Indian Self Rule

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CHAPTER THREE

 Undoing the IRA

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**One of the problems that we have with the Indian Reorganization Act is who manages the trust responsibility. We have to keep worrying about the successive waves of federal officials every four years. If adequate funds had been awarded under the Indian Claims Commission, the tribes could have survived without the IRA. Real Indian self-determination would have occurred. The whole problem on Indian reservations is that we do not have enough money. Congress refuses to appropriate adequate funds. Instead, it spends billions for defense and billions for foreign aid to countries in Central America.**

Edward Johnson, former chairman, Walker River Paiute tribe

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**A radical change in Indian policy was possible without serious examination of the consequences in good measure because so few members of Congress knew or cared about Indian affairs and some of the Indian tribes and national organizations were so weak or divided or intimidated by pressure from powerful members of Congress or the BIA that they could not or would not fight effectively. The key policy resolution, House Concurrent Resolution 108, was passed by Congress in July 1953 by unanimous consent, under a procedure that could have been blocked by the objection of a single member of either the House or the Senate. The resolution sounded, on first reading, like a kind of unobjectionable Fourth of July speech. In the Senate it passed without a single word of discussion. In the House there were only a few prefuntary remarks supporting the principles. No one noted that the resolution required the Interior Department to begin very**
rapid preparation of policies for ending all federal protections and services for a wide variety of Indian groups, including some living in great poverty and possessing very few resources.

Gary Orfield, Brookings Institution

CLARENCE WESLEY

The Indian Reorganization Act was fully discussed on the San Carlos Apache Reservation. We had CCC camps all over the reservation. Apache elderly men went around from camp to camp with CCC officials. They explained the contents of the Indian Reorganization Act, what it meant, and how it was going to help the Indians.

After a year, a big meeting was held at the San Carlos Agency. The tribe overwhelmingly voted to adopt the IRA. At first, seven elderly men were elected to the council. Two years later, a younger man was selected to serve. While I was up on the mountain working cattle, I learned that I was elected. I was also asked to be secretary for the council. That was the beginning of my career on the tribal council.

Later on, I became chairman of the tribal council. Ernest McCrea was the superintendent at that time. He told us that he still was in charge of the agency and nobody was going to tell him what to do. So, we discussed among ourselves several issues on the reservation that dealt with the control of funds and hiring. I told McCrea, "This is an Apache reservation. We have some Indians who want to work, and that should be our first concern." Later on, he called me in and said, "You have got a big mouth." We did not get along from the start, so we had cross words from the beginning. I was still on the council when he died across the street. I hate to say this, but that was quite a relief.

We were without a superintendent for a while until Al Stover came from Dulce, New Mexico. He was an entirely different person. He believed in the Indian Reorganization Act. He said, "I am here to help you do what you want, and you can depend on it." We wanted to have a tribal store to create jobs for our people. We asked Superintendent Stover about it, and he said, "Why don’t you send a delegation over to the Jicarilla Apache Reservation and see how they got their tribal store started." We went to Dulce, New Mexico, and they gave us a lot of information. We also went to Mescalero, New Mexico. They had a
tribal store over there too. About a week after we returned, I called a meeting that was attended by approximately two thousand Indians. I stood up, as chairman, and explained to the people that we were trying to establish a store so some of our people could go to work.

At that time there were six white traders on the reservation. When I got through talking, a very prominent individual stood up and told the audience that this was the best thing he had ever heard in his life. He said our tribal council was on the right track. That was the beginning of our operation. We did not get any money from the bank or from the government. We assessed our cattlemen for one year. We raised enough money to build a building and hire a staff. The tribal store operated until 1964.

The BIA superintendent, his staff, and the tribal council must cooperate to make the Indian Reorganization Act work. We did this right from the beginning. The San Carlos Apache tribe celebrated the anniversary of the birth of IRA every June 18. We had a big barbecue, a baseball game, a rodeo, and dances. We would always invite somebody from the area office to speak to the people. It was quite interesting, and a lot of questions were asked. This went on for a number of years until the Apache people lost interest in celebrating the IRA. Then we decided to abandon the anniversary idea.

After Stover retired, the council adopted a resolution. We requested that Tom Dodge, who was part Navajo, come to San Carlos and be our superintendent. Tom Dodge helped us fight racial discrimination in nearby towns. He told us that the way to correct this situation was to get involved with white people. We began to attend chamber of commerce, Kiwanis, Lion's, Jaycee, and Rotary meetings. I was made a member of the Miami Rotary Club, and we worked with these people to whip discrimination. We also asked if some of our girls and our boys could go to work in various business operations in these towns. We got some people jobs and girls were employed by a bank.

We also created other tribal enterprises. We started a timber operation. Because it was a sustained yield operation, we were short of lumber after fifteen years. So we had to quit, but it gave a lot of employment to our people for fifteen years. There also was copper mining on the east and west side of the reservation. We contacted a geophysical outfit in New York and Toronto, Canada, to do an airborne survey of
the reservation for minerals. They found low-grade copper below Mt. Turnbull and did some drilling there; but the copper played out, and that ended our intention to mine copper.

There was land south of our present boundary known as the San Carlos mineral strip. It had been ceded back in 1896 for mineral entry only, but there were twenty-six cattle ranches operating on that ceded land. We went to Congress, with the help of the Bureau of Indian Affairs, and 232,000 acres of that land was restored to tribal ownership in 1969. We have not stocked it yet with any cattle.

In addition to these enterprises, we were interested in the education of our children. We have special scholarships to help the boys and girls who want to go to college. In the last school year there were ninety-nine of our youngsters in college.

When I left, in 1964, another person was elected. He was a Christian who went to church. Instead of having council meetings, he would preach. It was under his administration that the tribe went into bankruptcy. The tribal store that we built was closed. After some years with bankruptcy, we had another election. A young man by the name of Buck was elected. He helped revitalize the tribal store. Then, in another election, we chose an attorney from the University of Arizona. The tribal store once again went into bankruptcy. In addition to being bankrupt, the San Carlos Apache tribe was sued by the Internal Revenue Service for over a million dollars. The tribe had failed to pay its withholding tax. This was not the fault of the Indian Reorganization Act. It was the fault of an individual. We are really in a mess at this moment. I do not know how we are going to pay that million dollars. By the time they are through with us, the government might take over both the reservation and the Indian Reorganization Act.

Graham Holmes

It is necessary to look at the situation that existed at the time before discussing the IRA. Prior to 1934, there had been, for a number of years, a steady drift away from tribal sovereignty. Assimilation was occurring, and tribal lands were lost through benign neglect. John Collier decided that it was necessary to stop this because there would be no tribal governments and perhaps no reservations in the foreseeable future.
He set out to get the IRA enacted. Now, to get a bill of this kind through Congress is a sizeable undertaking. It is very difficult to start at one end of the funnel in Congress and have the same thing come out at the other end. You can explain a bill like the IRA to the Indians, but by the time it gets through Congress it may be unrecognizable. The criticism that Collier did not explain it properly, that he lied to the people about it, grows out of that kind of a situation.

Collier did the best he could under the circumstances. He came out with a bill that has stood for fifty years. Without the IRA there would have been a steady drift away from tribal sovereignty, tribal government, and we would not have reached a point where we could even talk about self-determination.

Many tribes did not adopt the IRA. Most of the tribes that did not accept it were involved in local political issues on their reservations that did not directly relate to IRA. Anywhere that IRA was the main concern, it was adopted.

Sometimes Collier's personality was identified with the IRA. He was not the IRA, but some people never realized that. At times, he was a rather abrasive individual, and he could be obnoxious. But it would be remarkable, with two hundred or three hundred Indian tribes, if everybody agreed to the IRA. I would be suspicious of it if everybody agreed. The people who did not agree rode the coattails of IRA. Because of IRA, we have a congressional recognition of tribal governments and tribal sovereignty that has carried everybody along.

Under IRA constitutions nearly everything a tribe does has to be approved by the secretary of the interior or the commissioner of Indian affairs, but because of the trust relationship and the trust responsibility, very few tribal councils have tried to take that provision out. Holding on to Indian land has been one of the main problems throughout the last century. That is why there are a lot of restrictions in the IRA. The trustee can not sell Indian lands under IRA. Since the passage of IRA, even the corps of army engineers can not take Indian land without getting an act of Congress. Laws such as IRA protect the weak more than they protect the strong.

Tribes must develop their economies. Unless you can say no to the federal government once in a while, you have undone the IRA and everything else. Regulations accompany federal money. We do not
need to graduate ten thousand Indian lawyers. We need to graduate people who know how to explore for minerals, run plants, and develop reservation economies. That will make Indians self-sufficient. They will not have to come to the federal government for anything.

The IRA was a good thing. But it had its faults, and it needs undoing in a place or two as time goes on. The ability to modify the IRA is growing stronger all the time. Tribes that want to amend their constitutions can do so. It is a cumbersome process, but constitutions are designed to have a stabilizing effect.

Most Indian tribes seek consensus. They do not like to act until everybody agrees. IRA constitutional governments are a different way of governing. The majority proposes, the minority opposes, and they argue it out. Then a vote is taken. The side that gets the most votes wins. Consensus is opposite from that. A lot of the governmental strife under IRA—and it has been the undoing of the IRA at times—has come over the problem of consensus.

Under an IRA constitutional government or any other kind of government, you are not going to reach consensus. This has affected economic development on reservations where time is a problem. Indians will act in their own best interest, but you cannot tell when they are going to do it. Unfortunately, an appropriation from Congress will lapse after one year if you do not use it. The problem of timing also has prevented industries from moving to reservations.

There is no word in the Indian language that translates directly to time. If you ask a Sioux what time it is, you ask him how many times does the thing strike. The real problem is getting everything related to the tick of the clock and the movement of the dominant economy. The problem of time undoes some of the IRA. It forces a democratic majority rule system on Indian tribes that are not prepared to adopt it.

Reservations are in turmoil because the paternalistic colonialism that has existed all these years is being changed to promote self-determination and home rule. If IRA is to succeed, two things have to happen. First, we must have stable tribal government. The IRA gave us the backbone of that. Second, we must have tribal economies that work. If you do not have those two things, you cannot successfully end federal guardianship.
When John Collier tried to introduce IRA on the Navajo Reservation in 1934, I saw the turmoil that existed. The Navajo defeat of IRA was based on the issue of assimilation. It was the battle between the assimilationists of the north—the Jake Morgan crowd—and the conventional Navajo of the south. The charges that IRA would return the Indians to a zoo destroyed its consideration among the Navajos. In retrospect, the Navajo showed a certain amount of prophetic wisdom in turning down this legislation.

After the Navajo had rejected IRA, Felix Cohen came to the reservation. He used his great ability to design a constitution that might be presented to the tribe as an administrative action. As soon as that happened, there was a renewed fight. Basically, it was a battle between those people who had assimilated in the north, allied with the missionaries, and the traditional Navajos of the south.

Putting it in terms of personality, it was J. C. Morgan who defeated IRA. He was a brilliantly able Navajo orator. He was the ablest demagogue I have ever heard. Morgan could sway crowds with his demagoguery. He persuaded the Navajos that IRA had bad qualities. He had on his side both the missionaries and traders. The missionaries believed that IRA threatened fifty years of Christian teaching. The traders saw in the IRA a threat to their permanence and to their financial investment. So, the IRA was destroyed by people who were concerned with assimilation and their own security and property.

John Collier never admitted that IRA was defeated by intratribal conflicts. He always blamed the defeat of IRA on stock reduction. I was at Ganado during this period. I observed that IRA was defeated long before the latter part of 1935, when stock reduction finally became an issue. Today, stock reduction is still considered the issue that led to the undoing of IRA. I suspect that the Navajos will remember stock reduction, with all of its mythology, as long as they will remember the Long Walk.

I had one other experience with IRA. In 1948, I was sent to Nevada as superintendent. There were eighteen or nineteen Indian town colonies, each inside a city, from Reno to Las Vegas to Winnemucca. These Indian colonies had separate identities, and they sub-
scribed to IRA. It is my feeling that, without IRA and its federal protection, these Indian colonies would have disappeared. The greed of real estate developers and the people surrounding the Indians would have completely obliterated these colonies. We would have had something similar to the outlying slums of Rapid City where Indians congregated in the late 1930s and 1940s without land, property, or jobs. IRA saved these little colonies from this fate.

The Nevada Indians were having trouble then, and I suspect that they are having trouble now, not with the concept of IRA as a bit of salvation for Indianness, but with their constitutions. These constitutional problems could have been solved by a task force of experts, who might have worked with the Indians at their request. Lawyers and social scientists could have helped the Indians modify their IRA constitutions in order to protect these tiny colonies against the greed of developers and real estate people.

Robert Burnette

There is a tremendous shortcoming in the IRA that few people recognize. Collier was so adamant in making sure that the government of the United States fulfilled its trusteeship obligation that he left an important provision out of IRA. There is no way under IRA to redress a grievance should your own tribe refuse to recognize something that is legitimate. There is the problem of tribal government accountability.

That is where the United States is supposed to step in and do its job. The federal government has not met this obligation. We have turmoil in every tribe, all across the country. We would like to go to court and sue tribal officials who are responsible for problems, to make them accountable, but we cannot do that. This is the job of the United States government, and it has totally neglected to fill the void left by IRA.

For years, I have fought to get the Bureau of Indian Affairs and the Department of Interior to wake up and fill this legal void. Elected tribal officials must be held responsible and accountable to the people. Because the people, including council people, are absolutely legally helpless we have many lawsuits that add to the turmoil on reservations.