

CHAPTER 4

Piper v. Big Pine— the Forgotten

My generation is now the door to memory. That is why I am remembering.

—JOY HARJO, poet, Muscogee Nation

The photographer desperately tries to get all the students to look in the same direction and sit still, if only for a moment. The boys seem tired of sitting in the hot sun, perhaps fidgeting with their shirts and ties in hope of some relief. The White kids look comfortable and almost confident, especially Albert, the boy in the front row. He sits there relaxed, as if he has had his picture taken before. For the others, the tan-skinned reminders of a promise forcefully fulfilled, it is their first time.

The White boys' hair is cut and combed close to their heads. The Paiute boys have hair that is thick and looks shaggy, especially Jeff and Ike. They both look like they do not want to be there. The White boys have their fancy bow ties and neckties . . . except one. Maybe that is why he was put in the back? One of the Paiute boys has a tie, but he doesn't appear to know how to tie it; it sits lopsided, looking like two tails hanging side by side. Another boy didn't bother at all, opting for a crisp white shirt. Still another boy has donned a suit, a full dark suit in this heat!! His parents must have spent a lot of money for it—I think they knew this day was special. Only one of the White boys, Hank, is wearing a suit, and he didn't even bother buttoning it up. Instead, he stands there, hands in his pockets, looking like a future elected official.

The other girls are all dressed up in pretty white dresses. Only one of them, Banta, looks like her dress was made at home. Amid all the bangs and pressed dresses of the White girls sits Alice, wearing a long-sleeved dress. Her hair is much darker than the other White girls', but her skin is as light as theirs. She almost looks like the actress Louise Brooks, as her hair is bobbed like pictures found in American Hairdresser magazine.



FIGURE 4.1.

Big Pine School integrated, 1925. *Top (L–R):* Weldon Bartels, Hank Houghton, Charlie Connors, Blanch Steward, Ken Steward, and Marvin Steward. *Middle (L–R):* Alice Piper, John Davito, Banta, Jeff Tibbe. *Bottom (L–R):* Ike Baker, Maxine Brown, Albert Cuddubac, Myrtle George, Ward Rogers. Courtesy of Big Pine Paiute Tribe of the Owens Valley and Big Pine Unified School District.

The Paiute children seem clustered together. Alice and John look like they are excited to be there. Their look is filled with the promise of a better education beyond baking, cleaning, sewing, and physical labor. They have the look of dreamers . . . of children who know their world is bigger than Big Pine. Banta, Jeff and Ike, on the other hand, look as if they were forced to be there, unwilling participants of a legal victory. Ike, especially, looks as if he is saying, “When can I go home?” This is the first picture of all the children together—a moment frozen in time whose effects touched every Native child in the state. It is a photograph that says, “We belong here too!”

Figure 4.1 captures the end result of the *Piper v. Big Pine* story. However, these students’ journey to belonging began much earlier and wove a complicated tale pitting formal and informal modes of storytelling against each other. While the research on *Piper* is scant, what exists is informative. Only two scholars have written about the case, and they both identify it as the most influential one in Native American educational history.¹ While interdisciplinary scholar Nicole Blalock-Moore was able to secure newspaper accounts and some archival material regarding either the case or the political atmosphere of Owens Valley at the time, much of the story of Alice Piper has been told from an outsider’s perspective rather than

that of someone within the Big Pine Paiute Tribe of the Owens Valley. The story of the case from the Paiute point of view has largely been passed down through the oral tradition characteristic of Indigenous cultural practices.

Capturing the Paiute ethnohistory requires, in the words of Indigenous scholar Leo Killsback, an understanding that “time must be deconstructed, especially when discussing Indigenous peoples and their histories.”² As a result, traditional methodologies must be decolonized as suggested by Linda Tuhiwai Smith. Smith contends that telling history from an Indigenous perspective requires an understanding that much of it is “rewriting and *rerighting* our position in history.”³ Indigenous communities, she explains, possess “a very powerful need to give testimony to and restore a spirit, to bring back into existence a world fragmented and dying.”⁴

In an effort to *reright* the story, I rely on both traditional and decolonized methodologies. In this chapter, I first provide the story according to traditional methodologies (i.e., archival research, newspaper accounts, and secondary research). I identify this section as the research according to “the papers.” Next, I deliver a fuller account of the *Piper* story as I learned it from “the people.” This narrative includes not only past understandings of the case but also the contemporary efforts to ensure that future generations will always remember Alice Piper and her legal struggle for equality. Learning the stories from the papers and the people allows for a richer understanding of the parties involved, including both an outsider’s perspective and an insider’s understanding.

What the Papers Say . . .

The year was 1924 in Owens Valley of Big Pine, California, home to members of the Paiute and Shoshone Tribes. Two important historical events coincided with the *Piper* decision: a bitter struggle for water rights and the closure of Indian schools across the country. The fight over water rights had begun as early as the 1860s, when White settlers helped themselves to the Owens Valley Paiute irrigation system, thereby destroying the Paiute food supply.⁵ In 1907, the state government designated Owens Valley as an area that would supply water to Los Angeles via an aqueduct set to be completed in 1913. Between 1905 and 1935, the Los Angeles Department of Water and Power purchased several acres of land from the Owens Valley Paiute farmers and ranchers.⁶ The ultimate battle over water rights challenged the deceptive manner of obtaining signatures for the 1937 Land Exchange Act. This statute effectively stripped the Owens Valley Paiutes of their rights to land and its life-sustaining water. In fact, Owens Lake became a “dry lake bed” as a result of quenching the demand for water pulling from Los Angeles.⁷

As water was being drained from the community, children all over the country were returning to their homes after taking part in the failed system of Indian day and boarding schools. Indian day and boarding schools had begun shortly after the passage of the 1887 Dawes Act, introduced by Senator Henry Dawes. Also known as the “Indian Emancipation Act,” the ordinance allowed the president of the United States to, at his discretion and *without the consent of tribal leadership*, deed 160 acres of reservation lands to the heads of Native American families. This land would be ineligible for sale for twenty-five years, and participants in the program would be granted U.S. citizenship. The act’s stated goal was to “protect” Native Americans from theft so that they could farm their own land, “adopt civilized habits,” and live side by side with their White neighbors, who also received 160 acres from the reservation “surplus.” The *Congressional Record* explained what supporters of the measure anticipated: “With white settlers on every alternative section of Indian lands there will be a school-house built, with Indian children and white children together; there will be churches at which there will be an attendance of Indian and white people alike. . . . They [Indians] will readily learn the ways of civilization.”⁸ Despite its stated beginnings, the Dawes Act ultimately resulted in the loss of over ninety million acres of “Indian land,” making Indigenous nations landless and impoverished.⁹

In the late nineteenth and early twentieth centuries, the federal government determined that the best way to ensure civilization was through education. With the goal of assimilation, the Dawes Act allocated funding to public schools that taught Indian children beside White children. The ranks of public schools, however, did not swell with Indian youths. Instead, America witnessed the tremendous growth of government-sponsored Indian boarding schools and trade schools purporting that the best path to civilization was removing children from the reservation.

According to Indigenous education scholar David Wallace Adams, over twenty-one thousand Native American children were removed from their homes. Even so, Indian commissioner Frances Ellington Leupp declared these tactics an abysmal failure by 1905. Shortly after this declaration, the population of Indigenous children in public schools increased dramatically (Table 4.1, Figure 4.2).¹⁰

We learned from the *Tape* case that separate Indian schools were already determined to be legal provided they were equal.¹¹ By 1912, the federal government begged California public schools to accept more Native American children.¹² These students weren’t admitted until the 1920s, only after the government confirmed that public schools would receive more federal funding.

In Big Pine, the government-run Indian school was established in 1891.¹³ As federal schools closed around the state, public school systems were required to

TABLE 4.1
Distribution of Indian Students by Institutional Type, 1900–1925

	1900	1905	1910	1915	1920	1925
GOVERNMENT SCHOOLS						
Off-reservation boarding	7,430	9,736	8,863	10,791	10,198	8,542
Reservation boarding	9,604	11,402	10,765	9,899	9,433	10,615
Day schools	5,090	4,399	7,152	7,270	5,765	4,604
SUBTOTAL	22,124	25,537	26,780	27,960	25,396	23,761
Public Schools	246	84	2,722	26,438	30,858	34,452
OTHER						
Mission, private, and state institutions	4,081	4,485	5,150	5,049	5,546	7,280
TOTAL	26,451	30,106	34,652	59,447	61,800	65,493

SOURCE: *Annual Report of the Commissioner of Indian Affairs (ARCLIA)*, 1900, 22; *ARCLIA*, 1905, 50; *ARCIA*, 1910, 56; *ARCIA*, 1915, 51; *ARCIA*, 1920, 147; and *ARCIA*, 1925, 51. Drawn from *Education for Extinction: American Indians and the Boarding School Experience, 1875–1928*, 2nd ed., by David Wallace Adams, published by the University Press of Kansas, © 1995, 2020, www.kansaspress.ku.edu. Used by permission of the publisher.

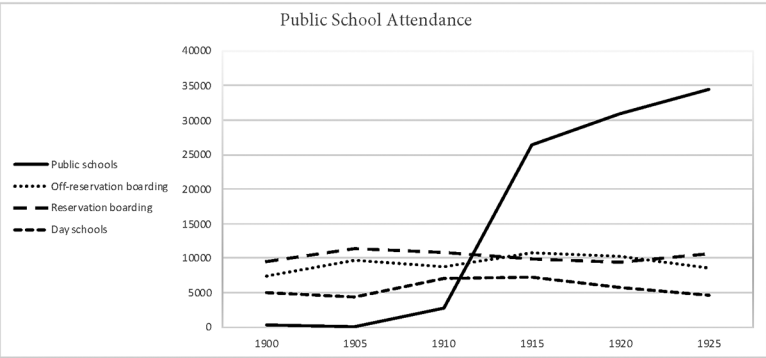


FIGURE 4.2.
Rise in public schools (1900–1925).

accept the displaced children due to compulsory attendance laws. By 1920, the population of students in California’s government-run schools had dropped by 25 percent.¹⁴ By 1920 a brand-new facility housing Big Pine’s public high school was constructed, and Paiute parents, including Alice Piper’s, expressed interest in enrolling their children. During the fund-raising efforts for the new high school, members of the Paiute community were very much a part of the process, and they were also “promised that their children would be able to come to school here.”¹⁵ In *Piper*, the judge described the public school system of California as “a prod-

uct of the studied thought of the eminent educators of this and other States of the Union.” The justice continued, “Each grade is preparatory to a higher grade, and, indeed, affords an entrance into schools of technology, agriculture, normal schools, and the University of California. The common schools are doorways opening into chambers of science, art, and the learned professions.”¹⁶ With such a promise of advancing education beyond the traditional trades taught at the government-run school, it was no wonder the Pipers sued for Alice’s right to walk through the doorways afforded by California public schools. Yet the school board closed the door, citing Political Code §1662 requiring Indian children to attend a government-run school within a three-mile radius of their homes.

In December 1923, the Pipers, through their attorney J. W. Henderson, filed a writ of mandate for the California Supreme Court to review the administrative decision not to admit Alice to the all-White public school. Six other students joined the suit because they, too, were excluded from attending the local White school on the basis that they were Indian. Henderson delivered two arguments. First, he maintained that because the Pipers were citizens and lived away from the reservation, Alice was eligible to be admitted to the local school via the Dawes Act. Second, using the Fourteenth Amendment, he challenged the constitutionality of Political Code §1662 and its three-mile radius requirements, as well as the board’s ability to create separate schools for Native American children so long as they were equal in every substantial respect. At that time, Big Pine had a government-run school for Native Americans, but Alice lived approximately thirty miles away in Fish Lake Valley and was therefore not required to attend.¹⁷

The board argued that the federal school was “in all respects . . . equal” to their public school, and was “better adapted to the education of members of the Indian race.”¹⁸ Board members also argued that there were plenty of private schools that Alice and her family could consider in lieu of the public school system. Furthermore, they claimed that admitting Alice and the other six children would increase the attendance of other Indian children, “who [could not] be cared for because of the economic or administrative problem which it [would] create.”¹⁹ Finally, because the board maintained that it would fight the matter to the California Supreme Court, the application for writ was made directly to the state supreme court and accepted.

The court held that even though Alice was a “descendant of the aboriginal race,” the policy of the federal government had been “to promote the general welfare of the American Indian, even to the point of *exercising paternal care*.”²⁰ Under the Dawes Act of 1887, the Pipers were considered citizens of both the United States and California because they maintained “a residence separate and apart from any tribe of Indians . . . and [had] adopted the habits of civilized life.”²¹

Since they were citizens who lived apart from the Paiutes, and since the board had not established its own public Indian school, Alice was entitled to attend the all-White public school. In a letter dated June 4, 1924, Jess Hession, the district attorney from Independence, wrote the following to Mr. L. L. Goen, a clerk for the Big Pine School District:

Dear Mr. Goen,

I beg to advise that I am to day [*sic*] in receipt of a postal card from the Clerk of the Supreme Court, informing me that on the 2nd of this month the Court ordered the writ to issue as prayed for in the Alice Piper case. This means that the Court has taken the petitioner's view of the law in the case and is undoubtedly holding the state law unconstitutional so far as it attempts to make the Indians attend a government school. I will be in receipt of a copy of the opinion in a few days and will know than [*sic*] definitely what they have done. We gave them the best we had and apparently had them stuck for awhile [*sic*] anyway.

Yours very truly,

(signed) Jess Hession.²²

The final sentence in the letter provides some insight into how desperately the school board did not want to admit Paiute children. The notion that attorneys “apparently had them [the Pipers] *stuck* for awhile anyway” provides evidence of using the court system to delay the process or at least delay the decision to admit Alice.

Coincidentally, the *Piper* decision was issued the same day that Congress passed the Indian Citizenship Act of 1924 declaring all Native Americans, regardless of tribal affiliations, U.S. citizens with the right to vote. While this event could be coincidental, the decision did come at a time when the country was experiencing large shifts in Native American policies. Enrollment in government-run schools in California had dropped by 25 percent by 1920, and the federal government was not reimbursing public schools that accepted Native American students.²³ This perfect storm of state policy, federal policy, structural changes in education, and the collective response of Indigenous communities made the *Piper* case so unique compared with the other four Native American cases discussed in chapter 2.

What the People Say . . .

I interviewed representatives from the Big Pine Paiute Tribe of the Owens Valley and a representative from the Big Pine Unified School District. Those individuals are listed in alphabetical order below:

Danelle Gutierrez, tribal historic preservation officer
 Pamela Jones, superintendent of Big Pine Unified School District
 Sage Andrew Romero, outreach coordinator for the tribe

Together, they shared a story of a family who did not, as the *Piper v. Big Pine* opinion suggested, abandon their Paiute heritage. Instead, they fought for the dignity of their tribal legacy and the right to secure an education beyond trades.

According to Pamela Jones, the families participating in *Piper v. Big Pine* “did not necessarily want to be assimilated but they wanted to be a part of this new world they were building, and they wanted the best thing for their children.”²⁴ Gaining access to the White public school required them to surrender their identities and communities. Yet for the Pipers and the families of the six other children involved in the case, it was a matter of gaining access that was deserved.²⁵ In fact, as Sage Romero shared, “These were the ones that were sticking to it. They were like telling them, ‘We’re not gonna move!’ It’s not like they were stepping from the people because they were stronger with their culture and their homeland.” Indeed, Pike and Annie Piper’s Office of Indian Affairs (OIA) records were signed six years *after* the case. In those papers, the Pipers affirm their Paiute identity and list the residence they maintained on tribal land.²⁶ They were absolutely members of their tribal nation (Figure 4.3).



FIGURE 4.3.

Big Pine Paiute community, date unknown. Alice Piper is the first person in the last row from the left. Pike Piper, her father, is the first man on the far left. Annie Piper is not pictured. Courtesy of Big Pine Paiute Tribe of the Owens Valley.

According to their OIA records, Pike and Annie Piper claimed membership in the Paiute Tribe of Inyo County, California. Pike Piper stated he had one-half degree of “Indian blood” because his mother, Sepsey, was full Paiute and his father was White. His mother’s Indian name, typed phonetically, was “Te-va-ku-wa.” When asked to list his father’s name, Pike simply answered, “Do not know.” It appears from the records that he knew his family lineage on his mother’s side, including the identity of his maternal grandfather (“Co-ma-hah-nuh-gu”) and grandmother (“Ya-pah-cu-ha”). Unfortunately, he knew nothing from his father’s side. Pike, too, had an Indian name, “Maw-che,” as dictated in the record.²⁷

Annie Piper, according to her records, was full Paiute. Her maiden name was Stewart. Her parents, Mike and Peggy, were also known as “Wo-ho-ki-ke” and “Pow-now-we,” respectively, and they were married according to “Indian Custom.” Unlike Pike, Annie knew both her paternal and maternal grandparents, who were all members of the Paiute Tribe.

From the opinion of *Piper v. Big Pine*, it sounds as if Pike and Annie had separated themselves from tribal affiliations. The court record reflects that the couple had “adopted civilized habits,” but it doesn’t explain what those habits entailed other than choosing to live off the reservation and owning land unconnected to a tribe. However, the Pipers’ OIA records and my informants demonstrate the family’s clear connection to their Paiute Tribe. This begs the question of whether compliance with the Dawes Act was nothing more than a legal strategy to establish U.S. and California citizenship in order to win the case. To solidify the Pipers’ connection to the land, Danelle Gutierrez explains a custom that solidifies the Pipers’ connection to the land: “Traditionally . . . and even to this day, back then families in their birthing ceremonies would do it some place special that connects them to their area to their ground that locks you in . . . gives you your strength . . . and calls you back and what keeps you solid.”²⁸

What did Alice do after graduating from Big Pine? According to her father’s OIA record, she was “attending high school at Los Angeles California.”²⁹ Thanks to the information found in over two hundred pages of her federal employment record, her life after the case becomes more defined. She attended Polytechnic High School in Los Angeles. While she did not formally graduate, she did complete the twelfth grade in 1930.³⁰ For several years between 1931 and 1938, Alice worked a variety of jobs from arranging programs for young Indigenous girls with the YWCA to serving as an interpreter in Bishop, the next town over from Big Pine.

Her life changed in 1938 when she began working at Stewart Indian School. Like that of many Indian boarding schools, the history of Stewart is fraught with conflicting stories of acceptance and abuse.³¹ The role Alice played in those stories is unclear. However, it seems she had a special connection with the school, because



FIGURE 4.4.
Alice Piper's Stewart Indian
School photograph, date
unknown. Courtesy of
an anonymous donor to
the Big Pine Paiute Tribe
of the Owens Valley.

she returned after leaving to get married in 1939 and resigning for unknown reasons in 1951.³² According to her employee records, Alice served in various positions but spent most of her time working in the boys' dormitory (Figure 4.4). Her employee application notes indicate an affinity for the children under her care. She listed her job responsibilities as the following: "Organize and teach boys so that in each job he performs, skills are developed, ideal habits are formed, attitude and appreciation are developed and related knowledge is acquired. Be available for counseling and advise any time. Encourage religious and athletic activities. Have mixed group house parties where they do the planning." This entry is a conflicting mixture of institutionalization, autonomy, and emotional support. On the one hand, what exactly are "ideal habits"? On the other, Alice recognized students' need for counseling and advice.³³

In her employment application dated March 20, 1961, Alice wrote the following about working with the "special 5-year Navajo Boys": "Worked with regular high school boys and the special 5-year Navajo Boys. They (Special) were older Navajo—received training equivalent to graduation at 12th grade level. Worked and lived [in] cottage dormitory. The Navajos were non-English speaking group.

[They] understood enough English and interpreted for us (Leaders). . . . The Navajos were different group, older and set in tribal way.” Miss Piper acknowledged that these pupils were a “different group” who were “set in tribal way.” Was it her responsibility, then, to “reset” the boys and teach them “ideal habits?”³⁴

According to a document prepared by Stewart Museum curators, the “Navajo Boys” consisted of young men between the ages of twelve and twenty, some of whom were among the World War II Navajo code talkers.³⁵ The federal government decided that the Navajo “deserved the opportunity to get an education,” which was framed as a reward for their service.³⁶ Designed by Hugh O. Tyler, the Stewart Indian School’s supervisor of vocational training, the Navajo program was a five-year curriculum where the first three years were dedicated to academic studies, and the last two years were split between academics and vocational training. The program began in 1947 with 147 Navajo students who required interpreters and entire dormitories dedicated to them. By 1958, over half of the Stewart students (613) were Navajo.

Alice’s selection (self or otherwise) to be the matron for the Navajo students reveals an underlying confidence from the institution’s leaders that she could manage these young men who did not readily surrender their language. Once again, this information represents the competing realities of Stewart, as do the oral histories about the school collected by the University of Reno.³⁷ Was Stewart a place that offered food, housing, and security? Or was it a place that represented the painful process of being stripped of a unique cultural, familial, tribal, and racial identity and having it replaced it with a monolithic, one-size-fits-all version of an American identity.

Research on Indian boarding schools is rife with individuals whose experiences were too traumatic to share. In other instances, the trauma may not be fully realized. Dr. Eulynda Toledo, founder of the Boarding School Healing Project, shares of her own experience, “I always knew somewhere in my being that I was hurt even though, at age five, I didn’t understand the school’s true mission of ‘killing the Indian to save the man.’”³⁸ Engaging with the history of Stewart Indian School requires an understanding of the role of intergenerational trauma that is outside of my expertise.³⁹ Nevertheless, consistent with other Indian schools, the “curriculum” at Stewart was largely vocational and consistent with gendered roles. The men learned mechanics, carpentry, masonry, and farmwork, while the women learned home economics, music, and arts and crafts and trained to be nursing assistants.⁴⁰ Whether Alice Piper offered comfort or consternation, I do not know. What is known, however, is that she gave over twenty-five years of her life to the children that passed through Stewart, and it is my hope that she showed them love, guidance, and acceptance.



FIGURE 4.5.
Alice Piper's home at 971 Bowers. Author's photograph.

Sick with diabetes, Alice retired on June 29, 1968, at the age of sixty, stating, "There are many days that I do not feel like working."⁴¹ Danelle Gutierrez suggested Alice Piper was *called back* to her home, as evidenced by the fact that she maintained a residence on the reservation until her death (Figure 4.5). Furthermore, Alice's parents were both interred in the burial site maintained by the tribe.⁴² Unfortunately, her home fell into disrepair. However, to the left of the house are the remains of her greenhouse. According to Sage Andrew Romero, Alice was an avid gardener. Danelle explained that someone purchased the home with the intent to fix it up, but she was unsure of where those efforts stood.

The *Piper* story is incomplete without telling the story after the story. During our interview, Pamela Jones and Sage explained how they met at Big Pine's centennial celebration in 2009. There, Pamela suggested that the school needed something to commemorate Alice Piper. "I was thinking a plaque or *maybe* a head," she recalled.⁴³ But Sage dreamed bigger and suggested a life-sized statue.

Through fund-raising efforts, a challenging Kickstarter campaign, various conference presentations, visits to powwows, local radio advertisements, and collaboration with Native American actress Misty Upham and Native American rapper Lady Xplicit, Pamela and Sage earned enough funds to commission an artist in

FIGURE 4.6.
Alice Piper Memorial.
Author's photograph.



Utah. The sculptor created the statue from a sketch rendered by Robert Gutierrez, a local Paiute artist (Figure 4.6).⁴⁴

The Alice Piper Memorial was unveiled on June 2, 2014, the ninetieth anniversary of the *Piper* decision, in a ceremony filled with celebration and tears for having accomplished such an amazing goal. Alice Piper's contribution to educational equality is forever commemorated in a plaque situated at the base of her statue. It says,

ALICE PIPER MEMORIAL

"Fighting for Education, a Paiute Student Breaks Down Barriers"

Alice Piper, the daughter of Pike and Annie Piper, was a 15-year-old Paiute girl living in Big Pine, California in 1924. She, along with other Indian students in Big Pine, wanted to attend Big Pine High School, but was denied

because state law prohibited Native Americans' attendance if an Indian School was nearby. Piper sued the school district claiming the state law establishing separate schools for Indian children was unconstitutional.

The State Supreme Court ruled in her favor. Due to this historic action, the Big Pine School District and Alice Piper are memorialized as major players in the constitutional battle over the rights of Native Americans to attend public schools. The decision has been used as a precedent in other cases such as *Brown v. Board of Education*.

Piper v. Big Pine (1924) 193 CAL 664

HONORING EQUAL EDUCATION FOR ALL

While *Piper* was not cited as *legal* precedent in the *Brown* opinion or briefs filed on behalf of *Brown*, I argue that it set an important historical precedent, particularly in California. Though there are two stories to be told through the papers and the people, the significance of the story is the same: Native American education was transformed that day in the small town of Big Pine, California. As Sage passionately shares in one of several fund-raising videos for the memorial, "Alice Piper has been hidden away for too long and now is the time for us to bring her story out and honor her."⁴⁵

TRIBALCRIT AND PIPER

To reveal the significance of this hidden story and honor the unique racial position of Native Americans, I specifically consider the following TribalCrit tenets: the liminal space Native Americans occupy, the problematic governmental policies built around assimilation, and the importance of obtaining autonomy and self-determination. Together with the two stories of *Piper*, these precepts provide a more layered understanding beyond questions of authenticity, acceptance of assimilation, and surrendered contentedness with being absent from the segregated-schooling narrative.

As it relates to occupying liminal spaces, the Piper family possessed both a racial and a political identity. In its opinion, the court referred to the Pipers as belonging to the "aboriginal race" and as "persons of the Indian race and blood."⁴⁶ The family also possessed a political identity, as established in the OIA records where they outlined their lineage. Recall that the Pipers not only summarized their blood quantum in these documents, but also recognized their Paiute names and revealed that they were married according to "Indian custom." The opinion and the OIA paperwork provide conflicting evidence regarding blood quantum, cultural practices, and federal requirements.

Within CRT, there is much discussion on the one-drop rule for African Amer-

icans and using customs and social relations to identify the “true race” of the racially ambiguous. For Native Americans, however, the one-drop rule is inapplicable. One drop, so to speak, would not be enough to be recognized by not only the tribe but also the government. This biologically determined method of identifying individuals who are Native by blood confounds sociological assertions that race is a social, not biological, construct. Even using the term “Indian race” is problematic because, as Gross explains, “making blood quantum . . . the *sine qua non* of tribal citizenship has helped to turn national identities into racial ones.”⁴⁷ Alice Piper was not a member of the Paiute race. She was a member of the Paiute Nation. The traditional language of race within the race scholarship does not provide a space for the Pipers. The Pipers exemplify what Brayboy calls a “state of in-betweenness,” as represented in the possession of both a racialized identity (“Indian blood”) and a legal/political identity (Paiute).⁴⁸

This in-betweenness is similar to the border identity outlined by Gloria Anzaldúa.⁴⁹ The difference, however, is that a border identity represents the social pressures that arise from living between two cultures: one Mexican and one American. The Pipers’ liminal space was both socially constructed and subject to legal requirements. Furthermore, it was not an internal battle of authenticity. It involved more than “feeling” their race or split identities; it was very often the difference between rejection and recognition. TribalCrit provides the language and the analytic framework necessary to describe the racialized experiences of Native Americans.

Piper also represents the TribalCrit tenet of identifying and interrogating problematic government policies that require assimilation. In order to win their case, the Pipers had to meet certain requirements under the Dawes Act. In its opinion, the court recorded their compliance: “Neither the petitioner nor either of her parents has ever lived in tribal relations with any tribe of Indians or has never owed or acknowledged *allegiance* or *fealty* of any kind to any tribe or ‘nation’ of Indians or has ever lived upon a government Indian reservation or has at any time been a ward or dependent of the nation.”⁵⁰ The requirement for the family to reject their nation of origin and pledge allegiance or fealty to the United States is akin to asking U.S. citizens to renounce their citizenship, cut all ties with their families, sell their homes, move to Mexico, learn Spanish, and pledge allegiance to the Mexican government. Such a suggestion would seem absurd, yet it was standard treatment of sovereign tribal nations within the United States.

The court further conceded that Alice’s political and civil citizenship was not in dispute. They recognized the following: “She is a descendant of an aboriginal race whose ancient right to occupy the soil has the sanction of nature’s code. Since the founding of this government its policy has been, so far as feasible, to promote

the general welfare of the American Indian, even to the point of exercising paternal care, and whenever he has shown an inclination to accept the advantages which our civil and political institutions offer, to permit him to enjoy them on equal terms with ourselves.”⁵¹ This quote not only captures how Alice was raced but also how she was rendered mythical and characterized as bound to the earth. The words are almost romantic, ethereal. Nonetheless, despite the court’s fascination with “nature’s code,” its justices claimed in a completely revisionist fashion that the policy of the federal government was to “promote the general welfare of the American Indian.” To benefit from this government “paternal care,” a Native American must, per the Dawes Act, “voluntarily [take] up . . . his residence separate and apart from any tribe of Indians therein, and [adopt] the habits of civilized life.”⁵² Alice Piper fulfilled what Paige Raibmon calls the “one drop of civilization” rule.⁵³

According to my informants, the Pipers did none of those things required by the court. They remained Paiute through and through. Acquiescing publicly yet subverting the law privately was a legal strategy, and it reveals how lax the policing of assimilation was after the failure of Indian industrial schools. My interviewees posit that the federal Indian schools were no more than glorified trade schools designed to teach Native Americans skills that would ultimately serve Whites. As Sage explained, women were taught to be housekeepers, and men were taught to be groundskeepers.⁵⁴ That Alice’s parents desired to enroll her in the White public school suggests that those skills were not part of the life they imagined for her. According to Pamela, the Piper family “didn’t want to necessarily be assimilated but they wanted to be a part of this new world . . . They wanted the best thing for their children. They wanted access.”⁵⁵

This leads to the third TribalCrit tenet, which identifies Indigenous people’s desire for autonomy, self-determination, and self-identification. I argue that the Piper family then and the Paiute Nation today engaged and are engaging in a powerful form of self-identification. Then, the Pipers rejected government policy and reconciled their liminal positions by maintaining their connection to the Paiute Tribe. Furthermore, photographs of the integrated school show that Alice was significantly lighter skinned than her Paiute classmates. Passing could have very well been a possibility for her. All evidence presented in her life choices, however, points to maintaining a strong connection to her community. She accepted a position as a matron for the Carson City Stewart Indian School. She lived on the reservation. She buried her parents in the tribal cemetery.

Today, the Paiute Tribe continues its efforts of self-determination and self-identification. In coordinating community efforts to erect a memorial to Alice and her role in the *Piper* case, the Paiutes of Owens Valley have “defined them-

selves and create what it means to be Indian.”⁵⁶ They were not “ecology-loving, bead-wearing, feather-having, long-haired” men and women.⁵⁷ They were activists, organizers, and change agents. They did not settle for a plaque, as was initially suggested when discussing the memorial to Alice Piper. They wanted and earned a life-sized statute. As young Paiute student Alicia Peterson explains in one of the many videos created to promote the memorial, “The Alice Piper case isn’t known very much anywhere. It’s kinda sad. That’s our own Native American history. We gotta get it out there and teach it to everybody.”⁵⁸ According to the modern-day keepers of knowledge, *Piper* inspired the Paiute community to redefine and reconstruct the narrative of the case and attempt to insert it into the civil rights narrative. Race scholars should not diminish the contributions of *Piper* to the civil rights narrative simply because the plaintiffs won using the Dawes Act and not the Fourteenth Amendment. If anything, the case demonstrates the complex ways equality was achieved and how, to borrow a phrase from Audre Lorde, it is necessary to use the “colonizers’ tools” against them in order to win.⁵⁹

ALICE PIPER: “A PERSON OF GOOD HABITS AND CHARACTER”

When considering the role of controlling images in *Piper*, the evidence to ascertain how the court perceived Alice and her family is more circumstantial than direct. But for the opinion, a few photographs, and vague recollections from Big Pine informants, we know very little about Alice’s childhood. We know that, at least for legal arguments, she and her family “severed” ties with their Paiute community. These contentions, however, were more ruse than truth. Also, in the opinion, both the attorneys for the Pipers and the school board admitted, “She [Alice] is now and at all times . . . [has] been a person of good habits and character, in good physical health, and . . . she is in need of and desirous of obtaining an education such as is obtainable in the public school of this state and . . . her parents are desirous that she should obtain such an education.”⁶⁰ These “good habits and character” requirements were directly constructed against the same laws that denied children of “filthy or vicious habits” entry into the school. These behavior assessments were mostly assigned to children of color who wished to attend White schools.⁶¹ As such, I suggest that this statement was included in the opinion to counter any notions that Alice and her family were still “uncivilized” or “savage.” As was the case with Native populations, according to the federal government and its education policy, these children were more likely to assimilate, unlike their Black, Asian, and nonpassing Mexican counterparts.

Alice was also the lightest-skinned Paiute child in the integrated photo with her classmates. She might have been able to pass for White. Sporting a plain white dress and a hairstyle more contemporary than those of her blunt-browed

female classmates, she seemed the very picture of assimilation. Alice represented what many of the creators of the Indian boarding schools attempted to capture in photographs.

As for Alice's parents, Pike and Annie, the newspaper accounts were unfortunately limited, generally discussing "Indian schools" without referring specifically to the Pipers. My informants explained that, generally speaking, more is known about Alice's father than her mother. Pike and Alice Piper appear in the community photograph, but Annie is nowhere to be found. In fact, none of the known relatives of the Pipers could produce a photograph of her. Recent articles on the Piper case published in the *Inyo Register* and on the Indian Country Today and Sierra Wave websites only mention Alice.⁶² In the two academic treatments of Piper, Blalock-Moore only mentions the parents' Native and English names and does not go into detail, and Wollenberg, the first academic to write about the case, only mentions Pike Piper.

The reason for this lack of information may be as simple as the fact that only men were allowed to file lawsuits. However, California passed the Married Women's Property Act in 1850, which allowed wives to purchase property, file lawsuits, and manage family assets as the legal representative.⁶³ However, much of the Married Women's Property Act required deference to the husband, and a woman's rights were mostly triggered upon her husband's death. Still, the strength of the daddy-daughter narrative is indicative of a patriarchal society painting men as strong and women as silently supportive.

One thing we do know for sure is that education was deeply significant for the Piper family. After completing her course of study in Big Pine, Alice attended high school in Los Angeles and eventually served as a matron with the Stewart Indian School. She was far from "traditional"—her matron photo alone reveals a well-styled woman wearing lipstick and a simple polka-dot dress. Furthermore, in an anonymously donated collage of photographs, Alice appears in scenes from her life that could never be attributed to a "squaw princess." One image shows her at a traditional wedding at the age of twenty-five (Figure 4.7). In pictures with unidentified female friends and family members at various points in her life from childhood to adulthood (Figure 4.8), Alice and her companions are always dressed in contemporary "Anglo" attire. If only the donor of the photographs were known, I would have a better idea of the circumstances behind each picture. Instead, I am only left to piece together a life that, according to my informants, was well lived.

Alice obtained her education at Big Pine, continued it in Los Angeles, shared it with others in Carson City as a headmistress, and then returned home, where she lived a quiet life tending to her beloved garden. At a minimum, these photographs and stories are evidence that, in those captured moments, she was happy, loved,

FIGURE 4.7.
Wedding party photo, April
16, 1945. Alice is to the right
of the bride. Courtesy of
an anonymous donor to
the Big Pine Paiute Tribe
of the Owens Valley.



FIGURE 4.8.
Alice Piper with unidentified friend and solo, dates unknown.
Alice is on the right of the friend. Courtesy of an anonymous
donor to the Big Pine Paiute Tribe of the Owens Valley.

and connected to friends and family. Taken together, the *Piper* opinion, the photographs of her life, and her family recollections demonstrate that Alice was most certainly not a savage, a traditionally dressed squaw, or a sacrificial maiden as constructed by popular culture for the American imagination. Alice Piper's ability to be mobile, pursue education, and live independently both on and off the reservation situates her, like Mamie Tape, in a middling position where she could not be considered uncivilized, sexual, or poor.