

CHAPTER THREE
The Indian Reorganization Act





THE INDIAN REORGANIZATION ACT OF 1934,
AND THE ESTABLISHMENT OF THE MINNESOTA CHIPPEWA TRIBE



Prior to the Wheeler-Howard Act, the relationship between the United States government and the Indian Tribes was one which was bound by treaty laws based on the agreements signed between representatives of the government and Indian tribes. In many cases, since the reservation period, agents stationed on the reservations by the Federal government insisted upon total authoritarian control of their Indian wards. In this manner, the agent became an autonomous governing body and administered a form of justice according to his philosophy of law enforcement. Occasionally the agent was acting on behalf of his Indian ward. The Wheeler-Howard Act, also known as the Indian Reorganization Act of 1934, was an attempt to correct the years of bad policy which had placed the Indian in a worse condition than ever before.

Following the treaty period, which began the policy of breaking up communal living among Indians by parceling their lands, the Dawes Act, and more specifically in Minnesota, the Nelson Act, opened reservation land to white settlement through pressure by white people. A formula would allow for each Indian to acquire an allotted piece of land upon which to establish his future livelihood. After the allotting was completed, the remaining land would be sold as surplus to anyone wishing to acquire homesteads. Less than ten percent of the male population signed the agreement, and they did so under the threat of extermination. Congress received the legislation under the impression that the allotting of reservation land would serve as a source of strength to Indian families who would then become self-sufficient. The lands left after the allotting, became the property of white settlers and were incorporated into the state of Minnesota. It should be noted that the policy of allotment affected reservations other than those of the Chippewa.

The Federal government estimated that certain acreages of land tilled by an Indian male could produce enough income for him and his family. The government over estimated the acceptance of this method by using the land base as a stepping stone to the white way of life. Many Indian men refused to farm for years. Those who earnestly attempted farming generally lost their crops to drought and grass hoppers, and lost their social prestige as an adult male.

After 1889, life for the Indian became a process of reluctant surrendering to agency dictatorship. Living on their reservation lands, the Indian had little to expect in the way of rations. Education was forced upon the Indians and children were made to attend schools built by the Federal government. To assure this, the agent was authorized to prevent issuing rations or any other sustenance to families who attempted to keep their children out of school. There were land disputes which developed because of deaths in a family and included children of inter-marriage between whites and Indians.

Eventually, an amendment to the Dawes Allotment Act was passed (May 27, 1902) establishing an heirship system which would allow for adult heirs of a deceased allottee to receive lands by approval of the Secretary of the Interior. Land was still under trust status, as before, under the Dawes Act; however, "patent" fees were conveyed upon eligible Indians by the agent as an indication of their severance from tribal life and laws. The government felt sure that the patent fee was another step toward full American life.

There were two types of patents issued by the government which are defined below, the patent being merely the instrument by which the government conveyed an interest in the land:

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1. **Trust Patent:** Contained restrictive language and also specified that the patent fee was to be held in trust for a period of 25 years.
2. **Fee Patent:** Gave the allottee full title to the land and permitted him to sell or otherwise use or dispose of the land without approval from the Secretary of the Interior.

This matter was further complicated in 1917 when the new commissioner of Indian Affairs set forth his goals to separate full bloods and mixed bloods, to discontinue federal supervision of competent Indians, and to make the incompetent become competent. Debates occurred which still provide precedents in determining a competent Indian from an incompetent Indian.

According to this policy, all competent Indians of less than one-half blood were to be given Patent Fees and, thereby, control of their own lives. Between 1906 and 1920 there were 20,850 patent fees distributed to the Indians across the United States. This procedure became another governmental policy disaster. The competent Indians selected by the agency immediately sold or lost, through fraud, their land holdings, and as a result they had to continue living on the reservation with relatives.

Without lingering upon the citizenship of Indians too long, students should review a ceremony that actually existed which conferred citizenship upon Indians receiving patent fees. This written ceremony, performed by the Agent, is included in "Of Utmost Good Faith" by Vine Deloria, Jr. and is quoted here:

Representative of Department speaking:

The President of the United States has sent me to speak a solemn and serious word to you, a word that means more to some of you than any other that you have ever heard. He has been told that there are some among you who should no longer be controlled by the Bureau of Indian Affairs, but should be given their patents in fee and thus become free American citizens. It is his decision that this shall be done, and that those so honored by the people of the United States shall have the meaning of this new and great privilege pointed out by symbol and by word, so that no man or woman shall not know its meaning. The President has sent me papers naming those men and women, and I shall call out their names, one by one, and they will come before me.

For men: (Read name).———(white name). What was your Indian name?
(Gives name).

———(Indian name). I hand you a bow and arrow. Take this bow and shoot the arrow. (He shoots).

———(Indian name). You have shot your last arrow. That means that your are no longer to live the life of an Indian. You are from this day forward to live the life of the white man. But you may keep the arrow, it will be to you a symbol of your noble race and of the pride you feel that you come from the first of all Americans.

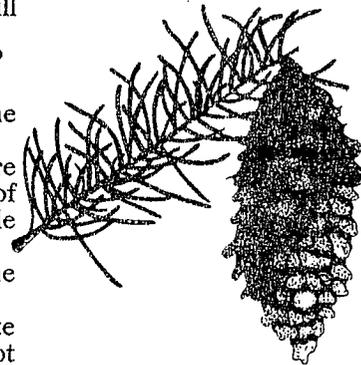
———(White name). Take in your hand this plow. (He takes the handles of the plow).

This act means that you have chosen to live the life of the white man--and the white man lives by work. From the earth we all must get our living, and the earth will not yield unless man pours upon it the sweat of his brow. Only by work do we gain a right to the land or to the enjoyment of life.

———(White name). I give you a purse. This purse will always say to you that the money you gain so that when the sun does not smile and the grass does not grow, he will not starve.

I give into your hands the flag of your country. This is the only flag you have ever had or ever will have. It is the flag of freedom, the flag of free men, the flag of a hundred million free men and women of whom you are now one. That flag has a request to make of you,———(white name); that you take it into your hands and repeat these words:

"For as much as the President has said that I am worthy to be a citizen of the United States, I now promise to this flag that I will give my hands, my head, and my heart to the doing of all that will make me a true American citizen."



For women: Allie Fox Duncan (white name). Take you hand this work bag and purse. (She takes the work bag and purse).

This means that you have chosen the life of the white women--and the white woman loves her home. The family and the home are the foundation of our civilization. Upon the character and industry of the mother and homemaker and largely depends on the future of our Nation. The purse will always say to you that the money you gain from your labor must be wisely kept. The wise woman saves her money, so that when the sun does not smile and the grass does not grow, she and her children will not starve.

I give into your hand sthe flag of your country. This is the only flag you have ever had or will ever hae. It is the flag of freedom, the flag of free men, a hundred million men and women of whom you are now one. That flag has a request to make of you,----- (white name), that you take it into your hands and repeat these words:

“For as much as the President has said that I am worthy to be a citizen of the United States, I now promise to this flag that I will give my hands, my head, and my heart to the doing of all that will make me a true american citizen.”

And now beneath this flag I place upon your breast the emblem of your citizenship. Wear this badge of honor always; and may the eagle that is upon it never see you do aught of which the flag will not be proud.

(The audience rises and shouts: “Allie Fox Duncan (white name) is an American Citizen).”

It was after World War I that the Congress realized Indians were not really citizens of the United States. They had signed treaties and agreements, but no special legislation conveyed equal rights to Indian citizens. This situation was important in terms of administering justice and setting land disputes. There were also problems with railroads, right of ways, mineral oil, gas leases and still lingering patent fees problems. Instead of resolving the issue by giving Indians a greater voice in Indian affairs, the government passed another amendment allowing for increased authority for the agent, with approval of the Secretary of the Interior, over all matters. Indians who had previously been accorded citizenship through patent fees or by leaving the reservation and living apart from their own people were now given full citizenship without any special criteria.¹

Indians were brought to the attention of the American public by the late 1920's. They were labeled a problem because the policy of assimilation, or civilizing the Indian, had not worked. The original reservation allotments, beginning with the Dawes Act in 1887, had been approximately 140 million acres. By 1934, there were only 48 million acres left in Indian ownership. The patent fee policy, land-hungry white settlers, state tax agents, banks, and/or county assessors had done away with the majority of Indian lands. Indians were also experiencing ill health and poverty; employment was almost non-existent on the reservation.

The total situation revealed to Congress that it had paid attention to the Indian only once in the thirty-years since the Dawes Act, was not adequate to alleviate the vast number of land and judicial problems that the agent had to resolve. The attempt to take away Indian lands and place them within white ownership was recurring. This was best exemplified in 1922 when a bill submitted by Senator Bursum attempted to give non-Indians land holdings within the Indian Pueblos.

Protest against this bill came from combined eastern Indian rights organizations which saw a future in Indian reform movement and would sweep across all Indian reservations. These groups would require the Agents and their staffs to protect the Indians against local politicians, bankers, businessmen, judges, and other land grabbers.

As a result of pressure, the Secretary of the Interior ordered an investigation into Indian affairs and control over Indian reservation. **The Problem of Indian Administration**, by W.F. Willoughby, was the result of this investigation in which public attention was focused on the life of an Indian under an agent and his person. Edited by Lewis Meriam, this report became known as the “Meriam Report” and gained much public support.

¹ Indian Citizenship Act, June 2, 1924.

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After the Meriam Report,² a petition was written and signed by more than 600 of the country's leading citizens. It was given to Franklin D. Roosevelt on January 28, 1933. The petition stated:

"In justification of our request, we point out that the Indians are dependent on the United States government and are at its mercy in ways and to an extent true of no other elements of our population. They depend upon the Federal government for nearly all services-economic, educational, social, and human, which other populations receive through many Federal departments, through the State and county governments, through the private welfare agencies, and through their independent actions of organized self-help. The government, as trustee, has not been thrifty with the Indians estate. . . the system of property administration, not yet organized, isures in its very structure the continued shrinkage of Indian lands, with the complete ultimate disinheritance of more than two-thirds of the Indians still holding property under government trust. A comparable dissipation has taken place, and is continuing with respect to Indian-owned natural resources and the funds derived from their exploitation. So great is the Indians distress in many tribes, and so rapid is the shrinkage of Indian property held in trust by the government, that we do not believe that we are exaggerating when we suggest, not only an Indian Administration of extra-ordinary determination and technical ability but a reorganization of the governments system of Indian Affaris, including extensive reconstruction of Indian Law."

This petition was recited in full in a speech by Honorable William H. King to the 72nd Congress, second session, in 1933. Senator King of Utah also presented a resolution to investigate the conditions of Indians. It was passed, along with several others, until the 78th Congress in 1944. Hearings were held among the reservation people across the United States in order to establish the condition among Indians.

The Indian reform movement did not end with public pressure or congressional hearings. Several active members also became top government officials.

A new era was beginning with the new policy of making the Indian a self-sustaining American citizen as rapidly as possible. The new policy makers were so confident of success, as 25 year period was set to accomplish their task, beyond which time the Indian Office would no longer exist.

John Collier, the Commissioner of Indian Affairs in 1933, was also an Indian Reform Movement member. He advocated that Indian children be sent to schools closer to their homes and that Indian customs, religions, and forms of art be allowed to exist without interference. He brought Indians into the Indian Office as civil servants. During the depression, the Indian Civilian Conservation Corps was organized, and Indians became involved in building roads, dams, and houses on their reservations. From these successes, Collier and others informed Congress of the need for programs to insure greater self-sufficiency among Indians.



THE PERIOD IMMEDIATELY FOLLOWING THE MERIAM SURVEY



On June 18, 1934, Congress passed new criteria in the Wheeler-Howard Act, also know as the Indian Reorganization Act. Indians would be allowed to vote on various legislation before it would be put into the original draft of the bill. This included previously unheard of authority for Indian communities to fill positions in local field offices, take over and operate functions and services, and to vote on whether to discontinue certain services. The Secretary of the Interior would make a legal transfer of funds for lands, buildings, and equipment to the local communities; and, in turn, the communities would make an annual request to the Secretary of the Interior to secure funds for continued operation.

² Francis Paul Prucha, Documents of United States Indian Policy.

Sections were deleted, revised, or amended during the various Indian Congresses held to consider this legislation. The recommendations from these Indian Congresses shaped the emphasis of the bill. When discussions ended, the tribes voted on acceptance or rejection of the Indian Reorganization Act. A total of 263 tribes voted. 192 tribes voted to accept the Indian Reorganization Act, 71 tribes rejected to bill.

The results of elections in Minnesota to accept or reject the I.R.A. Charter is as follows: ³

November 15, 1937

VOTES BY RESERVATION	YES	NO	TOTALS
White Earth	802	202	1004
Leech Lake	236	178	414
Fond du Lac	74	120	191
Nett Lake	171	24	195
Grand Portage	57	23	80
Mille Lacs	140	63	203
TOTALS	1480	610	2087

In addition to voting for the Minnesota Chippewa Tribe Charter, reservations were also responsible for holding public elections to adopt such charters on each of the six reservations. These sub-charters are what are known as Reservation Business Committees. (see unit number IV, Minnesota Chippewa Tribe, Structure and Powers.)

The response of the Indians to the Indian Reorganization Act is relayed through the interviews of many South Dakotan is **To be an Indian, An oral history**, by Joseph Cash and Herbert T. Hoover. Their views show the manipulation of Federal officials regarding the passage of the Act, as well as the constitutions governing the Indian Tribes. Another source of discussion concerning the Indian Reorganization Act is in the transcripts of the Indian Congresses which were held on a regional basis in Rapid City, South Dakota; Santo Domingo, New Mexico; Fort Defiance, Arizona; Salem, Oregon; Phoenix, Arizona; and Riverside, California.

There were nineteen sections of the Indian Reorganization Act covering the implementation of various policies. Section 18 of the Act restricted the benefits of this legislation from any reservation which voted to reject it. Tribes who rejected the Indian Reorganization Act could never adopt a constitution under its provisions. It should be pointed out that many of the tribes and reservations (such as the Navajos of Arizona and the Chippewa Indians of Red Lake) rejecting the Indian Reorganization Act so in order to retain their own traditional self-government.

In Minnesota, there was a considerable amount of opposition at the local reservation level to the I.R.A. and sub-charters as designed by the bureau employees. Indian office bureaucrat Jacob Munnell and Cass County Attorney Edward Rogers were accused of tailoring the constitution to the needs of the local Indian office and giving too much authority of the Tribal Executive Committee. During the September, 1938 meeting in Naytahwaush, Joe Morrison, tribal delegate, stated:

"You (Mr. Broker) know as well as I do that the constitutions and by-laws have tied the Indians hand and foot in such a way that we can hardly wiggle, of course, naturally since the Indian office made this charter we are kind of afraid that it will give the government employees more authority than it should. We did not have our attorney explain these things to us, but we can construct the words to suit the government office and if this is the case, we do not want the charter."⁴

³ Statistics from the United States Archives.

⁴ M. Burris, Minnesota Chippewa Tribe government history.

Morrison also charged that the delegates were ill-informed because they did not have the benefit of an attorney to tell them of the consequences of organizing as they did. In *The American Indian Journal*, published in Duluth, the editor charged the Indian office of rushing the Indians into forming the organization as they did.

“Considering the fact that Minnesota Indians were inveighed to accept the Act, to “adopt” and “ordain” the constitution drawn up for them under Indian office direction, and to accept the Tribal corporate charter by frenzied campaigns which smacked of ward boss tactics, those Indians who blindly accepted the conduct for the Indian Bureau officials heaped vituperation and abuse upon Indians who questioned the sincerity of the much heralded home rule extended to them and to Indians who otherwise hold divergent views from the Bureau.”

Volume 1. no. 1, May 1938

There existed considerable confusion over the need for sub-charters on the reservations. In a meeting held September 17, 1938 at Naytahwaush, Minnesota, Frank Broker, first TEC President, told the group assembled that the charters were to be tailored to fit the reservation.

“The charters will be just a little different on each reservation to meet their modes of living. White Earth is considered an agricultural country. Grand Portage a summer resort country, and Nett Lake about the same, so I believe that there will be no two charters alike.”

Another statement Frank Broker was responsible for making at this same meeting was that the charters will give . . . “you the chance to organize, you can appoint your own land committee to take care of your land and make rules and regulations for your own reservations.”

This second statement made by Broker was very misleading. Under the Minnesota Chippewa tribal constitution the lands of the reservation were to be managed by the Tribal Executive Committee. During these times there was considerable opposition and confusion regarding local autonomy of bands. Later local land committees were established, but their decisions had to be approved by the TEC. The relationship between the “bands” and the “tribe” was much the same as that between the tribe and the Secretary of Interior and not all in line with giving local reservation groups greater local control as had been promised.

One of the primary issues during this period was land and the need to control land at the local level rather than to have the governing body control band lands. It is not surprising that, at least three reservations wanted to leave the central government in 1945 because of this issue of local control.

Indian Office Field Agent Archie Phinney was responsible for finally settling this problem through negotiations with commissioner Collier.

“As I see it, if there is to be an adequate measure of self determination locally as opposed to tribal government almost all the right and powers now vested in the tribe must be vested in the band by the tribe. I strongly recommend that, in the granting of local charters now, an agreement between the local body and the six bands be effected and put in form of an act of the TEC to assign tribal lands to the various bands by units corresponding to the reservations they occupy.”

The above correspondence was just part of the communication between Collier and Phinney which finally resulted in a revised constitution that favored the various bands in local control of band land.

After the I.R.A. had been accepted, there existed some controversy over methods used in promoting the act as indicated in the 78th Congress, third session, 1940, during the hearings on S. 21030 before the committee on Indian Affairs. These points are as follows.

"Witnesses supporting the bills for repeal of the act were unanimous in their statements that. . . Indians were high pressured into accepting the act and adopting the constitution and charters under authority of the act: that all local agency officials and Indians employed on work relief projects were ordered to campaign actively for the act under threat of losing their positions, they did so campaign; that officials of the Washington office of the Indian Bureau and Indians from other reservations were brought into local areas to campaign and that Indians both from outside and within the local areas to campaign and that Indians both from outside and within the local area were paid a salary and traveling expenses for campaigning; that the Civil Service Commission has held that it cannot take action against Bureau employees who campaigned in these various elections because of authority conferred upon the Secretary of Interior under the so-called Wheeler-Howard Act; that meetings were held with the Indians and they were promised practically unlimited credit to borrow money for industrial and agricultural purposes, for home, education, and other purposes; that Indians were promised self-government and lands which were to be purchased by the U.S. government; that the elections had not been carried out by secret ballot as provided for in the act; and that in all the campaigns and the conduct of elections, the press, the radio, government cars, gas and oil, publications, and other governmental facilities were used."

For those tribes which accepted the Indian Reorganization Act the following policies were to be implemented upon their reservations:

1. To stop alienation, through action by the federal government or the present Indian, of such lands belonging to ward Indians as are needed for the present and future support of these Indians.
2. To provide for the acquisition through purchase of lands for Indians, now landless, who were anxious and fitted to make a living on such lands.
3. To stabilize the tribal organizations of the Indian tribes by vesting such tribal organizations with real, though limited authority, and by prescribing conditions which must be met by such tribal organizations.
4. To permit Indian tribes to equip themselves with the devices of modern business organizations through forming themselves into business corporations.
5. To establish a system of financial credit for Indians.
6. To supply Indians with means for collegiate and technical training in the best schools.
7. To open the way for qualified Indians to hold positions in the Federal Indian Service.

The following is briefly what each section of the Indian Reorganization Act provided:

Section 1 - Prohibits further allotment of Indian lands.

Section 2 - Extends, until otherwise directed by Congress, existing periods of trust and restrictions on alienation placed on Indian lands.

Section 3 - Authorizes the Secretary of Interior to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal.

Section 4 - Prohibits transfers of restricted Indian land except to an Indian tribe and limits testamentary dispositions of such land to the heirs of the devisee, to members of the tribe having jurisdiction over the land, or the tribe itself.

Section 5 - Authorizes the acquisition of lands for Indians and declares that such land shall be tax exempt.

Section 6 - Directs the promulgation of various conservation regulations.

Section 7 - Gives the Secretary authority to add newly acquired land to existing reservations and extends federal jurisdiction over such lands.

Section 8 - Leaves scattered Indian homesteads on the public domain out of the scope of this measure.

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Section 9 - Authorizes an appropriation for the expenses of organizing Indian chartered corporating and other organizations created under the Act.

Section 10 - Authorizes the establishment of a \$10,000,000 revolving credit fund from which loans can be made from incorporated Tribes.

Section 11 - Authorized "loans to Indians for the payment of tuition and other expenses in recognized vocational and trade schools," and, "loans to Indian students in high schools and colleges."

Section 12 - Direct the Secretary of the Interior to establish standards for appointment without regard to civil service laws, to the various positions maintained by the Indian Office, in the administration of functions of services affecting any Indian tribe, and provided that, "Indians meeting such non-civil-service standards shall hereafter, have the preference to appointment to vacancies in any such positions."

Section 13, 14, & 15 - Deal with the exemption of various tribes from all or some of the provisions of the act, and put forth a promise:

... "That no expenditures for the benefit of Indians made out of appropriations authorized by this act shall be considered as offsets in any suit brought to recover upon any claim of such Indians against the United States."

Section 16 & 17 - Deal with the problems of tribal organization and tribal incorporation. (See Felix Cohens, **Handbook of Indian Law** - Chapter 7, Section 3; Chapter 14, Section 4).

Section 18 - Provided that the act as a whole should not apply to any reservation wherin a majority of Indians voted against its application.

Section 19 - Includes definitions of "Indians," "tribes," and "Adult Indians."

For a detailed and accurate research for interpretation of each section of the Indian Reorganization Act, one should review Felix S. Cohen's **Handbook of Federal Indian Law**, published by the University of New Mexico Press, Albuquerque, New Mexico.

Students should become familiar with the provisions of the Indian Reorganization Act listed above. A complete copy of the Indian Reorganization Act can be found in Vine Deloria'a **Of Utmost Good Faith**.

The provisions for extending financial credit allowed low interest loans to residents of the reservation. Of the \$10,000,000 which was loaned to Indians nationally through this program, only \$3,627.00 was uncollectable by 1948. This program helped many Indians get started in cattle and farming businesses.

The provisions for consolidation of lands was intended to stop the sale of Indian lands to outsiders. This allowed tribes to borrow money to buy land from individual members wishing to sell their land. Such lands were known as tribal lands, and could be leased or exchanged, but never sold.

Perhaps the most outstanding portion of the Indian Reorganization Act was that regarding the Indian tribes' ability to become self-governing. Autonomy over their own affairs was within their power, unless circumscribed by Congress. By setting up a constitution and by laws which the majority of the people accepted by ballot vote, they attained the right to govern themselves and to hold tribal elections. Although under this form of government the Indian people could vote for tribal officers and council members who would pass legislation in the form of resolutions and ordinances for the welfare of the people on the reservation. The Bureau of Indian Affairs and the Secretary of the Interior retained veto power. A ten-day veto power was held by the agent, and a ninety-day veto period was held by the Secretary of the Interior.

After a tribe adopted a form of government, it was incorporated as a business body with powers to own, manage, or dispose of property within legal limitations. Such a tribal government could further apply for a charter, which authorized the tribe to make business loans as a chartered corporation. Under the Indian Reorganization Act the Minnesota Chippewa Tribe was formed through a referendum vote by the majority of the voting members.

The Minnesota Chippewa Tribe, then known as the Consolidated Chippewa of Minnesota, became an umbrella organization comprised of its six present member reservation under the IRA. In 1938, the consolidated tribe chartered each of the member reservations, with residents of each member reservation approving charters in 1939. These local charters provided that two delegates be selected annually from each of the 32 reservation precincts. These delegates in turn were responsible for selecting two persons from each reservation to serve on the Tribal Executive Committee.

Since the Bureau of Indian Affairs strongly influenced formal tribal organization and leadership during its first three decades of operation, the original structure of the constitution followed a pattern proposed by the Bureau. The tribe did not exercise its constitutional authority until 1936 when, through referendum, it adopted a new constitution which abolished the delegate system of electing members to the Tribal Executive Committee, thus providing for more direct representation. Under the new constitution, each reservation established its own Reservation Business Committee which replaced the earlier councils. That change allowed the RBC's more local autonomy and as a result allowed them to conduct more business at the local level and improve governance of local affairs.

The following is a synopsis of events leading to the present form of tribal organizations within the Minnesota Chippewa Tribe:

APRIL 1933

Questionnaire sent to superintendents surveying conditions on the reservations in Minnesota.

JANUARY 1934

Local meetings to inform populace of the coming election to accept or reject the Indian Reorganization Act for the Indians in the Jurisdiction. The first meeting for the Great Lakes region was held in Hayward, Wisconsin.

OCTOBER 29, 1933

Notice to elect delegates for the purpose of forming a Chippewa general council.

JUNE 27

62 delegates meet in Cass Lake for the first time.

NOVEMBER 6

J.J. Munnell, Indian office employee and delegate, authors constitutional draft submitted to the Indian office.

MAY 23, 1936

Collier signs order calling for election on the constitution and by-laws.

JUNE 20

Constitution and by-laws ratified.

JULY 24

constitution and by-laws approved by the Secretary of Interior.

OCTOBER 10

First official delegate's meeting held in Cass Lake.

NOVEMBER 1937

Corporate charter election for the Minnesota Chippewa Tribe.

FEBRUARY 1939

Election of six reservations for or against sub-charters.

The first responsibility of the Interior Department after the act became law was to call an election to give the tribes an opportunity to vote to exclude themselves from its operations. Under the supervision of the Secretary of the Interior, the elections started in August, 1934. But June 17, 1935, 245 elections had been held, with 62 percent of the adult Indians voting. One hundred and seventy-two tribes, or 132,426 Indians, voted to accept it. On seventy-three reservations, totaling 63,467 Indians, a majority voted to reject it. By 1936, the number of tribes that came under the I.R.A. by a failure to vote against it reached 180. An excellent example of this failure to vote against the I.R.A. was expressed by the Indians of the Fond du Lac Reservation in Minnesota in 1934, when out of 723 eligible voters less than 30 percent of this number actually voted. It was determined that this light vote was due to the opposition to the I.R.A. by the Fond du Lac Indians. Nevertheless, the B.I.A. accepted their less than 30 percent vote, which was illegal, and put Fond du Lac on record as voting in favor of the I.R.A. The Bureau stated that, "since in the case of the Indians herein, a majority of the votes cast was in favor of the act, this office shall hold officially that they have not voted to exclude themselves."

Collier claimed that the 73 tribes who had voted to exclude themselves from the act had been influenced by "energetic campaigns of misrepresentation carried on by special interest which feared that they would lose positions of advantage through the application of the act." These groups included cattlemen who feared that, as a result of I.R.A., Indians would graze their own stock on land previously leased to whites; traders who feared a loss of business through competition of consumer cooperatives organized under I.R.A.; and lumber interest who did not want to see Indian tribes use their own timber resources. These groups spread myths about the effects of the act such as Indians would be segregated behind wire charged with electricity, or certain reservations in the Southwest would be given to Mexico.

Although the results of the vote seem to show that Indian people overwhelmingly favored the act, there is some evidence that the votes was not an accurate measure of Indian sentiment.

Section 18 of the act provided that it could not apply to a reservation where a majority of the Indians voted against it. Under this section, the act applied automatically unless a majority actually voted to exclude themselves. In tallying the votes, the Bureau of Indian Affairs counted those eligible voters who didn't vote as affirmative votes. Many Indians who didn't vote thought they were expressing their opposition, but they had not been told that by refusing to vote they were actually voting in favor. In some cases, the bureau's interpretation changed the outcome of an election. For example, the Coeur d' Alene Tribe voted on December 12, 1934, to reject the act by a count of 78 against and 76 in favor, but 49 eligible voters had not voted, and the bureau counted these as affirmative votes. Therefore, even though a majority of those actually voting rejected the act, it was made applicable to them. The Nez Perce voted 252-214 to reject the act on November 17, 1934. But the bureau ruled that the tribe had voted to accept the act after counting 142 people who didn't vote as affirmative votes. An amendment to I.R.A., which was passed June 15, 1935, attempted to make future votes representative of the will of the tribe by stipulating that the outcome would be determined by a majority of Indians who actually voted. But this amendment came after many tribes had already voted. This amendment also applied to elections for adopting a constitution and ratifying a charter.



Because the act was passed before the end of a session of Congress, there was no time for Congress to appropriate money to carry out the act in 1934. In fact, appropriations for the revolving loan fund, educational scholarships, land purchased and organizing the tribes into governments and corporations were not made available by Congress until May, 1935. At that time one-half of the amount authorized for the purchase of land, or one million, was appropriated. For the revolving loan fund only \$1.5 million was appropriated. And \$175,000.00 was appropriated for meeting the cost of organizing governments for Indian tribes.

Congress was never fully committed to the ideas embodied in the Indian Reorganization Act. In the years immediately following the passage of the act. Congress tended to reduce the amount of money appropriated for the I.R.A. By 1940, less than four million had been made available to Indian corporations under the revolving loan fund of 1938. With the start of World War II, the amounts appropriated for I.R.A. were cut back even more.

Despite the meager appropriations provided by Congress, the landholdings of Indian tribes increased as a result of I.R.A. By 1938, 168,654 acres had been purchased for Indian tribes and individuals. In 1941, Collier reported that four and one-half million had been added to the Indian land base under the authority of the I.R.A., but he added that this amount was only one-sixth of that needed to meet the needs of Indian tribes. Of this amount, over 500,000 acres were surplus lands that had been restored to tribal ownership. However, the Secretary of the Interior has seldom used his authority to establish new reservations.

The I.R.A. would have been more effective if the bureau had abided by all of its provisions. For example, Indian tribes still have difficulty learning about the Bureau's process of allocating federal dollars, despite section 16, which requires the Secretary of the Interior to inform the tribes about estimates of federal expenditures for their benefit. The policy of self-government was delayed by the refusal of the Bureau to implement quickly Indian preference in hiring for bureau positions. Section 12 of the I.R.A. directed the Secretary of the Interior to establish standards for hiring Indians without regard to the civil service law. But by 1950, standards had been set for only 10 percent of all bureau jobs. From 1934 to 1972, the percentage of Indians employed in the bureau increased by only 25 percent.

The effect of I.R.A. on tribal political organization and authority varied from tribe to tribe. Generally, it is given credit for reviving tribal governments that were non-existent, or not functioning, before 1934, although the act has been criticized for imposing upon Indian people non-Indian governments with very limited powers. By 1934, many Indian governments had become merely debating societies or social clubs with practically no real power or authority over Indian people and territory. Other Indian governments had, in effect, disappeared as a result of the allotment policy. The I.R.A. provided an opportunity for many of these tribes to organize functioning governments again.

The concept of self-government was not uniformly endorsed by all Indian tribes during the I.R.A. period. On some reservations the control of the bureau on tribal life was so tight that the idea of Indian self-government was preposterous to many members of the tribe. Those groups who had grown accustomed to bureau rule sometimes wished to continue under the old system. For these tribes, I.R.A. at first merely stimulated discussion about politics and government. In some cases, however, the tribes later adopted the I.R.A. constitution.



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But many tribes welcomes the chance to organize and make their own decisions. By 1943, 88 tribes had adopted constitution under the I.R.A. and 68 had received charter incorporation.

It should be noted that tribal consitutions were written primarily to protect the land base of the reservation, and they contained specific articles maintaining this view. Unlike town or city municipalities which are able to govern themselves regarding utilities, education, zoning, welfare services, etc., many tribal constitutions lacked the language to implement programs written under provisions of the Indian Reorganization Act, and provided many of the services usually reserved to municipality powers.

On April 28, 1934, President D. Roosevelt strongly supported passage of the Wheeler-Howard Act as indicated below. 5

“The Wheeler-Howard Bill embodies the basic and broad principles of the administration for a new standard of dealing between the federal government and its Indian wards.

It is, in the main, a measure of justice that is long overdue.

We can and should, without further delay, extend to the Indian the fundamental rights of political liberty and local self-government and the opportunities of education and economic assistance that they require in order to attain a wholesome American life. This is but the obligation of honor of a powerful nation toward a people living among us and dependent upon our protection.

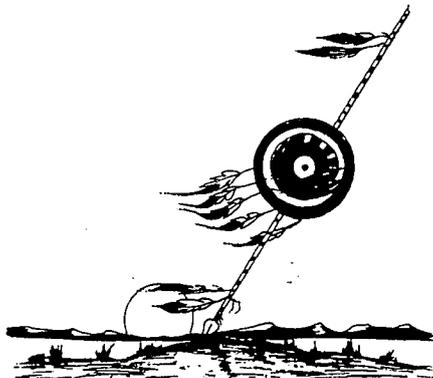
Certainly, the continuance of autocratic rule, by a federal department, over the lives of more than 200,000 citizens of this nation is incompatible with american ideals of liberty. It also is destructive of the character and self-respect of a great race.

The continued application of the allotments laws, under which Indian wards have lost more than two-thirds of their reservation lands, while the costs of federal administration of these lands have steadily mounted, must be terminated.

Indians throughout the country have been stirred to a new hope. They say they stand at the end of the old trail. Certainly, the figures of impoverishment and disease point of their impending extinction, as a race, unless basic changes in their conditions of life are affected.

I do not think such changes can be devised and carried out without the active cooperation of the Indians themselves.

The Wheeler-Howard Bill offers the basis for such cooperation. It allows the Indian people to take an active and responsible part in the solution of their own problems.”





EFFORTS TO REPEAL THE INDIAN REORGANIZATION ACT



The opposition to the Indian Reorganization Act expressed by members of Congress and special interest groups during the legislative process did not subside with the bill's enactment into law. After passage, the opponents concentrated on reducing the effectiveness of the Act by cutting off or limiting appropriations for its provisions. This attack, which gained the sympathy of a number of the members of the House Committee on Indian Affairs, was partially successful, because Congress seldom appropriated the full amounts authorized.

On January 14, 1937, Senator Murray of Montana followed Senator McCarran's lead and introduced a bill to repeal the Indian Reorganization Act for Montana Indians. One day later, Senator Chavez of Arizona attempted to exclude the Navajo Nation from the benefits of the act with another repeal bill. In the House of Representative, a bill that would have repealed the act for California was introduced by Representative McGroaty on January 22, 1937. And on February 11, Representative O'Malley introduced a bill to repeal the Indian preference section of the Indian Reorganization Act because he felt that many of the features taken out of the original bill during the legislative process were being included in the Indian Reorganization Act Constitution. Senator Wheeler's dismay is understandable because he was strongly critical of the original bill for going to far in its effect.

According to Collier, the effort to repeal the Indian Reorganization Act was led by two groups. Much Indian land was leased to white cattlemen on terms favorable to cattlemen. They objected to the act's provisions which would enable Indians to begin using their lands with their own cattle and farming equipment. The other group included those people who believed Indian interests were best served by the tribe's total absorption into western civilization. This group objected to the act's self-government policy and treatment of Indians as groups

Some tribes had difficultly maintaining interest in self-government after the initial novelty and excitement had worn off. Many tribal members became disillusioned with the self-government program when it became apparent that their elected officials could not fulfill the extravagant promises made during the election campaigns. Also many tribes were not familiar with the new constitutional form of government and often had difficultly with the variety of problems they had to solve. Collier knew that progress in strengthening tribal governments would be slow, so he was not surprised by the opposition which came from those individuals who expected the act to solve the problems of Indian administration overnight.

The efforts to repeal the Indian Reorganization Act in 1937 failed, but the act continued to inspire opposition during the 1940's. In 1940, the Senate held hearing to determine whether the Indian Reorganization Act should be repealed because Indians had been forced to support the act by the local bureau agents and because the policy of self-government retards assimilation into white society. In 1943, Representative Karl Mundt of South Dakota introduced a resolution to determine whether or not the Indians had received any benefits under the Act. All efforts to repeal the Indian Reorganization Act ultimately failed, but in 1944, one repeal bill reached the Senate floor for debate.



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 POINTS TO REMEMBER ABOUT THE INDIAN REORGANIZATION ACT. 

The Indian Reorganization Act evokes both criticism and praise from individuals and groups concerned about Indian rights. The act was certainly not a remedy for the difficult problems facing Indian tribes in 1934. It has been criticized for not going far enough in its recognition of and respect for the inherent sovereignty of Indian tribes. Advocates of complete sovereignty see in the Indian Reorganization Act continued federal domination of Indian tribes through Bureau-approved governments established under the act. Others object to the apparent imposition of an Anglo-American constitutional government on Indian tribes who accepted the act. These critics suggest that the disadvantages of the Indian Reorganization Act outweighed its benefits, because many tribes have had to place their governments under the control of the Secretary of the Interior in order to receive the economic benefits provided by the Act.

The Indian Reorganization Act has been praised for finally reversing the destructive allotment policy, halting the loss of Indian land, reviving tribal governments, and increasing the landholding of Indian tribes and individuals. Some have even said that if the Indian Reorganization Act had not stopped the allotment process and started tribes on the road to economic recovery, Indian tribes may have lost their separate political and cultural identity. Vine Deloria Jr., calls the Indian Reorganization Act, "perhaps the most fundamental and far-reaching piece of legislation passed by the Congress in this century."

One of the areas in which the Indian Reorganization Act has inspired debate is the status of Indian government's validity and legitimacy of the right to self-government. In the Indian Reorganization Act, Congress gave Indian tribes a special status as governments under United States law. However, the status of an Indian tribe as a governmental entity does not depend on an acceptance of or organization under the Indian Reorganization Act. The act merely provided a framework under United States law within Indian tribes and could begin exercising their inherent powers and sovereignty. Students may discuss, after review of chapter #IV, advantages and disadvantages of forming a more beneficial form of tribal government. For the Minnesota Chippewa Tribe, what kind of problems would be experienced if this were attempted?

In this view, the Indian Reorganization Act, was not a grant of powers to Indian tribes who had no rights of sovereignty, but rather a definition of the scope of inherent powers the United States would respect under its own law. John Collier took this position.

"The powers of self-government possessed by Indian tribes are not derived from the Indian Reorganization Act. This act is largely a recognition of the inherent powers of self-government which the tribes have always possessed and is the means of helping such tribal governments effectively to function."

Although the inherent powers of tribes recognized by the Indian Reorganization Act may be fewer in number than those recognized under the laws of Indian nations, the tribes organized under the I.R.A exercise real power over their affairs. Based upon these inherent rights, would tribes be able to exercise more powers under a different form of government?

Most tribal governments organized under the Indian Reorganization Act have not been developed to meet the needs of fully sovereign nations. Many were designed to enable Indian tribes to function like a local city or county government. The governmental powers recognized by the Indian Reorganization Act include many powers usually exercised by local governments in the United States. On several occasions, the Department of the Interior has adopted the view that tribes who formed corporations under the Indian Reorganization Act have

become "federal agencies," trading aboriginal sovereignty for limited powers as an arm of the federal government. As part of the federal government, incorporated tribes, according to the bureau, could never hope to be free of some degree of control by the United States.

But the B.I.A.'s interpretation does not mean the Indian Reorganization Act diminished the rights of sovereign Indian nations. Indian governments have powers that may not have been recognized by Congress or the Indian Reorganization Act; these governmental powers exist, even though the United States has not recognized or respected them.

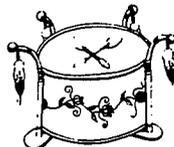
It is clear that the Indian Reorganization Act recognized that Indian people have special rights that separated them from the citizens of the United States. Yet there is evidence that suggest that one goal of the Indian Reorganization Act was to bring Indian people to a level of economic, educational, and political achievement that would enable them to join white society on an equal basis. In this view, which was strongly voiced during the debates in Congress, the primary purpose of the Indian Reorganization Act was to equip Indian people with the requisite experience and skills for assuming the responsibilities of full United states citizenship. Congress may have allowed tribes to organize local governments in order to give them experience in civic affairs and the democratic process of government in the United States. Representative Howard echoed this theme during the House debate:

"The program of self-support and of business and civic experience in the management of their own affairs, combined with the program of education, will permit increasing numbers of Indians to enter the white world on a footing of equal competition."

Congress may have felt that the Indian Reorganization Act was different from the Allotment Act only in that it encourages assimilation, whereas the Allotment Act forced assimilation. Does assimilation of Indians into the mainstream of society seem to be the answe? If assimilation is the goal, what then happends to Indian land, and Indian culture?

Whatever the intent of Congress, the Indian Reorganization Act enabled many tribes to maintain separate governments and preserve and develop their tribal culture. Collier apparently wanted to create a legal framework which allowed Indian tribes to determine their own future with a minimum of federal administrative interference. Those who wanted to become like their white neighbors, he thought, should be allowed to do so on a basis of equality. And those who wanted to maintain a separate government and culture should be given the freedom and power to do so.

A third view is that the Indian Reorganization Act performs a "caretaker" function. Under this view, the act was designed to establish governments that would function only until the tribes were ready to adopt a government more suited to their needs and desires. In this view, the Indian Reorganization Act government should be replaced by governments more truly representative of the will of Indian people when the tribes' economic and political health had been restored. The existence of provision for revoking the Indian Reorganization Act Constitutions lends credibility to this view. Collier did not believe that a constitutional form of government would necessarily be suitable for every tribe, but that form was recommended because it was consistent with concepts of political organization in United States law. Would it be advantageous to design a new governing system that would be more truly representative, where all members of the governing body were elected by popular vote? Do you think it is time to adopt a constitution for the Minnesota Chippewa Tribe that is more suited to contemporary needs and desires, or would amending the constitution be suitable enough?



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The Indian Reorganization Act was an attempt to find a place for Indian governments within the United States legal system. The original bill went much further than most reformers of the time thought wise, but the act itself accomplished less than Collier had hoped for. The power of the Secretary of the Interior was not greatly diminished by the Indian Reorganization Act. Perhaps the significance of the act lies in the fact that Congress finally agreed to respect certain inherent self-government rights of Indian nations and to provide one means by which those rights could be exercised.



CULTURAL STUDIES TRIBAL GOVERNMENT

STUDENT WORKSHEET



UNIT III PART I

1. Why was the policy of allotments initiated?
2. Describe the main features of the Nelson Act of 1889?
3. Which two Act symbolized the change of lifestyly? (see Citizenship Oath).
4. **When** and **Why** were Indians given United States Citizenship?
5. What was the major theme of United States Indian policy up to 1934?



UNIT III PART II

1. In the 35 years up to 1924 how much of Indian land had been lost?
2. How did the Meriam Report come into being?
3. What were the aims of the Indian Reform Movement?
4. When was the Wheeler-Howard Act passed, and what is another name for it?
5. Which were the most important reforms contained in legislation? (Your opinion).

UNIT III PART III



1. Which reservation business got starts from low interest loans?
2. How was the sale of tribal lands stopped?
3. How did reservations get the rightht to govern themselves?
4. What was the object of writing constitutions?
5. Describe the arguments Roosevelt used to support the Wheeler-Howard Act.