

INDIGENOUS LAWS AND JUSTICE SYSTEM

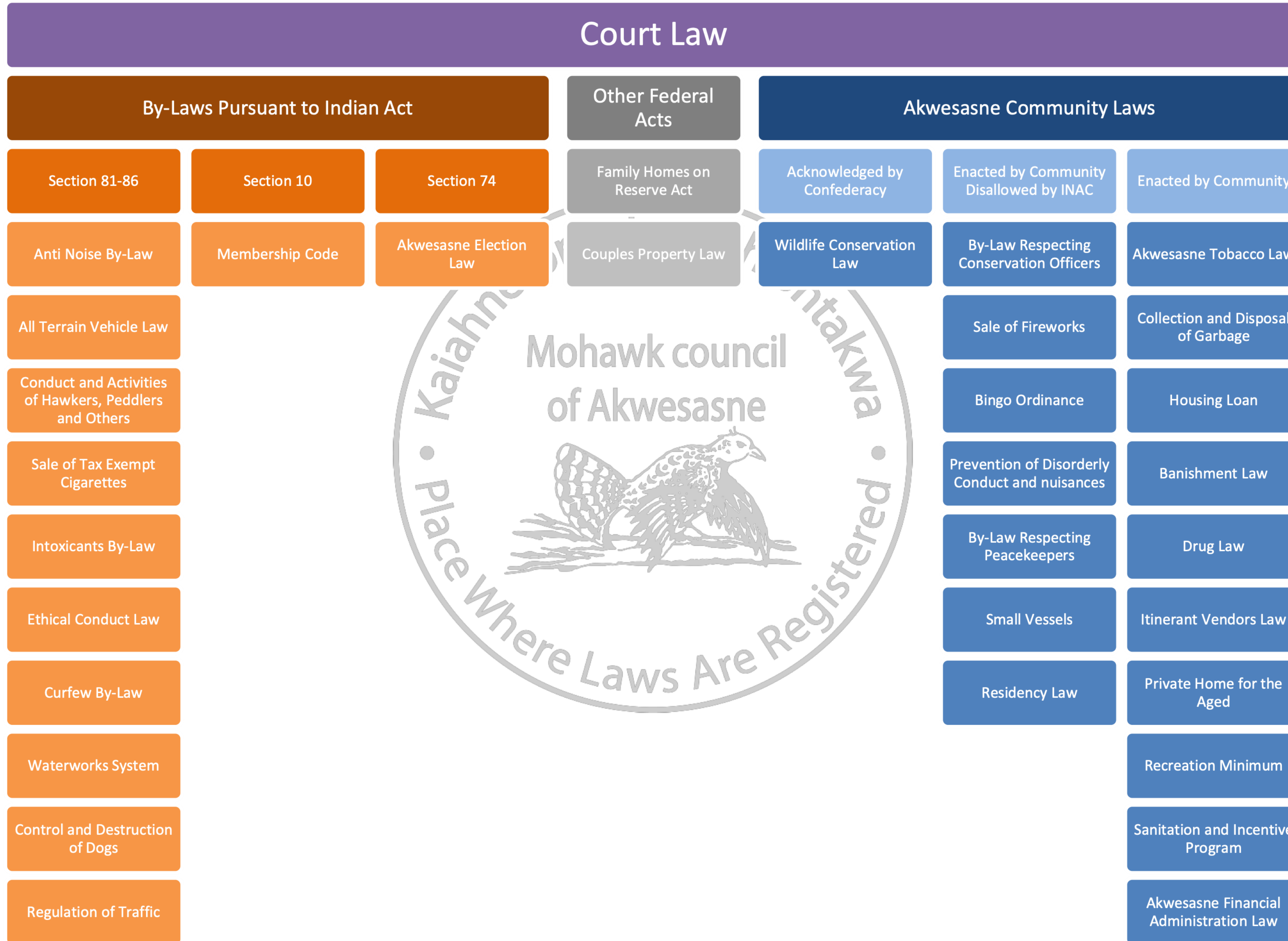
AN AKWESASNE JUSTICE SYSTEM

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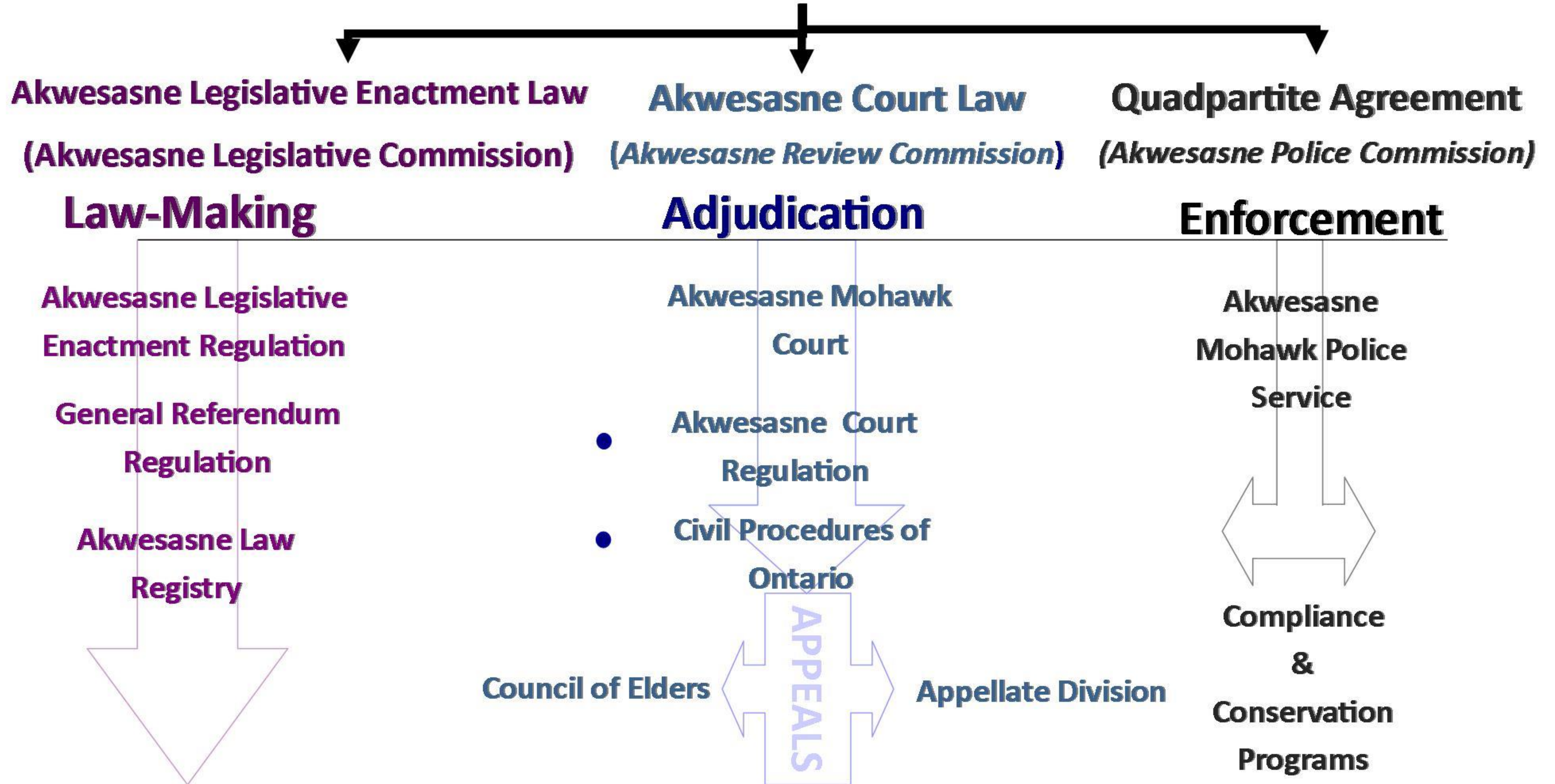
AKWESASNE

- Divided by International border
- Further divided by Quebec and Ontario borders
- Not contiguous to mainland Canada, surrounded by the International Seaway
- People have a right to have their disputes heard and resolved.
- A justice system based on cultural values
- Based on historical relationship with the King of England of mutual respect

Akwesasne Law - Classification



Mohawks of Akwesasne



In designing this paper, much thought has been given to how it would make sense to other people. More importantly, how do Indigenous communities apply restorative justice principles as compared to mainstream society?

We offer the following:

- People own the Court not the government
- Ability to link traditional leaders of those who violate community norms (laws)
- We believe youth are basically good (born with a pure mind)
- Elders needed to teach “healthy Mohawk” behaviour
- Struggle to overcome fast money to ensure sustainability
- Keep charges of the individual at Akwesasne
- Structure has to be acceptable to Akwesasne community (law consultation process)

Akwesasne Restorative Justice Principles	Category	Mainstream Society
Wholistic (Holistic)	<i>Approach to Healing</i>	Separate (mind, body, spirit)
Collective	<i>Rights</i>	Individual
Familial/Clanship	<i>Leadership</i>	Partisanship
Inclusive (Ohenton Kariwatehkwen)	<i>Environment</i>	Earth, Wind, Water
Bring Balance to the person, victim	<i>Justice</i>	Penalize the wrong behaviour
Accepting responsibility for action	<i>Wrong doing</i>	Proof of right or wrong
Persons have gifts	<i>Character</i>	Persons have faults
Person is forgiven if not repeated	<i>Record</i>	Person is labelled: may have written record for life
Life Lessons learned (Elder)	<i>Education</i>	Expertise
Removal from the community	<i>Banishment</i>	Jail
By Gender	<i>Roles</i>	By profession
Based on ability to make a decision	<i>Decision-making</i>	Based on age of majority
Extended Family Unit	<i>Family Rights</i>	Nuclear family unit
No Rape, No Murder, No Theft	<i>Major Crimes</i>	Rape, Murder, Theft
Raised until they decide to leave	<i>Youth</i>	18 is a departure point (mostly)
3 strikes then banishment	<i>Warnings</i>	One warning depending on seriousness of the crime
We need to live together	<i>Neighbours</i>	Contained in own area
Rehabilitation	<i>Sanctions</i>	Retribution
Unique to the circumstances	<i>Remedies</i>	Fines

NOTES

- Collaboration with CIAJ
- Collaboration with McGill University
- Collaboration with Queens University
- Collaboration with Debwewin initiative (jury duty in Ontario)

Identity Crisis

“In order for people to think, they need some facts to help them. In order to govern themselves well, they must know their own history, laws and court cases and decisions. ...

If you cannot govern yourselves to your own satisfaction, there are always those who are willing to govern you to their own satisfaction.”

Ernest Benedict

War Hoop, May 1, 1941

