

STATE'S DUTY TO INDIANS

CONGRESSMAN SMITH SAYS FIT THEM
FOR CITIZENSHIP.

TRAIN THEM ALL FOR SOME USEFUL
TRADE OR CALLING.

NEED OF COMPULSORY EDUCATION
URGED BY THE DEPARTMENT.

**REMEDIAL COMMANDEERING
AND INDIAN LAW**

the Reserva-
tion and Ration Systems.

MATTHEW FLETCHER AND RANDALL KHALIL

THE attendance at the meetings of the
department of Indian education at the
Central Methodist church continues to

"...indications
of unrest among
the natives has
yet to be con-
firmed..."



INDIANS NOT TAXED

DEPARTMENT OF THE INTERIOR,
CENSUS OFFICE.

ROBERT P. PORTER,
Superintendent.
Appointed April 29, 1889; resigned July 31, 1893.

CARROLL D. WRIGHT,
Commissioner of Labor in charge.
Appointed October 5, 1893.

REPORT

ON

INDIANS TAXED AND INDIANS NOT TAXED

IN

THE UNITED STATES

(EXCEPT ALASKA)

AT THE

ELEVENTH CENSUS: 1890.



WASHINGTON, D. C.:
GOVERNMENT PRINTING OFFICE.
1894.

INDIAN CHILD WELFARE ACT

DRAFT -- 7/8/75

A B I L L

To establish standards for the placement of Indian children in foster or adoptive homes, to prevent the break-up of Indian families, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Child Welfare Act of 1975."

FINDINGS

Sec. 2. The Congress finds that --

(a) An alarmingly high percentage of Indian children, living within both urban communities and Indian reservations, are separated from their natural parents through the actions of non-tribal government agencies and are placed in foster or adoptive homes, usually with non-Indian families.

(b) The separation of Indian children from their biological families generally occurs in situations where one or more of the following circumstances exist: (1) the natural parent does not understand the nature of the documents or proceedings involved; (2) neither the child nor his

Handwritten notes:
federal as available to state exhaustion tribe, individual info Secty
BIS difference Secty to file habeas & the actuality of filing.
authorizing

BRACKEEN V. HAALAND

FIFTH CIRCUIT (EN BANC) TIED 8-8 ON MOST THINGS, BUT
1) ACTIVE EFFORTS, NOTICE, QUALIFIED EXPERT WITNESS, AND
REPORTING UNCONSTITUTIONAL COMMANDEERING UNDER TENTH
AMENDMENT

2) "INDIAN FAMILIES" IS UNCONSTITUTIONAL
UNDER EQUAL PROTECTION COMPONENT OF FIFTH
AMENDMENT'S DUE PROCESS CLAUSE

3) TRIBAL PLACEMENT PREFERENCES
DOES NOT VIOLATE NON-DELEGATION

4) CONGRESS POSSESSES ARTICLE
I POWER TO ENACT I.C.W.A.

5) "GOOD CAUSE" BURDEN OF
PROOF IN I.C.W.A. REGS INVALID

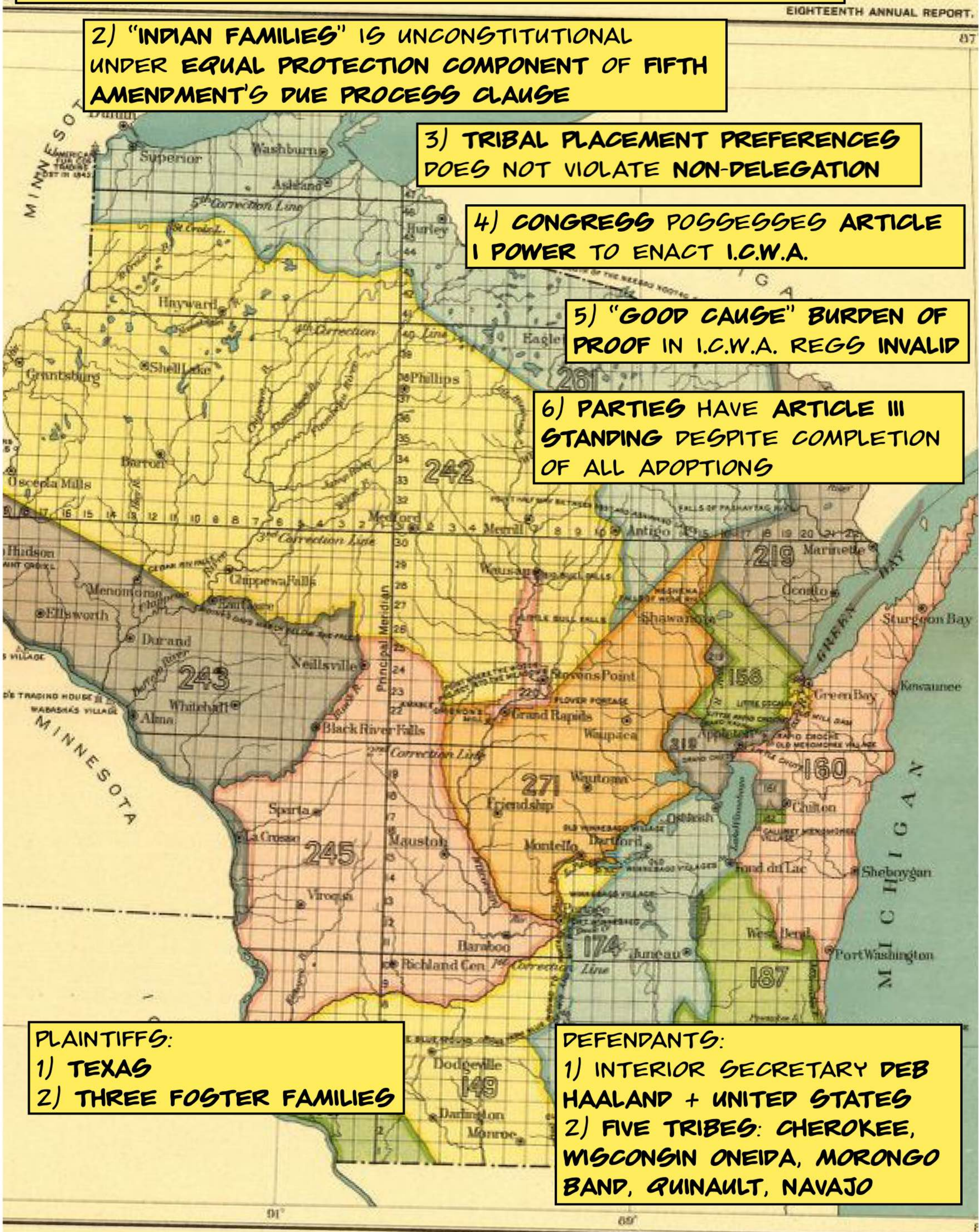
6) PARTIES HAVE ARTICLE III
STANDING DESPITE COMPLETION
OF ALL ADOPTIONS

PLAINTIFFS:

- 1) TEXAS
- 2) THREE FOSTER FAMILIES

DEFENDANTS:

- 1) INTERIOR SECRETARY DEB HAALAND + UNITED STATES
- 2) FIVE TRIBES: CHEROKEE, WISCONSIN ONEIDA, MORONGO BAND, QUINULT, NAVAJO



EQUAL PROTECTION

One Woman's Adoption Crusade

by John G. Rogers



Judy Hartzell (left) talks with Harry and Patricia Macomber, Michigan couple who, acting on her idea, adopted two American Indian brothers, Tommy, 7 and David, 6.

JUDITH HARTZELL is an average American housewife residing with her husband and two small children in a little gray house on the edge of town. The family lives comfortably on Mr. Hartzell's salary as a college English instructor—but modestly. Despite that, Judy Hartzell has recently "given" nearly \$1.5 million to the State of Michigan. And she plans to increase the figure.

Judy's gift was nothing so commonplace as cash. It was a subtle gift involving not only the value of \$1.5 million but also the happiness of 68 families and 68 children, plus the future well-being of the youngsters. What Judy did was to promote the adoption of hard-to-adopt children, thus giving them loving parents and also saving the state the cost of maintaining them in foster homes.

As a result of Judy's campaign, which also demonstrated the effectiveness of newspaper articles, 18 children were adopted and 50 of the many families wanting to adopt were approved and are waiting for children. It costs the

money wasn't the motive. I just wanted to get as many kids as I could into permanent private homes and under the care of mothers and fathers who wanted them and would adopt and love them."

In a way, the adoption campaign traces to the Hartzells' son Andrew, now a lively and lovable 3-year-old. As he was progressing from infant to little boy, Judy did considerable reading about small children and was deeply disturbed to find that those who are bereft of true parental love frequently suffer both physical and mental setbacks. She thought how lucky Andrew was compared to parentless kids. About the same time she heard about Helen Allen and her daily adoption column in the *Telegram* in Toronto. The column was responsible for hundreds of adoptions all over Ontario.

Newspaper helps out

Judy wrote to Helen Allen asking for her formula. It was sent to her immediately. Next she set up liaison with several private and public adoption agencies and then she went to see Arthur Callagher, editor of the *Ann*

Timmy, a chubby, smiling Negro boy, 18 months old. From the moment that edition of the *News* came out, with Timmy's picture and an accompanying article, Judy waited tensely for results. She need not have worried. Eleven Negro families put in bids for Timmy and several months later he was legally adopted by one of them.

Since then, Judy has featured 21 children in her column, which appears irregularly, and 18 of them have been adopted. The agencies, of course, investigate every set of parents wanting to adopt and in checking up on those who wanted Judy's kids, they approved 50 who are now waiting for children to turn up.

The most spectacular response came in the case of Laura, a lovely little blonde who had only one drawback as a subject for adoption. She was old. All of 9 years. Laura had lived in three foster homes, wanted to take dancing lessons and join the Brownies but had no opportunity. When the *News* photographer took her picture, she asked: "Do you think if my picture's in the paper, and they get me a real mommy

stayed in the talk stage. Mrs. Hartzell's article and the picture of the baby just triggered us."

A father of two children explains: "We wanted a third child but I am conscientious in my belief that the world is rushing toward a population calamity. The answer, then, was to adopt an already existing child."

Another set of parents, clearly motivated by goodness, says: "We felt it would be nice to look for a child who wouldn't otherwise find a home."

All kinds of children

Of the children placed by Judy, seven were Negroes, four white and seven Chippewa Indians who lived in Michigan's upper peninsula. But for her, they'd still be in foster homes.

Judy would like to see the adoption column spread to newspapers in many other communities and would freely share her experience with anybody who wants to start one. She warns, however, that a column sometimes causes a problem. For example, the agency which offered pretty Laura found itself tied up for weeks investigating the 150 re-

Indians Beat Whites At Training of Children

(to Journal)
24 — Many
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White, chair-
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aking studies
as during the
e Pueblo In-
is the more

remarkable since it has been achieved without benefit of books on child care, clinics and child study clubs.

According to the anthropologist, although these primitive peoples never spank their children, the offspring are remarkably well brought-up just the same.

"I have often been amazed at the difference between young children in Indian villages and many children among ourselves," he says. "Never have I seen an Indian child talk back to his parents or to an elder. They do not scream and go

into a tantrum when they are forbidden to do something. They never get fresh. On the contrary, they are very well behaved, obedient and respectful to their parents and to all elders. They may quarrel among themselves but even this is relatively rare."

FOND OF CHILDREN

How to account for this idealistic behavior among young Indians? Prof. White says that "primitive peoples are, as a general rule, very fond of their children. The older children vie with each other for

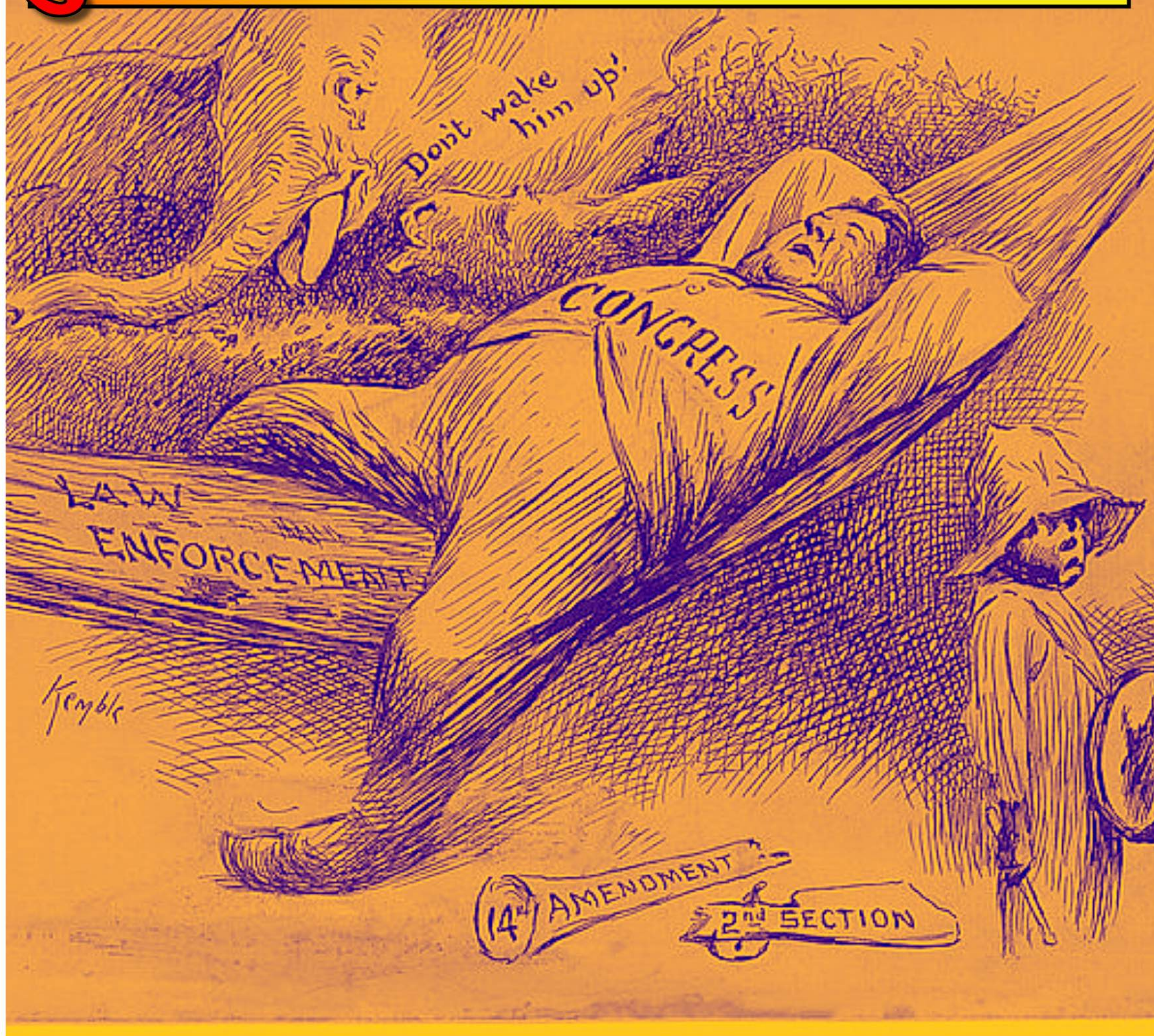
the care of the younger children are respected as individuals, and are never harassed or humiliated by being made to feel they have been 'behaving' in the emotional life which comes from knowing they are wanted and loved, they respond with 'spoiled' behavior."

Pointing up the contrast between the education of the Indian child and that of the white child, he explains that the children of primitive peoples grow up into the life of the community. "They are not sent away

C **OMMANDEERING**



SECTION 5 AND REMEDIAL COMMANDEERING



Remedial Commandeering

Rebecca Aviel*

ng the right to vote and ensuring the integrity of
ing reproductive rights. Reducing and redressing raciali
ct. Threaded through some of the most ambit
sial reform proposals currently vying for attention in no

I.C.W.A. LAWYERING



BACKGROUND:

"HOW THE 'ONLY FAMILY' ARGUMENT IS USED AGAINST INDIGENOUS FAMILIES," HIGH COUNTRY NEWS, JULY 9, 2020

CONSOLIDATED CHIPPEWA 54: A Chippewa baby in the traditional cradle board at an In camp at Little Rice Lake near Tower, Minnesota. Gordon Somers, 1940.

THE GITIMI SHINOB

QUESTIONNAIRE

Name:

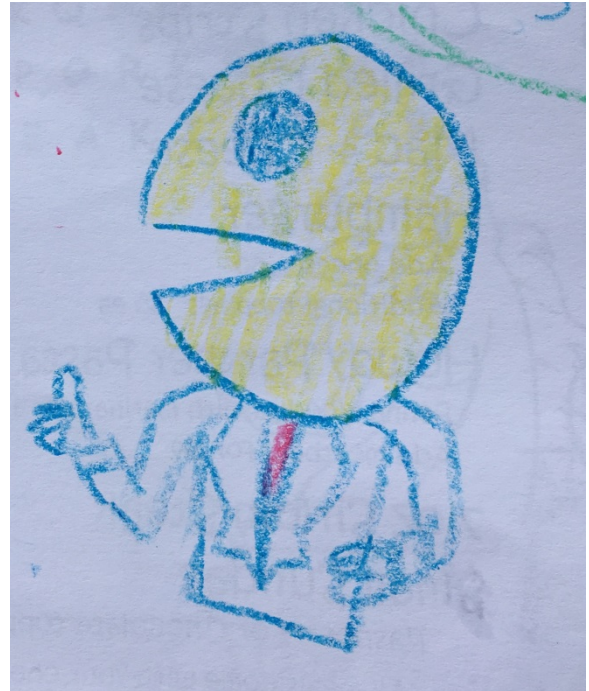
What book are you currently reading?

What are the last four books you read?

What books about Indians are on your nightstand?

When and where do you like to read about Indians?

What kind of books do you hate?



What is the last book with an Indian author you read?

Name four Indians (one for each direction) you would invite to dinner:

What would you talk about?

Name a book you purchased at Birchbark Books:

What book did you read as a child you realized as an adult was full of Indian-hating and so you can't enjoy it with your kids?

Iron Eyes Cody or Irene Bedard?

What book did you read as a child you loved but you realize as an adult just isn't very good?

Carlos Castaneda or Jamake Highwater?

Do you like to wrestle?

Jim Jarmusch or Taika Waititi?

Frybread or Spam?

Sherman Alexie or the 1490s?

What is your spirit animal?

What is your greatest fear?

What's your favorite book no one has ever heard of and you're secretly proud you know about even if you haven't even read it, like Luke Skywalker's sacred Jedi texts?

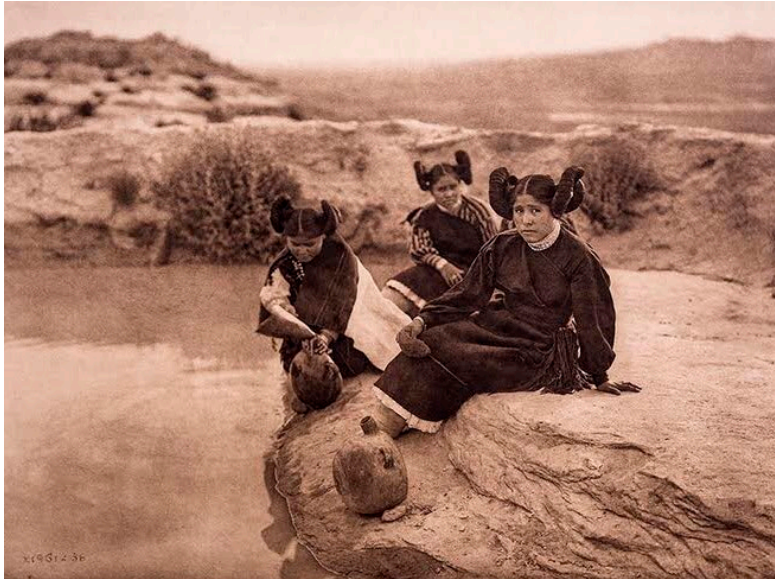
What are you reading next?

Oxford comma – for or against?

Are there any Indians in it?

INDIAN LAW CAPTION CONTEST

THIS WEEK'S CONTEST



“ ”

THE FINALISTS



“These so-called state legislatures? Independent or Idiocratic?”

Alli Anthem, Ann Arbor, MI

“Excellent canonicalism . . . for an antelope.”

Jodie Katalin, Madison, WI

“Democracy + Textualism = Chi moogie abo.”

Darla H.A. Killin, Ann Arbor, MI

THE WINNING CAPTION



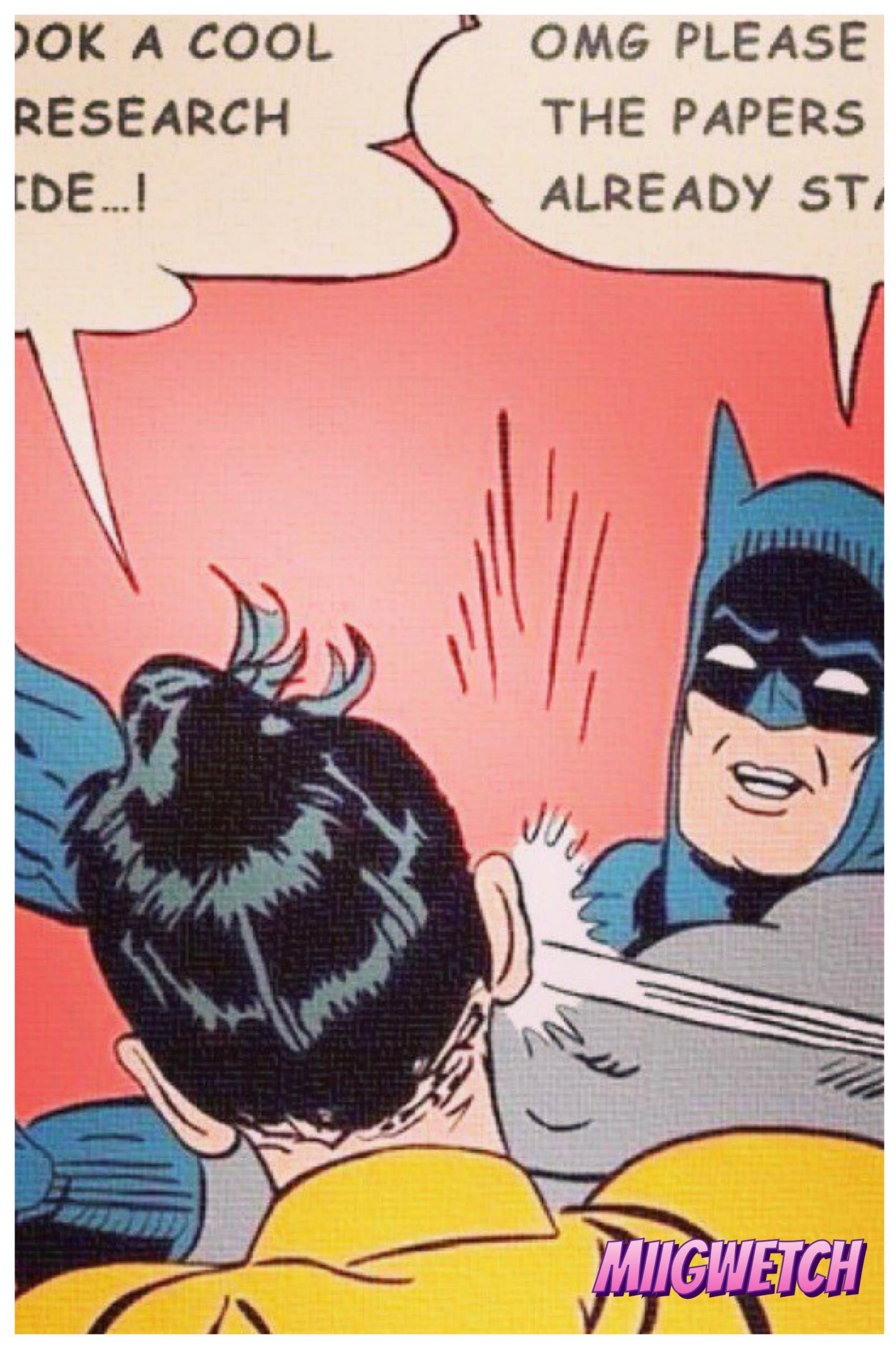
“C'mon, those whales aren't going to catch themselves.”

Agnes Switz Elks, Feast Lansing, MI



ADDITIONAL RESOURCES:

- * FLETCHER/SINGEL: LAWYERING THE INDIAN CHILD WELFARE ACT, -- MICH. L. REV. (FORTHCOMING 2022), [HTTPS://SSRN.COM/ABSTRACT=3946588](https://ssrn.com/abstract=3946588)
- * FLETCHER, POLITICS, INDIAN LAW, AND THE CONSTITUTION, 108 CALIFORNIA LAW REVIEW 495 (2020) — EQUAL PROTECTION
- * FLETCHER, INDIAN CHILDREN AND THE FIFTH AMENDMENT, 80 MONT. L. REV. 601 (2019) — MORE EQUAL PROTECTION
- * FLETCHER/SINGEL, INDIAN CHILDREN AND THE FEDERAL-TRIBAL TRUST RELATIONSHIP, 95 NEB. L. REV. 885 (2017) — CONGRESSIONAL POWERS



OOK A COOL
RESEARCH
IDE...!

OMG PLEASE
THE PAPERS
ALREADY STA

MIIGWETCH