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A Fateful Time

*The Background and Legislative History
of the Indian Reorganization Act*



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that clarifies matters. Today some Indian societies refer to themselves as *nations* (e.g., the Navajo Nation, the official name for this group), while others use *tribe* or *band*.

The IRA most often uses *tribe* but offers no definition of this term, except to state that *tribe* means "an Indian tribe [*sic*], organized band, pueblo, or the Indians residing on one reservation." This simply adds three synonyms for *tribe* but does not define this key term.

The nomenclature for Indian societies in fact was then and is now often confusing. Several societies whose names include *tribe* are members of a wider group also known as a *tribe*. For example, there are the Pyramid Lake Paiute Tribe and the Walker River Paiute Tribe. The Southwestern Pueblos were not considered legally to be Indians until the *U.S. v. Sandoval* case in 1913.¹⁵ Finally, there are several situations in which the word *tribe* is used to designate the members of a reservation consisting of several tribes, e.g., the Paiute-Shoshone Tribe of the Fallon Reservation and Colony. This is why the term *society* has been used primarily in this book.

The legislative record sheds no light on what either Bureau officials or legislators thought about the names to be applied to Native American societies. There is more information, however, about the one portion of the IRA that uses a racial means to determine who is an Indian. This is the section defining Indians, in some cases, in genetic terms, as persons containing a designated proportion of "Indian blood."

Both the draft bill and the final statute use the political definition of who is an Indian as the primary one. In practice, this means that each society determines this issue for itself. The IRA contains no rule that all Native American societies much follow in making this determination, nor has the Bureau tried to impose any such definition, through constitution-making or in other ways. However, the IRA also provides a means by which some descendants of Native Americans no longer belonging to recognized Indian tribes nor living on reservations may be defined as Indians. The draft bill stated that, in addition to the primary definition of an Indian, persons with "one fourth or more Indian blood" were Indians (Title I, section 13b). But the IRA changed this to refer to persons "of one-half or more Indian blood."

Senator Wheeler was responsible for this change. The question first came up on April 30, at the first hearing of the Senate Indian Affairs Committee after the agreement between Wheeler and the Bureau. The issue was discussed in connection with persons who had been allotted, but no decision to change the draft provision was made.¹⁶

On the last day of the Senate hearings, the issue came up again, in the context of efforts to provide for Indians not living on reservations. Wheeler stated that he wanted to change the provision to one-half, to reduce the number of

Indians who would have to be provided land and/or services by the government. He said:

I do not think the Government of the United States should go out here and take a lot of Indians in that are quarter bloods. . . . If they are Indians of the half-blood then the Government should perhaps take them in, but not unless they are. If you pass it to where they are quarter-blood Indians you are going to have all kinds of people coming in and claiming they are quarter-blood Indians and want to be put upon the Government rolls, and in my judgment it should not be done. What we are trying to do is get rid of the Indian problem rather than to add to it.

In later discussion, Wheeler indicated that he was bothered by the idea of defining anyone as an Indian who was culturally assimilated. When it was brought out that the individual definition of *Indian* also applied to holders of allotted lands who did not live on reservations, he said that "it is perfectly idiotic in my judgment for the Government of the United States to continue to manage the property of Indians who are of the one-eighth [*sic*] blood." He brought up the case of former Vice President Charles Curtis of Kansas, who was one-eighth Indian by descent. Wheeler said: "For instance, the Government still manages the property of a former Vice President of the United States. . . . Why should the Government . . . be managing the property of a lot of Indians who are practically white and hold office and do everything else, but in order to evade taxes or in order to do something else they come in under the Government supervision and control?"

The senator returned to the topic one more time, saying that California Indians "are no more Indians than you or I, perhaps. I mean they are white people essentially. And yet they are under the supervision of the Government of the United States, and there is no reason for it at all, in my judgment." These remarks indicate that Wheeler was confusing racial with cultural facts, because he assumed that having predominantly non-Indian "blood" automatically meant that the persons were almost entirely assimilated to white culture. Collier wanted the one-quarter criterion but finally accepted one-half, which was retained in the final act.

REVOLVING FUND

One important element in the Collier program to overcome Indian poverty—the creation of a revolving fund to make loans to Indian corporations or governments—had been advocated by him since hearings on the Klamath incorporation bill. Nevertheless, it was left out of the draft bill, a fact that probably illustrates how little he was involved in actual drafting of the measure. Collier