"Sound the Warcry, 'Watch and Pray'": The Battle Over Navajo Voting Rights in Apache County, Arizona, 1965-1976

Eduardo Obregón Pagán

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Few people in St. Johns, Arizona were likely to have taken much notice when President Lyndon Johnson signed the Voting Rights Act in early August, 1965. The intent and focus of that legislation was to correct the problems of disfranchisement suffered by African Americans after a series of violent incidents in the South brought those problems to national attention. Far away from those sites of conflict, however, in a remote corner of Arizona, the Voting Rights Act initiated a course of action that eventually brought an end to white control of Apache County. That control rested in large part upon the disfranchisement of American Indians by the Mormons who lived in the southern half of the county in the communities clustered around the county seat of St. Johns. The end of Mormon domination would come only after a series of legal, political, and racial conflicts that flared throughout the county for a decade between white Arizonans and Navajos (see Appendix for map of southern Apache County).

The history of that struggle between whites and Native Americans over voting rights invites comparisons with counties in the South with similar population distributions. Like Apache County, the white minority in Panola County, Mississippi and Macon County, Alabama effectively undermined the political power of the black majority by using elaborate voting restrictions and gerrymandering techniques. Although there were important similarities in the methods that whites as a numerical minority utilized in Mississippi, Alabama, and Arizona to block the political participation of the racialized majority, the story of the Navajo struggle is unique in a number of important ways.

The formal and informal networks of civic and religious groups in the South that greatly facilitated the coordination of efforts among African Americans to attain political power played no role in the Navajo struggle.

Roman Catholic and Protestant churches, although established on the reservation for a century or longer, remained virtually apolitical during the struggle. Instead, Navajo leaders utilized the strength of their own elected tribal government, an organization that came into being by federal mandate during the New Deal and that regularly interacted with the federal government on a wide variety of concerns for decades through the Bureau of Indian Affairs.

While economically impoverished and denied political enfranchisement, Navajos also enjoyed the protection of their own laws and police force in ways that were not possible for southern African Americans. The domestic sovereignty of the Navajo Nation, which was always a contentious point for white Arizonans, played a key role in curtailing what could have been a more violent struggle for political control of the county. By treaty with the federal government the Navajo Nation maintained its own laws, judiciary, and most importantly, its own power of enforcement.

Demographics furthermore played a key role in shaping the nature of confrontation between whites and Native Americans. Unlike many counties in the South, where white and black communities lived in relative proximity to one another, a sparsely populated "no man's land" of rugged terrain divided Apache County into a predominantly Navajo northern half, and a predominantly white southern half.

Finally, the ethnic and religious identity of the whites in Apache County also shaped the nature of the battle for political control of the county. The majority of whites in southern Apache County were Mormons or descendents of Mormon pioneers, who were themselves a distinct and sometimes oppressed minority in American history. Mormons possessed a distinctive outlook and

ideology that governed, in most cases, their conduct and strategy in the fight for political control of the county. The conflict between whites and Navajos was never colored by spilled blood. Although harsh words were used on occasion and a few firebrand Mormons made veiled apocalyptic references, Mormons have never taken to joining organizations such as the Ku Klux Klan, having themselves been harassed by similar groups in the past.

To be sure, the constructions of race and culture in the Book of Mormon, which faithful Mormons affirm to be a religious record of pre-Columbian origins, shaped the paternalistic attitudes Mormons had towards Native Americans. But such paternalism, in general, was more benign than malevolent. Mormons held a sense of sacred obligation towards American Indians that far surpassed the general missionary impulse of Christian missionaries because "Lamanites," as Indians are called in the Book of Mormon, occupy a unique and important place in the sacred cosmology and chronology of Mormon belief.

"Children of the Promised Day"

Long before Joseph Smith published the Book of Mormon in 1830, Athabaskan-speaking people migrated westward from the central plains and eventually settled in the place they came to regard as an Eden. Diné, or Navajos, were relative latecomers to the Four Corners area that had been settled and abandoned by an even older civilization of the Anasazi. Over the course of centuries the Navajos developed a complex economy that depended upon domestic production, trade, and raiding neighboring nations. Thus they became fierce protectors of their lands from the encroachments of others, be they Native American neighbors, Spaniards, or Americans.

After the United States laid claim to the Southwestern states and turned its full resources to pacifying the West, Navajos came into increasing conflict with American settlers. In an effort to break Navajo resistance to American occupation, the US Army determined that Navajos had to be removed from their cherished lands. From 1863-1864, the US Cavalry force-marched over 10,000 Navajos to Bosque Redondo, New Mexico. Many died of starvation and exposure over what Navajos have come to call "the Long Walk." Over the course of their captivity Barboncito and other *Naat'aanii* (spokesmen) negotiated with the federal government, which eventually led to the Treaty of 1868 that allowed the Navajos to return to their beloved Sacred Mountains in the Four Corners area. Over time the Navajos were able to restore their sense of harmony and balance in the land given them by their creators.

Since their beginnings in 1830 Mormons also migrated westward in search of refuge, far ahead of the eventual rush to capitalize on the conquered territories of the Southwest. Within the first 16 years since the founding of the Church of Jesus Christ of Latter-day Saints (Mormons) in upstate New York, Mormons were forced to flee from mob violence in every location they settled. Their "quest for refuge" eventually pushed the Mormons to flee the United States entirely in 1846 and seek their fortunes thousands of miles away in the remote corner of Mexican territory. Over the next several years thousands of Mormons, many of whom died along the way, walked across the prairies to the Rocky Mountains guided by their faith that: "We'll find a place which God for us prepared / far away in the West / Where none shall come to hurt or make afraid / There the Saints will be blessed." Once in the Salt Lake valley they set about to establish a safe haven free from American popular and legislative efforts to end plural marriages.

Mormons had scarcely begun to settle near the Great Salt Lake when Brigham Young sent followers far beyond the Wasatch Front to colonize throughout the intermountain West, with an eye toward expanding southward into Sonora. These remote colonies in Nevada, Wyoming, Idaho, and Arizona were intended to serve as secured stakes in the tent of Zion. However, after the War with Mexico, Mormons once again found themselves under the jurisdiction of American law. Thus, maintaining control of these far-flung colonies took on an even greater significance as the church came under increasing pressure from popular sentiment and the federal government to end the practice of plural marriage. Political dominance was their principle means of protection from those who would use the law to force Mormons to change their beliefs and practices.

All throughout the tent of Zion Mormon settlers in the outlying communities set about to exert their political and economic influence to protect their beliefs. Mormons had long recognized the importance of wielding political power over their own communities since non-Mormon officials in Ohio and Missouri refused to lend assistance or to authorize protection from mobs. So great was the fear among Mormon leaders they would lose control over state politics in Utah that Brigham Young embraced the then radical notion of granting women's suffrage in 1876 so that Mormon votes would outnumber those of the gentiles.

The cluster of St. Johns, Springerville, and Eager was one such outpost on the frontier of the Mormon empire where political control was the means for securing peace for Mormons. In 1877, a decade after the Navajos returned to their homeland, Brigham Young sent a missionary to survey the northern

Arizona area. Two years later the Mormon apostle Wilford Woodruff authorized the purchase of 1200 acres of land near the small Mexican pueblo of Doña María de San Juan (later Anglicized as St. Johns) for the establishment of "Mormon domination" in the area. Although they faced rigorous and often violent opposition from the Mexican and Indian inhabitants of the area, Mormons began to seek public office once they established themselves as a commercial power to be reckoned with in the region.

The Mormon quest for political domination of the county was not easy. "Gentile" non-Mormons in the county forcibly opposed Mormon voting and Mormon political participation, but within 15 years after their arrival Mormons finally succeeded in securing control over the county that would last for decades when they won 9 of the 12 elected offices. Certain Mormon families enjoyed quasi-dynasties in the county government since that time, and the Mormon influence in St. Johns was so great that news of the Mormon church regularly appeared on the front pages of the *White Mountain Independent News*, the county-wide newspaper based in St. Johns, Arizona.

The initial hostilities between the early Mormon settlers and Indians influenced the nature of relations between the county government and the reservation. Frequent confrontations with Navajos slowed the colonization process, as one settler recorded, "and sent the less astute scurrying back to the more comfortable surroundings of the homes and kinsmen they had left in Utah." This constant state of siege had a profound impact on the white settlers who remained openly wary of the Native Americans long after hostilities ceased. "By the early 1900's," stated a 1987 history of Mormons in St. Johns published by the church, "direct confrontation with the Indians had largely subsided, but the

larger problem had not" (italics added)-the "larger problem" being the tensions that continued between Mormons and Navajos.

The St. Johns area met Brigham Young's requirement that the original colony find and settle a land which "no one else would want." But *how* Mormons defined "no one" reveals a major axis upon which Mormon relations with Navajos turned for much of the 20th century. The area teemed with raiding bands of Navajos to the north and Apaches to the south who resented the encroachment of the large colony and they actively resisted Mormon efforts to establish themselves there. Although other white settlers did not want to settle in the area for obvious reasons, Navajos and Apaches clearly wanted to maintain the integrity of their respective borders and protect their sacred lands.

By the end of the 19th century Native American resistance cooled. For much of the 20th century the state of relations between the American Indians and the Mormons evolved into a begrudging acceptance of one another as the federal government formalized the boundaries of the Navajo, Zuni, and Apache reservations that surrounded the Mormon communities. American Indians remained more or less self-sufficient within the boundaries of their reservations, and whites in Apache County, for the most part, oriented their religious ties northward toward Salt Lake City and their political ties southward toward Phoenix. County jurisdiction and services did not extend to the reservations and most county officials were content to keep it that way. From time to time the Mormon church sent various humanitarian and proselytizing missions to Native Americans in the Four Corners area, and some Mormons lived among the Navajos as traders, but as a whole Navajos were little interested in altering their belief system and way of life.

Herein lies one of the key tensions within the nature of Mormon interaction with American Indians in northern Arizona. Although Native Americans hold a unique and chosen place within the Mormon belief system, Mormons in Arizona adopted a series of measures to protect their political control of the county and thereby became the greatest obstacle to the exercise of civil rights for American Indians in Apache County.

The state of affairs was not predetermined by the racial antipathy common to frontier conditions. Since Mormonism's beginning, Native Americans have received special attention from the Latter-day Saints. After the first publication of the Book of Mormon, the first Mormon missionaries traveled to nearby tribes with the hope of teaching the Indians their true identity as descendents of Israel. "It is not our duty to kill them," Smith's successor Brigham Young commanded, "it is our duty to save their lives and the lives of their children." On another occasion he preached the necessity "...of treating the Indians with kindness, and to refrain from harboring that revengeful, vindictive feeling that many indulge in."

"Hope of Israel, Rise in Might"

Such a philosophy could have created room for greater interaction and cooperation between Mormons and Navajos. Yet there are times when the stark realities of political control cloud even the most inspired vision, and the competition for land and political power held greater sway over Mormon conduct than the lofty commands of the prophets. Part of the maintenance of political control of the county rested upon the exclusion of the Navajo majority from the political process. Although the Navajo and Fort Apache reservations

contributed almost 77 percent of the county's population, no more than 10 percent of the Indian population appeared on the county registration lists. Each reservation precinct, assigned by the County Recorder, served 3,500 Navajos compared to one precinct for every 1,000 whites in the southern county. Three of the 7 reservation precincts each covered areas larger than Rhode Island, and such long distances within those precincts prohibited Navajos from voting because the unpaved roads became impassable during the rainy months when elections occurred. Since Arizona statutes required that the County Recorder remove voters from the county registration list if they failed to vote in an election, only those within the immediate vicinity of the few polls available could participate in the voting process.

Literacy requirements rigorously enforced in Apache County hit Navajos especially hard. Arizona statutes required that those who wished to register demonstrate competent literacy by reading from three cards containing selections from the United States Constitution, "in the English language in a manner showing that he is neither prompted nor reciting from memory...." But for most of the state the enforcement of this requirement was rather lax. Apache County was the only county in Arizona that strictly enforced the literacy requirement. The median level of education among Navajos was five years of schooling, but the effective educational level was much lower. One study showed that the average American Indian student performed "2 or 3 years below those of white children." Thus many Navajos in Apache County failed to qualify almost before they picked up the cards to read to the registrar.

Apache County registrars also prohibited Navajos from voting in special elections, such as bond issues, school board elections, and special assessments

because they failed to meet the "property qualification" requirement of Arizona voters. According to state law, a voter must own real property to participate in these elections. Since the federal government held Arizona's reservation land in trust, rather than permitting the each tribe to own their land, few Native Americans therefore owned real property. The Arizona Advisory Council to the Civil Rights Commission dryly noted in a 1961 report: "these property qualifications tend to disfranchise many in the minority groups."

Even if Navajos owned real property and passed the scrutiny of county registrars administering the literacy test, the voting districts were configured in such as way as to deny equal representation to the Navajo majority among the Board of Supervisors. When the territorial government of Arizona formally drew the boundaries to determine representation on the Board of Supervisors in 1879, American Indians had yet to gain full citizenship. That would not come until 1924. But the unchanged boundaries remained a curiosity of local politics 50 years after the Indian Citizenship Act. The boundary that divided the northern county from the southern county closely paralleled the boundary dividing the Navajo reservation from the white communities. Thus 23 percent of the southern county continued to elect 2 out of the 3 supervisors who served on the Board, and 77 percent of the county elected only one. Furthermore, because a number of voter qualifications effectively combined to disfranchise the vast majority of Navajos from the ballot, a white citizen always won the Supervisor's seat from among the small group of whites who lived within the boundaries of the northern district.

Before the Voting Rights Act of 1965, the United States Commission on Civil Rights conducted studies that alerted the federal government to the

conditions of the Native Americans. One 1961 report concluded: "limited as was the Commission's study of American Indians, it disclosed sufficient evidence of unequal treatment under law to warrant action in certain areas and more searching investigation in others." A study in that same year by the Arizona Advisory Committee to the Civil Rights Commission, however, challenged the findings of the Civil Rights Commission. The Arizona committee glowingly reported that although they received reports of civil rights violations in the administration of justice, education, and voting, they found "no major civil rights problems in these areas in Arizona." Generously, the advisory committee conceded that "this does not mean that the State's racial minorities enjoy the full benefits of citizenship. There is ample evidence that they are arbitrarily and severely restricted in the fields of housing, employment, and, to a lesser extent, public accommodations."

Members of the Arizona State legislature closely monitored federal interest in Arizona voting statutes and the possible implications the pending Voting Rights Act would have for Arizona. As Congress deliberated over the Voting Rights Act, Senator Sol Ahee of Pima County introduced Senate Bill 21 in January of 1965, designed to alter the state voting statutes. On the first of April, 1965, just days before President Johnson signed the Voting Rights Act into law, Governor Sam Goddard approved the bill. Yet the Arizona Senate blunted the efficacy of the House bill by only amending the literacy requirements rather than abolishing them outright. Arizona law still required literacy as a prerequisite in registering to vote.

For much of the 1960s, the plight of Navajos evaded the attention of the national media, which was more keenly focused upon the struggles of African

Americans and Civil Rights activists in the South. But the conditions in Apache County did not escape federal attention. After President Lyndon Johnson signed the Voting Rights Act, Attorney General Nicolas Katzenbach officially announced the first jurisdictions that would come under federal surveillance: Alabama, Mississippi, Virginia, Alaska, Louisiana, South Carolina, and Apache County, Arizona.

The Voting Rights Act streamlined previous federal attempts, such as the Civil Rights Acts of 1957, 1960 and 1964, to enforce the Fifteenth Amendment. The Voting Rights Act permanently abolished all poll taxes and suspended literacy exams for five years in areas where over fifty percent of the voting age population failed to register or vote in the 1964 presidential elections. The act further required such jurisdictions to submit all future changes in their electoral laws and procedures for "pre-clearance" by the United States Attorney General's office, which also had the authority to send federal examiners to assist in registering voters, after the filing of at least twenty "meritorious written complaints."

Officials in Apache County quickly reacted to the announcement. County Recorder Virgie Heap resoundingly denied that she or her registrars discriminated against American Indians. She charged, instead, that Navajo apathy and illiteracy caused their low numbers of voters. "I knew the problem of apathy among the Indians had existed for a long time," she said in response to accusations of neglect, "and that additional registrars [to the reservation] would be a waste of time." D. L. Greer, the County District Attorney, likewise dismissed charges of discrimination as "utter nonsense," although he admitted that he feared what the potentially large Indian vote would mean to the county.

Clearly, the methods employed to exclude the Navajos resemble those used throughout the South to disenfranchise African American voters. Yet the residents in southern Apache County adamantly denied racist or segregationist behavior and rejected any comparison made to the South. Unlike the South which created rigid residence requirements, poll taxes, and literacy tests to frustrate the right to vote in a direct response to black suffrage, Mormons claimed that they "inherited" the voting statutes already determined by the territorial legislature by the time they assumed control of the county. This difference proves important in understanding how the Mormons perceived themselves and reconciled the disparity between their religious faith and their political practice. The Mormons did not create the voting statutes, which some acknowledge to be unfair, yet their religion required that they faithfully observe the laws of the land and they did so unfailingly.

With the same exactness of enforcement that disfranchised Navajos, Virgie Heap announced that the county would comply with the federal regulations. On April 13 of the following year, she issued a statement proclaiming that the County Recorder's office conformed to federal law and welcomed "any and all persons to exercise their voting franchise to register."

"See, the Chieftain Signals Onward"

Even as Heap spoke, county attorneys had already initiated the battle against federal intervention. Along with two other Arizona counties, which later qualified for federal monitoring under the Voting Rights Act, Apache County filed suit against the federal government to test the constitutionality of the Voting Rights Act. The suit contested the Attorney General's ruling and asked for a

panel of three federal judges, which was allowed under Section 5 of the Voting Rights Act, to review the evidence and determine whether Apache County discriminated against American Indians. Finally, the suit asked for the reinstatement of the literacy test under a clause in the Voting Rights Act which allowed exemption for jurisdictions that were able to prove non-discriminatory behavior.

The county won a major battle when Greer and other Arizona attorneys from Coconino and Navajo Counties persuaded the US Attorney General to reverse his earlier decision that Apache County violated the Voting Rights Act through the discriminatory use of the literacy exam. Both county and state officials enthusiastically pronounced the change in status a vindication of the charges of racism in Arizona. Yet a closer examination of the court ruling reveals otherwise.

Unlike the impressive display of data provided by the Tuskegee Civic Association during the Civil Rights Commission hearings in Macon County, Navajos failed to provide sufficient documentation before the ruling of the federal panel. Attorneys for Apache, Navajo, and Cochise Counties, on the other hand, submitted numerous affidavits from representatives of various minority groups testifying that their county registrars acted without racial bias. Thus with the evidence presented, the federal panel ruled in favor of the plaintiffs and exempted Apache County from federal examination.

It would have been easy to conclude, as county officials continually did, that Navajos were at best satisfied with the status quo or at worst apathetic to the deliberations. Yet as early as 1962, Navajo leaders repeatedly petitioned the county for more registrars and for more voting precincts, and they courted

Arizona politicians sympathetic to their situation. Under the direction of the tribal leadership, the reservation newspaper *Navajo Times* also ran a series of editorials and articles before each election designed to educate the tribe and encourage participation in the political process. At the same time tribal leaders worked to improve literacy among Navajos through lobbying the county and state for better educational facilities and programs.

The rapid mobilization of Navajos necessary to petition for federal surveillance required the surmounting of significant obstacles that were unique to the conditions of the reservation. The means of communication utilized by Civil Rights activists in the South, such as the telephone, word-of-mouth, or even newspapers, was a slow process on the reservation. The small tribal newspaper *Navajo Times* had only a modest circulation within the Window Rock area. The Navajo Reservation included vast and sparsely populated areas that had little or no electricity or other modern means of communication. Both custom and economic activities also complicated the capabilities of rapid communication for Navajos. Families involved in sheep herding, which was the traditional means of economic support for most Navajo families, often spent long stretches away from their home base. Even then, the Navajo custom of moving between winter and summer homes also meant that Navajo families could spend weeks without word from the world outside the reservation reaching them.

While communication across the reservation proved a challenging obstacle to rapid response, it was by no means an insurmountable one. The political structuring of the Navajo Nation rested upon 96 Navajo chapters that met to discuss and vote on local issues and concerns. These chapters also sent representatives to the tribal government at Window Rock, Arizona, capitol of the

Navajo Nation. Once mobilized, this organizational structure proved to be quite effective.

After their victory in court, state and county officials appeared conciliatory towards the Navajos. The firm representing the Arizona counties expressed their hopes that "the policy of nondiscriminatory application of the voter qualification requirements of this state will continue to be the policy of these counties. Toward this end we invite the cooperation and united effort of the citizens of all races of the respective counties." D.L. Greer and Virgie Heap also issued a similar statement and looked "forward to working with the Navajo Indians and assimilating them into our political parties, and welcome their participation in our elections." In actuality, the county made little attempt to improve voter participation on the reservation.

Tribal leaders chose to pursue their own strategy to mobilize the voting strength of the Navajo Nation, independent of federal assistance. In so doing they largely disregarded the state agencies and national civic organizations that might have helped them. During this period the Arizona Civil Rights Commission reported only one complaint filed against a registrar, which was later dismissed as a misunderstanding. Navajo leaders also warily received representatives from the Congress of Racial Equality, who were invited by members of the Hopi tribe in the neighboring county, and viewed CORE more as more of an hindrance than a help. And although the *Navajo Times* observed the growing activities of the Trial of Broken Treaties and the American Indian Movement with interest, the Navajo leadership remained aloof from affiliating with such efforts.

Perhaps the most significant feature of Navajo strategy was the decided

resistance of tribal leaders to utilizing the means of protest common to the era, whether violent or non-violent. Robert Burnette of the National Congress of American Indians compared the similarities in discrimination faced by Native Americans and African Americans in a 1964 guest editorial for the *Navajo Times.* "But unlike the Negroes battling to overcome the same sort of discrimination," he observed, "Indians will not engage in protest demonstrations. This kind of belligerence does not square with our feeling of patriotism. We want to give no aid to Communist propaganda about dissension." Instead of protesting, Indians "will go to the Federal courts and to the conscience of the American public for relief…."

Burnette's views reflected those of the generation of American Indians who returned from military service during World War II. Those who went back to the reservation had been profoundly altered by their experiences. They had being exposed to a much larger world and they were better trained and educated than previous generations. At the same time they were also more sensitive to the Cold War rhetoric of patriotism and loyalty than the generation that followed them, and this was one of the key reasons why Apache County never exploded in frustration during the long battle over civil rights. The Navajos who led the fight for voting rights never engaged in boycotts, marches, or rallies against the southern portion of the county. Although some public debates became heated, none of the forms of social violence associated with the struggle for civil rights during this period occurred in the county, such as assaults, lynchings, arsons, bombings, attacks upon property, or looting.

The religious and cultural homogeneity of the whites in Apache County influenced their course of action as well. Despite their troubled past with the

federal government, Mormons prided themselves in their respect for authority. "The Church of Jesus Christ of Latter-day Saints," wrote James Talmadge, a revered Mormon leader, "makes emphatic declaration of its belief and precepts regarding the duty of its members toward the laws of the land, and sustains its position by the authority of specific revelation in ancient as in present times." Likewise, the Doctrine and Covenants, another set of Mormon scripture, states: "Let no man break the laws of the land…Wherefore, be subject to the powers that be…." This does not suggest that Baptists, Methodists, and Presbyterians in the South who opposed the Civil Rights of African Americans acted any less in accordance with their belief in God and country. Yet the unique place that Native Americans occupy in Mormon theology, the strong religious and cultural conformity among Mormons and their adherence to law and order, all influenced the course of action taken by the white resistance.

To be sure, the physical separation of whites and Navajos also played an important role in aligning faith with practice in Apache County. Unlike many areas of the South that Allan Grimshaw studied, there were no contested residential, business, or public places between whites and Navajos. White-owned businesses that Navajos patronized were mostly in small towns bordering the reservation. Navajos indeed faced the same prejudice, discrimination, powerlessness, inadequate housing, and unemployment that the National Advisory Council on Civil Disorders attributed to black violence, but few "symbols of white American…authority or property" existed on the reservation for Navajos to strike against.

After the initial flurry of attention, the north and south counties settled into an uneasy truce. The power dynamics in Apache County remained

unchanged for several years, even after Congress amended the Voting Rights Act in 1970 to permanently eliminate the literacy test in every state. The leadership of the southern portion of the county was none too eager to alter the balance of political power, and the administration of Tribal Chairman Ronald Nakai concentrated its efforts on building up the educational facilities on the reservation and fighting for Navajo water and mineral rights.

Cultural and political changes at large in the land had a particular impact among the Navajos. Across the county, nationalist groups among African Americans, Native Americans, and Latinos took greater strides to assert their place in the political arena and to reaffirm the value of their respective cultures. Such was part of the context in which Peter MacDonald ran for tribal chairman in 1970 on the platform of greater self-determination for the Navajo Nation. MacDonald was trained as an engineer and had been one of the famed Navajo code talkers during World War II. In the November election, MacDonald won a landslide vote against the incumbent chairman. During his inaugural address he pledged that "what is rightfully ours, we must protect...[and] what is rightfully due us we must claim…."

Thus at the urging of MacDonald and tribal leaders Tom Shirley, a Navajo Democrat from Ganado, entered the next race for the Board of Supervisors in District 1 against a white Republican opponent, Thomas Minyard. With good reason leaders the Navajo Nation were interested in having representation in the county government. The sovereignty of the Navajo Nation and its long relationship with the Bureau of Indian Affairs did not mean that Navajos enjoyed the benefits of county services. The Navajo Nation sorely lacked an adequately developed and maintained road system, adequate health services, access to job

training programs and technical assistance, assistance with the state and local permit processes, and other regularly offered county services that stopped at the reservation's boundary.

The outcome of the November, 1972 election surprised the southern county and shook their 93-year control. With a large voter turnout from the north county, Tom Shirley captured 67 percent of the vote and became the first Navajo elected to the Board of Supervisors.

"And the Battle's in Array"

Malcolm X once observed that "power never takes a back step-only in the face of more power," and whites in Apache County proved the rule rather than the exception. Although whites in the southern county still controlled the majority on the Board of Supervisors, political leaders in St. Johns moved to block the seating of Tom Shirley the day after the election. The Board of Supervisors convened to count votes as required by law, but they failed to certify a winner. After a two-hour meeting the board recessed to meet at a later date. In the interim, Thomas Minyard, Jay Reese, Clair Platt, Ted Spurlock (the latter two had served as Mormon bishops in St. Johns), filed suit against the Board of Supervisors and requested a preliminary injunction to stop the certification of Tom Shirley as a Supervisor. The judge who heard the case had many connections to the plaintiffs: D.L. Greer. Greer previously served as the Apache County District Attorney for several years before he was appointed to the bench of the Apache County Superior Court. Greer granted the injunction and the Board of Supervisors reconvened to declare Minyard the winner.

Minyard's complaint revolved around a number of novel assertions based

on questions that arose from federal treaties established with many American Indian tribes. The complaint asserted that because federal treaties exempted reservation Navajos from paying various taxes, Shirley could levy taxes as a supervisor that he would not have to pay. Thus Minyard asserted that seating Shirley or any reservation Navajo on the Board of Supervisors would be "taxation without representation." Minyard furthermore asserted that because federal treaties exempted reservation Navajos from civil or criminal prosecution in state or county courts, taxpayers would have no recourse if Shirley engaged in malfeasance or nonfeasance in office. Thus the seating of Shirley would violate taxpayers' right to due process under the Fifth and Fourteenth Amendments. Other parts of the suit were more spurious in argument. Minyard contended that since Shirley already served on the board of trustees of Apache County School District 18, and since the Board of Supervisors exercised authority over all school districts, Shirley's serving on the county Board of Supervisors would constitute a conflict of interest.

The Navajo Nation was well prepared for the fight. One of MacDonald's campaign promises was to establish a legal department that would serve successive Navajo administrations. The Navajo Tribal Council subsequently approved MacDonald's choice for general counsel, the Phoenix firm of Brown, Vlassis, and Baine. On behalf of Tom Shirley, the firm filed a special action against the court. *Shirley v. Superior Court* charged that the court acted inappropriately in issuing the injunction and petitioned the federal court to hear the case. Numerous parties also filed *amicus curae* on behalf of Shirley, including the US Department of Justice, the Association of American Indian Affairs, and two residents of the northern county, Charles and Leslie Goodluck.

Upon hearing oral arguments the District Court found that no federal laws were violated and remanded the case to the Arizona State Supreme Court. The Arizona court then unanimously found in favor of Tom Shirley. Citing numerous cases upholding the constitutionality of American Indian citizenship, the court found no violation of the Fifth or Fourteenth Amendments in seating Tom Shirley as a Supervisor. The court further ordered that Apache County Superior Court certify Shirley as the winner of the election and ordered Thomas Minyard to pay all of Shirley's legal expenses in this matter. "In a democratic society," Justice Lockwood wrote, quoting from *Nelson v. Jordan*, "we are irretrievably wedded to the principle that, subject to constitutional limitations, the will of the majority as expressed in free elections must prevail."

Eleven months after Shirley won the election he became the first Navajo to serve on the county Board of Supervisors. "I hold no bitterness towards Mr. Minyard," replied Tom Shirley after learning of his victory, "I am anxious to prove that I can fairly represent the residents of Apache County." Shirley's tone of conciliation and assurances of cooperation with the southern county, however, failed to assuage whites in St. Johns.

Within days following the Arizona Supreme Court's denial of a stay of execution and a rehearing, the southern county launched an aggressive offensive on two fronts. Mitchel Platt filed a writ of *certiorari* with the US Supreme Court, arguing that the case of *Minyard v Apache County* could not receive a fair hearing within the state. At the same time, County Manager C.L. Haws announced the formation of the Committee Opposed to Taxation Without Representation (hereafter referred to as COTWR). The principle goal of the St. Johns group was to lobby the Arizona legislature for a bill to allow the secession of the southern

white half from the northern Navajo half of Apache County.

The secession effort enjoyed wide support among the leading families of the southern county. Harvey Platt, brother of Clair Platt, one of the plaintiffs, assumed the lead in the fight against enfranchisement of the Navajos as chair of COTWR. Platt's nephew Mitchel Platt, who represented Thomas Minyard, assumed legal representation of the COTWR. The *White Mountain Independent News* furthermore took up the cause in writing supportive editorials on behalf of the COTWR and following closely the organization's activities.

So firm was the resolve to secede from Apache County that white residents expressed their willingness to assume the potential financial burden upon the southern county. "Residents of the two southern supervisor districts would rather have a separate county and pay higher taxes than be governed by a Board of Supervisors controlled by the Navajos," declared the County Manager C.L. Haws. "We know [the county division] will cost more," agreed State Representative Jack Brown of St. Johns, "We're willing to pay the extra cost to have the right to call the shots."

In February of 1974, the COTWR succeeded in getting a bill introduced into the Arizona House of Representatives, but their first victory was short lived. The US Supreme Court denied Platt's motion. The members of COTWR were undaunted, still. "The ruling by the United States Supreme Court makes this bill more important than ever," Mitchel Platt told the Arizona press, and the COTWR pushed onward to gain statewide support for their secession plan.

At the same time that the Platts launched the secession movement in the southern county, Navajos fought back utilizing the Voting Rights Act. Leslie E. Goodluck, Kenneth Chee, Steven Ashley, Sr., Stanley E. Ashley, and Anderson

Yazzie, all residents of the northern county and all Navajo except Goodluck, sued the Board of Supervisors (which ironically included Tom Shirley) to redistrict the county into three supervisor districts of near equal proportion. If successful, *Goodluck et al.* promised to give Navajos the majority on the Board of Supervisors. Mitchel Platt immediately filed a counter-suit on behalf of the county against the US Attorney General, requesting an injunction and that a panel of three judges adjudicate the case as allowed by the Voting Rights Act. In late January, 1974, the Justice Department joined with *Goodluck et al.* in filing its own suit against Apache County for violating American Indian voting rights, and threatened federal action if the Arizona legislature approved any legislation dividing Apache County along racial lines.

Within a few months, signs of division within the southern county began to appear. Rita Madrid, a Chicana resident of Apache County, wrote to the editor of the *White Mountain Independent News* and squarely challenged the motives of what she termed "the self-appointed committee."

> Is this group really representative of ALL Southern Apache County? My grandmother used to tell me that as a result of later settlers, the neighborhood was ruined...The present majority's attitude is that Mexican Americans along with American Indians and Blacks are second rate citizens. Due to past experiences with the present majority I seriously suspect that they are afraid to find themselves as minorities. Can you imagine, some of these leading citizens would lose elective positions? [They] have represented only their own, and I doubt that they would have a change of heart. Chicanos, look around you and evaluate what has been done to

> represent you and your parents. Maybe our opportunities lie with American Indians...."

Milton Plumb, a white resident of the county, also questioned the motives of the Committee:

> Why are a few people in Apache County trying to split the county? Just because a poor Indian got elected to a county seat. It's about time...the same ones have been in the court house ever since I can remember [sic]. Now just because they might have someone that is not related to them they want to Divide the County [sic]. I am a taxpayer in the county and I don't want it divided. Let's elect more Indians, more Spanish, more poor whites. They have been down long enough. It's about time we got some new blood in the courthouse."

Such open signs of dissent only steeled the resolve of the secession effort. The editors of the *White Mountain Independent News* increased their editorials on the virtues of COTWR, criticism of the Navajos, and of federal intervention. In one telling response to those who challenged Mormon hegemony in the county, the editors wrote:

> In recent weeks, we have published a number of letters, most of which have come up in relation to dividing the county issue in Apache County, in which persons of Spanish ancestry have been complaining about certain faction's [sic] domination of the county offices. They maintain that the Mormons of the county, although they have not named them by name, elect all the officers and run the county to suit themselves. This claim is not only made by Spanish-

> Americans, but by other non-Mormons of the county. The claim happens to be true, Mormons do hold all of the major offices and therefore run the county. There is, however, one big extenuating circumstance. How many Spanish-American or otherwise, have ever run for county offices?"

The editors challenged the dissenters to mount their own campaigns if citizens were unhappy with Mormon control of the county. "Raul Castro nearly became Arizona's governor in the last election, and he stands a good chance of getting it this year," the editors taunted, "if he can do it, why can't you?"

When the bill to divide the county cleared the House of Representatives, two state senators effectively neutralized it in the Senate. Senator Arthur Hubbard, a Navajo from Ganado, joined with Senator Alfredo Guitierrez, a Chicano from Phoenix, and garnered enough support in the Senate to attach the Hubbard amendment to the bill. The amendment changed the House bill from requiring 25 percent voter approval in Apache County in order to effect secession to 75 percent approval of the residents living in the proposed county and 20 percent approval of the residents living in the old county. The Hubbard Amendment all but killed the dream of separating Apache County. It altered the House bill meant specifically to divide Apache County to one that effectively revised State statutes on county division. When Governor Sam Goddard signed the new bill into law in May of 1974, the hopes of dividing Apache County died with it.

"See the Foe in Countless Numbers"

With COTWR's legislative offensive crushed, Platt pursued the legal

offensive with singular purpose. In September, 1975 the District Court of Arizona ruled in favor of Goodluck and ordered the equitable reapportionment of the county districts. Platt immediately filed a motion for rehearing, but the District Court denied the motion and issued its Final Order to implement the earlier opinion of the court. The Court gave Apache County 45 days in which to submit a reapportionment plan to the Attorney General of the United States. Within weeks of the District Court's Final Order, Platt served notice that he was appealing the case to the US Supreme Court.

The editorials in the St. Johns paper reflected an increasing sense of frustration and disillusionment after the Governor approved of the bill. "A Bitter Blow," lamented a front-page editorial after the Senate passed the House bill with the Hubbard Amendment. "Principles Do Not Count," mourned another editorial reviewing the county fight. "Struck Down Again" read yet another editorial after the District Court of Arizona ruled in favor *Goodluck et al.* and ordered the redistricting of the county. "Hard to Convince" and "It Gets Discouraging" read others as the Arizona Legislature submitted to the court by redistricting the legislative boundaries for the state. Even with the continued defeat of their goals and the ruling of the District Court, however, COTWR tenaciously held to the belief that theirs was a just cause. "Let us not let our guard down," rallied one editorial, "Keep vigilant, and we are sure that justice will prevail ere too long."

With faith "that justice will prevail," the county once again petitioned the District Court for a stay of execution while it appealed the District Court's decision to the US Supreme Court. The federal ruling in *Goodluck et al.,* according to Platt, ignored the fundamental issue of whether American Indian citizenship

violated the Fourteenth Amendment. "Since when can any court declare that a portion of the United States Constitution has no relevance today? The court's action also jeopardized freedom of religion," Platt warned, "if a court can now decree that the First Amendment, or a portion of it has no relevance." The county received another blow when the District Court denied their motion for a stay and ordered the county to comply with the "one man, one vote" rule within 30 days.

Tom Shirley, the Tribal Council of the Navajo Nation, and County Manager C.L. Haws each submitted redistricting plans to the Board of Supervisors, but Platt had not yet conceded defeat. He appeared at the Board meeting and presented a surprise plan that mirrored the existing supervisor districts. Citing two landmark cases concerning reapportionment, *Baker v. Carr* and *Avery v. Midland County*, Platt convinced the two white Supervisors that in certain instances, a district "...may be apportioned in ways which give greater influence to the citizens most affected by the organization's (Board of Supervisors) functions." As long as there existed sufficiently compelling reasons for deviating from the "one man, one vote" rule, Platt concluded, the Supreme Court would have to agree with his plan. The two supervisors agreed with Platt that their lack of authority on the reservation was a sufficiently compelling reason, and voted against Tom Shirley to accept the Platt Plan.

The Justice Department, however, disagreed that those "most affected by the organization's functions" were the whites in the southern half of the county and the Civil Rights Division sued to require a more equitable reapportionment. The District Court agreed and found for the Justice Department. Judge Walter E. Craig approved the reapportionment plan submitted by the Justice Department

that divided the county into three districts of equal population. He furthermore ordered the implementation of reapportionment within 30 days and barred any further elections within the county until the county was in full compliance with the order.

The COTWR refused to concede defeat, in spite of loosing the suit and control of the county. The *White Mountain Independent News* hailed the decision as a moral victory because Judge Craig, in personal comments off the record, sympathized with the county's predicament. "We were beginning to think that our logic and arguments were falling on totally deaf ears," read one editorial, "[Judge Craig's comments] are very welcome to our ears. It shows that we have been making progress and that there may be justice coming after all. It may take some time...but it simply has to come...As the Civil Righters used to sing, 'We will overcome.'"

Evoking the spiritual that fortified Civil Rights activists, strange though it may seem, was not meant in the bitter sarcasm that often comes in face of defeat. It was instead an affirmation of faith. The secessionists who labored to protect their hard-won political control were the literal and spiritual descendents of Mormon pioneers who weathered the elements, wrestled the hardscrabble land, endured the power of the federal government to alter their practices, and fought off Indian attacks in the northeastern corner Arizona. They had endured and overcome much as a community of faith, often aided only by their determination and belief that theirs was a just cause. They might well have also evoked the words of their often sung hymn "Carry On": "Firm as the mountains around us / stalwart and brave we stand / on the rock our fathers planted / for us in this goodly land / The rock of honor and virtue / of faith in the living God / They

raised His banner triumphant / over the desert sod."

Firm though their faith was, their day of deliverance never came. The Board of Supervisors had little choice but to submit to the mandated reapportionment in time for the September 1976 primary. With their legislative effort blocked and their legal battle all but exhausted, whites in the southern county could only watch in horror as Navajos registered to vote and filed to become candidates in the September primary. The *White Mountain Independent News* carefully monitored and reported on the unprecedented Navajo involvement in county elections. "Navajos Plan To Contest County Offices," blared one headline. "Eight Navajo Reservation Residents File For Office" screamed another. "Navajos Give Warning" cautioned yet another.

Less resolute people would have given up, but citizens in the southern county turned out in strong numbers to continue fighting through the ballot for representation on the Board of Supervisors. The south county could have continued to control the Board of Supervisors if the voter turnout in the north county was light, but members of the tribal leadership saw to it that election did not turn out that way. Peterson Zah, head of *Dinébiiana Nahiilna Be Agaditahe*, the legal services program for Navajos, took the lead in directing the Navajo challenge to the southern control of the county at the polls. Voters in the north county thus turned out in sufficient numbers to give two Navajos the Democratic nomination for the Board of Supervisors. The results of the September primary all but assured Navajo control in the November election.

The following month, on Columbus Day of the Bicentennial year, the United States Supreme Court blocked any further legal challenge to Navajo voting when it upheld the decisions of the lower court in *Goodluck et al. v. Apache*

County.

Mitchel Platt played one final, desperate hand in trying to salvage the Mormon control of Apache County. President Gerald Ford convened a conference on Indian Affairs in Washington D.C., and Platt flew out to speak directly with the President. Although he failed in meeting with the President, Platt pleaded his case before the White House Staff, and when he did all he could there he appealed to the staff at the Department of the Interior. After he returned home he reported to the last, Mormon controlled Board of Supervisors that staff members of the White House and the Department of the Interior "were astonished at the circumstances" in the county, and at the United States Supreme Court's ruling in *Goodluck et al. v. Apache County.* Platt also reported that government officials offered him two suggestions: either eliminate the reservations or repeal the "one man one vote" rule and "disallow participation of reservation residents in county political functions." Whether Platt was aware of the improbability of either suggestion given the political climate is unclear, but the members of COTWR disbanded and made no effort in either direction.

The ruling of the Supreme Court in *Goodluck et al. v. Apache County* cleared the way for Native American participation in the electoral process in Arizona. In the November, 1976 elections, Louise Descheeny and Raymond Graymountain, both reservation Navajos, won the majority on the Board of Supervisors for the first time in Apache County's history. The results went uncontested by the southern county.

In a little over a decade since the Voting Rights Act of 1965, the Navajos in Apache County stepped through the door of political enfranchisement for the first time in Arizona's history. The Navajo struggle with the Mormon dynasty in

Apache County occurred as part of the larger, collective efforts of American Indians to grasp and hold on to the promise of full citizenship. The victory of *Goodluck et al. v. Apache County* however, belonged not only to the Navajos in Apache County, or to the American Indians throughout the nation. It was a triumph of federal activism, when the executive, legislative, and judicial branches upheld the fundamental rights of citizenship for all Americans and insured state compliance. Without such assistance, it is entirely probable that the strategy of the Navajo leadership would have achieved little.

The fear expressed by whites that Navajos would "drive us out of the county with over-taxation" never materialized. The Board of Supervisors simply did not have widespread authority to tax because state law tightly controlled what little authority it had. At the same time, the Navajo majority on the Board never gave control of the county over to the Navajo Nation. Differences in personalities, gender, clan, political views, and the common sense of the Navajo supervisors proved to be more decisive factors in voting patterns than any pro-Navajo or anti-Mormon agenda. Navajo supervisors often voted independent of the tribal leadership, and one tribal official lamented that "it takes a lot of pressure before [Raymond] Graymountain will side with [Louise] Descheeny on a crucial Navajo vote." "I don't try to pick sides," responded Raymond Graymountain to the tribal leaders, "I use my own discretion."

Leaders of the Tribal Council also found that the price of victory in Apache County was more costly than they anticipated. As Navajos sued Apache County for reapportionment, the chapter boundaries of the Tribal Council came under the scrutiny of the US Department of Justice. Demographic changes since the organization of the Tribal Council 50 years earlier had given some chapters

greater representation and power than others, and many of the chapters favored by the maldistribution actively resisted reapportionment. In March, 1974 the Tribal Council passed a resolution affirming its commitment to the one man, one vote principal, but moved so slowly in reapportioning chapter boundaries that the US Department of Justice threatened federal action against the Council as it moved against Apache County. Peter MacDonald faced mounting criticism of his handling of this and other explosive issues from within the Navajo Nation, and in early 1976 Peterson Zah organized "Walk for a Better Government" against MacDonald in Window Rock.

Change can be an unwanted guest in any home. For two more years the more powerful chapters filed numerous court challenges to the proposed reapportionment plans within the Navajo legal system. When the Supreme Judicial Council of the Navajo Nation-itself a recent and controversial addition to the Navajo judicial system-issued its own plan in 1978, resistance to reapportionment among the chapters finally, although begrudgingly, came to an end.