Reconstruction.⁸ But he had other interests as well, not the least of which was the destruction of the Indian land base west of Iowa and Missouri and the rapid white settlement of that region. In this he could depend on the support of the wealthy and politically adroit Ewing family of Ohio. Thomas Ewing, Sr. had served as the nation's first Secretary of the Interior under President Millard Fillmore. During the early Civil War years, he, his son Thomas, Jr., a government certified attorney for the Cherokees and first Chief Justice of the Kansas Supreme Court, and Browning organized a law firm in Washington to prosecute Indian land and depredation claims. On numerous occasions he arranged audiences for the younger Ewing with President Johnson. So notorious were the financial connections between the Interior Department, the White House, and the activities of railroad and land speculators on the frontier that one Ohio reporter on a visit to eastern Kansas advised that "a good fee, and Thomas Ewing Jr., on one's side is all that is necessary to secure almost anything in the line of Indian contracts or government lands from the Department of the Interior."⁹ In turn, Bogy was closely associated with the Indian contracting community, including a firm in which his close relatives in St. Louis had direct interests.¹⁰ Thus when Browning cast about for an Indian Commissioner well in tune with the forces of economic aggression in the Indian country and fully prepared to operate the Indian Office with business-like flexibility, few could match the credentials of Bogy.

Bogy's appointment was announced on October 8, 1866, to take effect the following November 1.¹¹ Even under the most stable political circumstances it would have been a trying time in the Indian Office. While the President and Congress feuded over Reconstruction policy, public confusion and then outrage were displayed when, in late December, it was announced that all 82 members of Captain J. W. Fetterman's relief party to some be-

sieged woodcutters near Fort Philip Kearny, deep in the Sioux country, were ambushed and slaughtered to the man by the Indians. A few weeks later Senator James Doolittle's special committee empowered to investigate the "Condition of the Indian Tribes" recommended that, contrary to public opinion on the frontier, the administration of Indian affairs should remain under civilian control.¹² Backed by the Ewings and other speculators who viewed a military solution to the Indian problem as detrimental to their economic objectives, Bogy only further incensed an increasingly hostile Congress by insisting that the War Department in Indian country must remain subservient to the Interior Department.¹³ While the Doolittle report was widely branded as a deliberate effort to conceal fraud in the Indian Bureau, a western paper characterized Commissioner-elect Bogy as "one of the most skulking and cowardly rebels of all wretches of the class who ever cursed Missouri with the evil of their wicked lives."¹⁴

In the meantime, the Senate refused to confirm Bogy's appointment, primarily as the result of a resolution passed by the House on December 19, 1866, requiring that certain bids negotiated by Bogy for the Indian service be canceled until his actions could be investigated by the House Committee on Indian Affairs.¹⁵ According to the resolution, Bogy had arbitrarily voided several large contracts awarded by his predecessor, Dennis N. Cooley, and had then awarded them to firms whose bids were in fact higher. In testimony before the House Committee, Bogy attempted to justify his action on the grounds that the Cooley awards were for inferior merchandise, and that much of it was of foreign manufacture. In an obvious pitch toward patriotic sentiment and economic problems occasioned by the recent war, he said,

When those bids were opened in my office, I announced to the bidders, before I knew one man of them, that it was my intention to take American goods, made of American raw material, regardless of the price, provided that the price was not too far out of the way. I did so, and there is where I stand today. I have taken only good goods, because it is a duty which the Government owes to the Indians to protect their interests. The money disbursed by the Indian Bureau does not belong to the Government, but to the Indians . . . It is also the duty of the Government to patronize American manufactures, particularly at this time when our manufactures are languishing, and when, owing to the excessive issue of paper money, growing out of the recent war, the prices of labor and of raw material are so high as to prevent our

manufacturers from competing in the markets of the world with foreign markets . . . I accepted the bid for the only blankets presented, made of American wool, and I accepted the bid for the only cloth presented that is to be made of American wool.¹⁶

Firing a verbal broadside at what he termed wealthy eastern capitalists who because of their political power were running roughshod over less fortunate western merchants, he concluded his testimony with a plea for return to the noble principles of civilization and Christianity among the suffering Indians, and a warning that, "I intend to reform the Bureau, if it can be done, or I shall be driven out of it by these mean, dirty speculators who are swarming about it."¹⁷

These words proved most effective, even though the highly technical testimony of a variety of witnesses failed to demonstrate conclusively that the merchandise selected by Bogy was superior in quality. In what might best be described as an abstrusive conclusion, the majority of the Committee that finally exonerated Bogy of any indictable malfeasance reported, "No improper motive is attributed to him in this [contractual] regard, but it is clear that the policy of allowing each one to furnish his own sample has led to confusion and dissatisfaction and *may* be used for fraudulent purposes."¹⁸ A minority of the Committee composed of Congressmen Rosewell Hart, Sidney Clarke, R. T. Van Horn, and J. H. D. Henderson demanded Bogy's censure on grounds that "through his relatives, at exorbitant prices and without any written requisition for the same as required by law" Bogy had engaged in the illicit purchase of goods for the Indian Service.¹⁹

The censure failed in the House, but the strong minority report was enough to block Bogy's confirmation in the Senate. Browning was furious and responded with action calculated to demonstrate his belief that the Indian Office was being used as an instrument of partisan politics. On March 4, 1867, he appointed Bogy "Special Agent" with unlimited authority to execute the very contracts called into question by the House. Furthermore, Bogy was authorized to purchase additional merchandise for the Indian Service and to contract any and all freight, warehousing, or other expenses deemed essential to carry out the many treaty obligations of the national government. As authority for this unprecedented action, Browning cited Section One of the Indian Appropriation Act of March 3, 1863, which in part provided that "all special agents and commissioners not appointed by the President shall be appointed by the Secretary of the Interior."²⁰

Such grasping at straws was unacceptable to the Senate Judiciary Committee, which, following the speedy confirmation of Taylor as Commissioner on March 29, ruled that Browning had exceeded his constitutional authority.²¹ By this time Browning was heavily involved with the Ewings, James Joy, and other competing railroad promoters seeking to secure control of the vast Osage reservation in southern Kansas, and he fought back as best he could.²² In what surely must stand as one of the most self-defeating actions ever taken by an Interior Secretary, Browning maintained Bogy on the federal payroll, at a salary exceeding that of Commissioner Taylor. Taylor was bypassed in major policy decisions, and to add insult to injury, Bogy was allowed to store substantial quantities of Indian merchandise at government expense, in warehouses operated by members of his family in St. Louis.²³ It was at this point that Nathaniel Green Taylor penned his memo to President Johnson. With undisguised candor, he wrote:

The duties I owe to the public service, to my own official responsibility, and to your administration in the faithful management of this Bureau in its conduct towards the civilized and savage wards of the nation committed to its care, impel me to address you upon the grave differences existing between the Secretary of the Interior and myself, as to our respective rights, duties and responsibilities in the management of the Indian Affairs under the organic acts and the regulations which have been prescribed from time to time by the President by virtue of the authority invested in him by Congress.²⁴

There then followed a detailed statutory history of the Commissioner's constitutional responsibilities and authority. Citing the Act of July 9, 1832,²⁵ that established the Indian Bureau, and the Act of June 30, 1834,²⁶ that amended the commercial code for the Indian trade, Taylor emphasized that the clear intention of Congress had been to grant to the Indian Commissioner, under the direction of the Secretary of War but agreeable only to regulations prescribed by the President, "management of all Indian affairs." On November 11, 1836, responding to a request from President Andrew Jackson, the Secretary of War had prepared "Revised Regulation No. 1," which subsequently was approved by the President. Its paramount features, which Taylor underlined, were that,

All business connected with, or arising out of Indian relations will be transacted in the Office of Indian Affairs under

the management and direction of the Commissioner appointed under The Act of July 9, 1832, and that officer will be *held responsible* for its prompt, faithful, and legal execution, subject, however, in all things to the *supervision* of the President and Secretary of War.

"Revised Regulation No. 3," dated June 1, 1837, stated that all communications on Indian affairs "*must be directed*" to the Commissioner of Indian Affairs. When Indian administration was transferred to the newly created Interior Department on March 3, 1849, it was clearly stated that the Secretary's responsibility was to exercise "supervisory and appellate powers." Since that time no further statutes or regulations had been prescribed.²⁷

Taylor bemoaned the many encroachments of power that had taken place in the meantime—encroachments that were a consequence not of statutory authority but the failure of his predecessors to ward off the political and economic pressures exerted by the various "special interests." Even though the Pension, Patent, and Land Offices in the Interior Department enjoyed "powers not so full and complete" as the Indian Office, they were seldom over-ruled in the normal conduct of their affairs. With a specific criticism directed at "Special Agent" Bogy, Taylor reminded the President that Secretary Browning had been able to secure "scarcely an appointment either of Agents or employees," and that Bogy had failed to provide the kind of leadership so essential during a particularly difficult time in Indian-white relations. "All I ask and desire," said Taylor, "is that the ancient landmarks established by law and regulation be restored and that this Bureau shall not be entirely absorbed in the Interior Department and the Commissioner be required merely to register its edicts."²⁸

Taylor's letter to the President proved persuasive and Bogy was summarily dismissed from the Indian service. The would-be commissioner returned to St. Louis where he remained active in politics. He aligned himself with the liberal Republican movement in 1870, but two years later returned to the Democratic fold to take the Senate seat vacated by Francis Blair. In Washington once again, he mainly concerned himself with western economic questions, especially the virtue of an inflationist monetary policy.²⁹ Certainly his influence in Indian affairs following the confrontation with Taylor was minimal. The Methodist minister from Tennessee had at least accomplished that.

This is not to say that Taylor accomplished a major breakthrough in the improvement of Indian administration. Indeed, there is some evidence that he too was vulnerable to the pro-

mise of profit in Indian country. One western editor reported that toward the close of his administration Taylor was offered more than 7,000 acres of land for cooperation in securing passage of the Osage Treaty of 1868. The offer came from the Joy railroad lobby, but since the Treaty failed of passage and the land was unavailable, there is no clear evidence of Taylor's intent in the matter. In any case, he made no public outcry about having been solicited by Joy.³⁰

On a more positive side, Taylor brought pressure on the Congress to create an independent Indian Department at the Cabinet level. He was neither the first nor the last to fail in this regard.³¹ The basic problem was that whenever the issues of more responsible administration came up it inevitably became clouded by the larger issues of states' rights and transfer of the Indian Office back to the War Department. In 1849, for example, during the debate culminating in the formal creation of the Interior Department, Senator John C. Calhoun spoke well for his southern constituents when he predicted that the creation of another Cabinet department was evidence that Washington was determined "to absorb all the remaining powers of the states."³² The Browning-Bogy incident did little to quiet such fears, particularly in the volatile setting of Reconstruction politics. With good reason Taylor complained that when he came to the Indian Office it was a mere clerkship with a poor image, vague authority, and awesome public responsibilities.³³ During the famous transfer hearings in the House nearly a decade later, Lewis Henry Morgan agreed wholeheartedly. Without moralizing, the distinguished ethnologist stated:

It is not so much an objection to the present system as the absence for the past fifty years of anything that could be called a system . . . It would not have been a mistake fifty years ago if a department of Indian affairs had been created; it would not be a mistake to create such a department now and place it in the hands of one of the first men of the nation.³⁴

While Browning's and Bogy's actions certainly were obstacles in the way of this much-needed reform, it should be remembered that their machinations prompted Taylor's response, which for a short time led to a more positive public perception of the Indian Office. Taylor was soon designated chairman of the powerful Indian Peace Commission that laid much of the foundation for President U.S. Grant's celebrated "Peace Plan."³⁵ Under Taylor's

leadership the Commission pursued a vigorous plan of herding the western tribes onto concentrated reservations, thus making way for the white man with the plow.³⁶ This, too, had been the objective of Bogy, and for this he should be given much of the responsibility. More responsibility must be given to him and Browning for their counterproductive nostrum for improving operations in the Indian Office. Never was there a time when the Indians needed better direction from their Great White Father in Washington.

NOTES

1. Taylor to the President of the United States, June 15, 1867, Select Classes of Letters Received by the Indian Division of the Office of the Secretary of the Interior, RG 48m, M 825, R 1 (Executive), F 0534-0548, National Archives.

2. A comprehensive analysis of the struggle between the War and Interior Departments is Waltmann, "The Interior Department, War Department and Indian Policy, 1865-1887" (1962) (unpublished Ph.D. Dissertation, University of Nebraska).

3. O. TEMPLE & M. TEMPLE, NOTABLE MEN OF TENNESSEE, FROM 1833 TO 1876, THEIR TIMES AND THEIR CONTEMPORARIES 198-202 (1912); PATTEN, TENNESSEE CHRONICLE 246 (1953); Boutwell, *The Oratory of Robert Love Taylor*, 9 TENN. HISTORICAL Q. 10-45 (1950); BIOGRAPHICAL DIRECTORY OF THE AMERICAN CONGRESS, 1774-1971, 1796.

4. 2 THE DIARY OF ORVILLE HICKMAN BROWNING 141 (Pease & Randle eds., 1933) [hereinafter cited as DIARY].

5. 1 DICTIONARY OF AMERICAN BIOGRAPHY 410-11 (1964) [hereinafter cited as DICTIONARY]; W. PARRISH, MISSOURI UNDER RADICAL RULE, 1865-1870, 78-88, 235 (1965) [hereinafter cited as PARRISH]; Mering, *The Whig Party in Missouri*, 41 UNIV. OF MISSOURI STUDIES 84, 186-87; F. SHOEMAKER, 2 MISSOURI AND MISSOURIANS, LAND OF CONTRASTS AND PEOPLE OF ACHIEVEMENT 27, 54 (1943) [hereinafter cited as SHOEMAKER]; *United States Senator, Lewis V. Bogy*, Bryan Obeir Scrapbook Collection, Western Manuscript Collection, University of Missouri Library.

6. PARRISH, *supra* note 5, at 78; DICTIONARY, *supra* note 5, at 411; Missouri Democrat (St. Louis), Feb. 23, 26, 1866.

7. P. GATES, FIFTY MILLION ACRES: CONFLICTS OVER KANSAS LAND POLICY, 1854-1890, 140, 143, 156 (1954) [hereinafter cited as GATES].

8. DIARY, *supra* note 4, at xix.

9. *Id.* at xxii. See also GATES, *supra* note 7, at 157-58.

10. "Commissioner of Indian Affairs," H.R. No. 10, 39 Cong., 2d Sess. 7 (1867) (Serial 1303) [hereinafter cited as H.R. No. 10]; Bogy to Browning, Dec. 29, 1866, Report Book No. 16, Indian Office, Report Books of the Office of Indian Affairs, RG 75, M 348, R, 16, F 0032, National Archives.

11. Missouri Democrat (St. Louis), Oct. 12, 1866.

12. *Condition of the Indian Tribes: Report of the Joint Special Comm. Appointed under Joint Resolution of March 3, 1865*, S.R. No. 159, 39 Cong., 2d Sess. (1865) (Serial 1279). See also Chaput, *Generals, Indian Agents, Politicians: The Doolittle Survey of 1865*, 3 WESTERN HISTORICAL Q. 269-82 (1972); Kelsey, *The Doolittle Report of 1867: Its Preparation and Shortcomings*, 17 ARIZONA AND THE WEST 107-20 (1975).

13. Bogy to Browning, Jan. 23, 1867, Report Book No. 16, F 0043, National Archives.

14. Junction City Union (Junction City, Ks.), Mar. 16, 1867.

15. *Defense of Mr. Commissioner Bogy Before the Committee of Indian Affairs of the House of Representatives*, 39 Cong., 2d Sess. 1 (Jan. 12, 1867) [hereinafter cited as *Defense of Bogy*]; New York Times, Oct. 7, 1866.

16. *Defense of Bogy*, *supra* note 15, at 2.

17. *Id.* at 38.

18. H.R. No. 10, *supra* note 10, at 4 (emphasis added).

19. *Id.* at 10.
20. Browning to Bogy, Mar. 4, 1867; Browning to Lyman Trumbull, Apr. 8, 1867, S.R. No. 140, 40 Cong., 2d Sess. 2-4, July 26, 1868 (Serial 1320; 12 Stat. 792 (1863)).
21. Report of Lyman Trumbull of the Senate Judiciary Committee, S.R. No. 140, at 2.
22. GATES, *supra* note 7, at 202.
23. Missouri Democrat, May 21 and 27, 1867.
24. Taylor to the President of the United States, June 15, 1867, Select Classes of Letters Received, F 0534-0535, National Archives.
25. 4 Stat. 564 (1832).
26. 4 Stat. 735 (1834).
27. Taylor to the President of the United States, June 15, 1867, Select Classes of Letters Received, F 0535-0539, National Archives.
28. *Id.*, F 0539-0545.
29. SHOEMAKER, *supra* note 5, at 27, 54; DICTIONARY, *supra* note 5, at 411.
30. Emporia News (Emporia, Ks.), June 25, 1869.
31. Taylor to the President of the United States, June 30, 1868, Select Classes of Letters Received, F 0546-0548, National Archives.
32. 58 CONG. GLOBE 670-80 (1849), containing the debate, including Calhoun's warning.
33. Taylor to Browning, June 30, 1869, Report Books of the Office of Indian Affairs, F 0172.
34. Morgan to the Editor, July 10, 1876, 23 NATION 41 (1876).
35. "Annual Report of the Secretary of War, 1868," H. EXEC. DOC. No. 1, 40 Cong., 3d Sess. Vol. 3 (Serial 1367), at p. 1.
36. A good example of the commission's peace strategy is Taylor's speech to several Brule, Oglala, and Cheyenne leaders at North Platte, in the late summer of 1867. Portions of it were printed in The Missouri Democrat, Sept. 26, 1867. For an example of Taylor's antimilitary position, see Taylor to W.T. Otto, July 12, 1867, Report Book No. 16, F 0178-0179, National Archives.