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The First Constitutional Government of the Minnesota Anishinaabeg¹

ABSTRACT

In this paper I trace the development of Native American constitutionalism in the early twentieth century. Specifically, I focus on the first constitutional government of the White Earth Nation, located in northwestern Minnesota, which in the period from 1913 to 1927 was part of a larger confederative arrangement, called the General Council of the Chippewa. The purpose of this paper is to show the importance of this inter-reservation government for the preservation of White Earth Anishinaabe cultural continuity from which revitalization efforts of the late twentieth and early twenty-first century grew. Using archival resources, I pay attention to Anishinaabe governing practices and their ethical dimension that can be understood in the light of Anishinaabe philosophy which was an integral part of everyday life. My findings suggest that the course of institutional development set by the creation of the General Council in 1913 influenced the path of White Earth governance for the rest of the century.

Keywords: White Earth Nation, General Council of the Chippewa, Indian Office, Indian policy, governing practices.

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There is a surprisingly long history of Native American constitutional governments on the North American continent. Some Native nations had a constitutional form of government even before the European arrival. The Iroquois League, which was formed between A.D. 1000 and 1500 in present-day upstate New York and part of Canada, was one of the most sophisticated Native governments with “the first Federal Constitution on the American Continent” (Cohen 128). In the south of the United States, the so-called Five Civilized Tribes gradually formed functioning constitutional governments in the period from the 1820s to the 1860s. After the Civil War, the Five Civilized Tribes were deprived of their governing powers as a result of repressive assimilation policy. The goal of the Indian policy of allotment and assimilation in the period from the 1860s to the 1930s was the elimination of tribal governments. Therefore, there was a widespread belief that only a few or none Native governments existed before the adoption of the Indian Reorganization Act of 1934.² *Felix S. Cohen’s Handbook of Federal Indian Law*, first published in 1942, lists about seventy tribal nations that had constitutions or constitution-like documents in the pre-reorganization period. Archival documents about the operation of the early constitutional governments are fragmentary, yet they provide valuable evidence of how Native nations strove to adapt to changed social and political conditions and preserve their cultural distinctiveness at the same time.

In this paper I focus on the first constitutional government of the White Earth Nation (1913–27) as part of a larger confederative arrangement, called the General Council of the Chippewa. I reconstruct this little known history from archival documents in order to gain insight into the world of Anishinaabe³ governing practices that in the early twentieth century

² The Wheeler-Howard Act (The Indian Reorganization Act), 48 Stat. 984–988 (1934) (codified as amended at 25 U.S.C. § 461 et seq.). The Indian Reorganization Act of 1934 was a watershed in the U.S. government’s approach to Native nations. Beside ending the allotment policy, the main contribution of the new legislation was its acknowledgement of the inherent right of Native nations to self-government. Unfortunately, the IRA’s conception of Native self-government did not reflect sociohistorical realities of most Native communities and disregarded Native traditions and political experience.

³ In this paper, I use the term Anishinaabe (noun sg and adj) and Anishinaabeg (noun pl) which can be translated into English as “the original people” or “the Indian people.” In the 1990s, the White Earth Nation citizens returned to their traditional name Anishinaabeg, replacing the anglicized corruption Chippewa derived from the word Ojibway/Ojibwe/Ojibwa used by French traders. However, the term *Chippewa* has not completely disappeared. It is officially used by the federal government and remains in the name of the present-day Minnesota Chippewa Tribe, the umbrella organization of the six Minnesota Anishinaabe bands.

reflected a clash of Western and traditional Anishinaabe views of political authority and decision making. In the first part of this paper I provide a brief historical background of the beginnings, development, and decline of the White Earth Reservation in the context of federal allotment policy and its impact on political organizing of Minnesota Anishinaabe reservations. In the second part I analyze a fourteen-year period of the General Council of the Chippewa, an inter-reservation constitutional government of the Minnesota Anishinaabeg. Archival data from the early twentieth century are incomplete, yet they provide a more or less faithful picture of how factionally divided White Earth Anishinaabeg strove for asserting their treaty rights in the limits of their ward/guardian status. Focusing on practices reveals Anishinaabe meanings behind their decision making and actions. The third part discusses the significance and implications of the General Council in regard to the later formation of the Minnesota Chippewa Tribe in 1936. I argue that the Nelson Act of 1889 and the creation of the General Council in 1913 represent the first critical juncture⁴ that directed the later institutional development of Anishinaabe reservations toward federalized arrangement.

HISTORICAL BACKGROUND IN BRIEF

The Anishinaabeg who currently live on the White Earth Reservation in northwestern Minnesota are part of a nation that according to Anishinaabe tradition occupied the Atlantic coast north of St. Lawrence River in the period around the mid-fourteenth century (Warren 76). From here they migrated through a vast geographic region of the United States and Canada from the Great Lakes to the prairies of North Dakota. At the end of the seventeenth and the beginning of the eighteenth century, some of the Anishinaabeg arrived in northern Minnesota. In 1868, the Anishinaabe groups dwelling along the upper Mississippi River were relocated over a hundred miles westward to the White Earth Reservation which the U.S. government had established under the 1867 Treaty with the Mississippi bands.

The White Earth Reservation became a new home both for the Anishinaabe Mississippi bands, as well as for an ethnically and linguistically diverse population that by the early 1800s arose from mixed marriages

⁴ Critical juncture is a term used by historical institutionalists to refer to an event or a decision that initiates a path-dependent process, which perpetuates the course set during the critical juncture. According to Ruth and David Collier, critical junctures are “major watersheds in political life” that “establish certain directions of change and foreclose others in a way that shapes politics for years to come” (27).

between Euroamerican fur traders and the Anishinaabeg in the Western Great Lakes area. Both Anishinaabe ethnic groups accepted the White Earth Reservation as their homeland with which they connected their identity. Social and political structures that came into being on the reservation reflected a clash of economic ethics of the more market oriented mixed-blood Anishinaabeg and traditional oriented hereditary leaders of full-blood Mississippi bands who were cautious in their approach to economic changes. Nonetheless, the nascent economic structure based on a combination of traditional subsistence patterns and elements of market economy had a potential to satisfy the living needs of residents with different ways of life (Meyer 226).

In the last decades of the nineteenth century the life of people on the White Earth Reservation and other Minnesota Anishinaabe reservations was affected by expansion of market capitalism accompanied by increasing pressure on opening reservation lands to Euroamerican settlers' business interests. In compliance with the then nation-wide assimilation policy under the Dawes Act of 1887, the White Earth Anishinaabeg were supposed to become independent farmers on allotted plots of 80 to 160 acres. Apart from agricultural lands, the White Earth Reservation comprising 829,440 acres had pine forests which attracted interest of lumber companies. Forested Anishinaabe reservations represented a special situation for the allotment system. The Nelson Act, passed in 1889, was designed to preserve the integrity of the White Earth Reservation landbase. For that reason, there was an effort to concentrate all Anishinaabeg from various reservations, except for those at the Red Lake, on the White Earth Reservation. There, they were supposed to get allotments protected from sale or alienation for twenty-five years. At last, however, this plan was not carried out completely and many Anishinaabeg stayed on their home reservations (Meyer 56). Surplus agricultural land left at White Earth after the allotments was not retained for future needs of Native people but sold to white settlers. With the exception of the unallotted Red Lake Reservation, similar land situation prevailed on all Minnesota Anishinaabe reservations. The breakup of the White Earth landbase was completed under legislative amendments of 1906 and 1907 which removed protective restrictions of the Nelson Act. These amendments opened up a path to illegal land transactions and land frauds which deprived the White Earth Reservation of more than ninety percent of its land base.

The continuing pressure of entrepreneurial interests of lumber companies for exploitation of Anishinaabe resources had an impact on reservation government. The Anishinaabe leaders of mixed descent supported the policy of lifting restrictions on allotted lands. Some of them, as lumber companies agents, were involved in illegal land transactions. Conservative leaders saw

their exploitative behavior as a threat to Anishinaabe conception of equity and collective reservation interests. Consequently, these ethnic differences that formerly did not play a substantial role in community relationships gained political meaning, leading to deep division among leadership factions not only at White Earth but also at the inter-reservation level. The only shared interest of both factions was the need to preserve the remaining land resources in common ownership of all Anishinaabeg in Minnesota.

On the basis of the Nelson Act, the United States recognized all Anishinaabe bands scattered on reservations in northern Minnesota as one tribe having a share in common property. A provision of the Nelson Act established the Chippewa in Minnesota Fund where money obtained from the sales of ceded land and timber was deposited. The U.S. government as a guardian of all Anishinaabe assets mismanaged the Chippewa in Minnesota Fund and the Indian Office's policy⁵ barred the Anishinaabeg from controlling the expenditures from their common fund. To protect themselves against the mismanagement of Anishinaabe assets, in 1913 Anishinaabe leaders created a loose inter-reservation alliance, called the General Council of All the Chippewas in Minnesota.

GOVERNANCE PRACTICES IN THE GENERAL COUNCIL OF THE CHIPPEWA

In this section, I focus on the short period of the General Council's existence (1913–27) and explore how this inter-reservation governing body worked. This institutional arrangement was created as a means of coping with consequences of the implementation of allotment policy on Anishinaabe reservations. From the perspective of the White Earth rebuilding process a crucial turn in governance lay in the connection of two different governing approaches. The General Council combined elements of traditional Anishinaabe governance with American-style representational system. Nonetheless, the General Council was a relatively open system with flexible governance practices. Studying traditional cultural practices exercised by the General Council is promising in two key areas. First, this focus helps to uncover Anishinaabe beliefs, ideas, norms and values that guided decision making and actions. And second, it gives causal meaning to practices because their preservation played an essential role in later White Earth revitalization efforts.

⁵ The Office of Indian Affairs (Indian Office), renamed to the Bureau of Indian Affairs in 1947, has been the main institution in American Indian affairs responsible for the way federal Indian policy is implemented.

Textual analysis of archival documents uncovers historical practices of Anishinaabe governance exercised by the General Council in the social and political conditions of the pre-Indian reorganization period. Even though the documents from this period are incomplete, the General Council's activity left sufficient evidentiary traces in the form of correspondence, proceedings, resolutions and notices. These archival documents disclose to what extent traditional practices of governance survived the erosive effects of assimilation policy. Of course, these documents were not meant to present Anishinaabe perspective. But after filtering out the views and bias of Indian Office officials, there emerge concerns and fears of the White Earth Anishinaabeg confronted by consequences of enormous land loss and dwindling opportunities to practice their traditional subsistence.

The concept of the general council was well known to Anishinaabe bands since long before the reservation period. The pre-reservation Anishinaabe governance was primarily centered on activities within each band but matters concerning all bands were discussed at general councils held for that purpose (Jones 105–10). This feature of traditional Anishinaabe governance passed to the later transitional form of the General Council. Another important element of traditional governance that found its way into the transitional structure was consensual decision-making which followed a process of time-consuming deliberation open to diverse points of view. The preservation of traditional cultural practices has been crucial for Native American self-determination, the idea by no means supported by Indian policy of the period.

The General Council of the Chippewa, established in 1913, differed substantially from the traditional political arrangement and due to external and internal obstacles it failed to achieve its efficiency. Nonetheless, this inter-reservation government affected the later formation of the Minnesota Chippewa Tribe and preserved certain traditional governance practices that held Anishinaabe community together. The emergence of the first inter-reservation constitutional government was accompanied by deep political division that plagued not only the White Earth Reservation but went across all Anishinaabe reservations. Conservative leaders (“full-bloods”) challenged the right of the so-called progressives (“mixed-bloods”), founders of the General Council, to represent the White Earth Reservation in the General Council because of their past involvement in land fraud. To weaken the hereditary leadership lines and traditional community ties, the Indian Office began to recognize elected councils at White Earth where “mixed-bloods” predominated (Meyer 177–78).

In agreement with the requirements of the Indian Office and its willingness to tolerate elected structures resembling U.S. institutions, the General Council of the Chippewa followed a constitutional model and its

elective council system operated under a written constitution adopted in May 1913.⁶ The General Council was a decentralized form of government maintaining substantial autonomy of constituting reservations.⁷ Delegates to the General Council were elected by the local councils of the individual reservations, one delegate for each one hundred residents.⁸ The General Council elected an Executive Committee consisting of one member from each reservation. The officials were elected for a one year-term at annual meetings. Their names were taken over from Western terminology, being called president, vice-president, secretary, treasurer, interpreter, and assistant interpreter.

From the perspective of the relationship to the U.S. government, the Minnesota Anishinaabe bands, as political entities joined in the General Council of the Chippewa, had a ward to a guardian status.⁹ This guardianship of the federal government was realized through the Indian Office, which in the period before 1934, typically interfered in the majority of Native affairs. In spite of the fact that Indian Office officials formally tolerated the General Council's elective structure, they rarely recognized this Council's actions. The attitude of the Indian Office is best summed up by a sentence in a letter written by P. R. Wadsworth, the Consolidated Chippewa Agency Superintendent, to the Commissioner of Indian Affairs, Charles Burke, on 2 July 1923: "If we are to give attention to a council by the Chippewas it should be a council called and controlled by us" (Wadsworth, Letter dated 2 July 1923). These words reveal the extent to which external influences of federal Indian policy restricted Native political activities.

The General Council was supposed to represent the constituting reservations before the Department of the Interior and the U.S. Congress in matters concerning all Anishinaabeg in Minnesota as a whole. Different cultural orientations among full-bloods and mixed-bloods strengthened factional division which made the representative function of the General Council increasingly difficult. In the first few years after establishing the

⁶ Constitution of the General Council of All the Chippewas in Minnesota (1913).

⁷ The General Council represented the White Earth Reservation, the Red Lake Reservation, and the several reservations ceded under the provisions of the Nelson Act of 1889. The ceded reservations were the Winnibigoshish, Cass Lake, Leech Lake, Mille Lacs, Fond du Lac, Bois Forte, Grand Portage, White Oak Point, Sandy Lake and other small bands. In 1918 the Red Lake Reservation separated from the General Council and formed its own government.

⁸ In the 1920s the White Earth Reservation had 70 delegates to the General Council with membership of about 7000 Anishinaabeg (General Council Meeting of 31 October 1922).

⁹ *Cherokee Nation v. Georgia*, 30 U.S. 1, 2 (1831).

General Council a single council was in operation but from 1919 individual factions held councils separately. Mixed-blood leaders were more familiar with the political situation than full-blood leaders and thanks to their experience with U.S. institutions they had a better position in negotiating with Indian Office officials. Even though the Indian Office recognized the mixed-blood council as a “regular council,” it rarely recognized its resolutions. One of the reasons was that mixed-blood leaders criticized past and present activities of the Indian Office as illegal, inefficient and dishonest. They accused the Indian Office of abuse of power because its services in Minnesota were financed out of the Anishinaabe trust fund and they were “primarily for the benefit” of this institution “with only incidental benefits to the Indians” (Mixed-Blood Council). They asked the U.S. President and the Secretary of the Interior to reorganize the Indian Office but these requests were not dealt with (Mixed-Blood Council).

Indian Office field officials did not understand factional disputes inside Anishinaabe communities and their interference was rather disruptive. They used factionalism as a pretext to claim that none of the factions represented the whole tribe. This approach to the General Council’s governance reflected the nationwide Indian policy striving for abrogation of Native governing systems. The BIA followed an assimilation strategy devised by former Commissioner of Indian Affairs Thomas J. Morgan. The goal of this strategy was breaking up tribal relations and making Indians “conform to ‘the white man’s ways,’ peaceably if they will, forcibly if they must” (Morgan 3).

Political divisions within the General Council were overblown by government officials. Factional disputes were not so divisive as Indian Office officials perceived them. Both factions fully realized that they must join together and cooperate in order to have at least some voice in the management of their funds and affairs (Beaulieu and Beaulieu). But the Indian Office did not support these unification efforts. Mixed-blood leaders were of the opinion that the Indian Office deliberately kept the Anishinaabeg divided so that the General Council was not officially recognized by the central office in Washington (Mixed-Blood Council).

Throughout the pre-Indian reorganization period, the Indian Office effectively managed to prevent the Anishinaabeg from exercising any control over their trust funds. Had the Indian Office allowed such authority to Native people, it would have been a step to real self-government, which definitely was not a goal of assimilation policy. Contrary to the provisions of the Nelson Act of 1889, the Anishinaabe trust fund was used mainly to finance the operation of the Indian Office while the actual needs of reservation Anishinaabeg were neglected. Unbearable social conditions on the White Earth Reservation triggered a wave of protests of poverty-

stricken people who were starving, unemployed, and without adequate housing. The Indian Office was unwilling to face the protests and in July 1922 solved the situation by moving the agency office from White Earth Village to Cass Lake on the Leech Lake Reservation (Wadsworth, Letter dated 9 October 1923).

Within this contextual milieu, full-blood and mixed-blood factions strove to protect Anishinaabe rights and the remaining land base which they perceived as their homeland. Mixed-bloods always identified themselves as “Indians” but their entrepreneurial activities distracted them from daily struggles and troubles of reservation community. They did not have as strong ties to land as full-bloods who still depended on a modified seasonal round.¹⁰ For full-bloods, dependence on land, connected with the practices of wild rice harvesting, making maple sugar, berrying, trapping, hunting, and fishing, was not merely a strategy to survive. It was part of the “circle of life,” which did not only relate to material interest in subsistence but had a deeper spiritual meaning. The “circle of life” is one of the translations of the Anishinaabe word *bimaadiziwin* which, in the sense of “good life,” encompasses aesthetic, moral and natural meanings, and also a mastery of right relations with human and other-than-human beings (McNally, *Honoring Elders* 24–25). The Anishinaabeg do not understand *bimaadiziwin* as a religion for which they lack a corresponding word in their language. They see *bimaadiziwin* as a “way of life.” Even though the world around them changed, their worldviews remained even after the Anishinaabeg added elements of Christian religion into their value systems (McNally, *Ojibwe Singers* 61–63).

Obtaining subsistence from the land through the seasonal round was for the Anishinaabeg not only in ethical balance with *bimaadiziwin* but it was traditionally a basis of their independence. From the first decades of the twentieth century, seasonal activities were no longer a backbone of Anishinaabe subsistence. After allotment, the White Earth Reservation became checkerboarded with plots owned by Anishinaabeg and Euro-Americans. Subsistence-oriented Anishinaabeg had limited access to areas containing seasonal resources. In spite of that, they did not give up practices connected with the seasonal round because asserting the continuity of their way of life in relation to land gave them a sense of a semiautonomous space even in conditions that were unfavorable to them. It is therefore

¹⁰ The Anishinaabeg had to adapt their subsistence strategies to allotment and reservation conditions because complete seasonal subsistence was no longer possible due to the diminished land base. They practiced a modified seasonal round that was composed of hunting, fishing, gathering seasonal plants, horticulture, and wage labor.

not surprising that the main concern of full-blood leaders was related to land and the Anishinaabe right to use renewable resources for subsistence in accordance with treaties. They stressed that the Anishinaabeg retained usufructuary rights to hunting, fishing, and gathering on the ceded land under the 1837 Treaty.¹¹ These treaty rights were violated by the State of Minnesota, which established seasons for hunting, and by non-Indian owners who restricted access to lakes and forests (General Council Meeting of 19 July 1922).

Topics that full-blood leaders discussed at their council meetings pertained mainly to their concern over ensuring basic material needs of their community so that life on the reservation was at least bearable. The *bimaadiziwin* ethics pervaded these matters. Sharing day-to-day existential struggles and helping those in need were regarded as a virtue. Therefore, full-blood leaders were very cautious about the rights guaranteed by the Nelson Act of 1889. They did not want to waste all the benefits before the end of the fifty-year period during which money from land and timber sales was deposited in the U.S. Treasury and the Anishinaabeg were paid five percent interest as annuities (General Council Meeting of 10 July 1922). Decision making and actions of full-blood leadership was governed by the sense of responsibility not only to present but also to future generations. Applications of *bimaadiziwin* principles, such as responsibility to the community, ethical human relationships, and proper individual conduct were reflected in governing practices of full-blood leaders. Consensual decision making was well-established and commonplace. Convergence of council members on a common issue helped in generating majority approval of decisions made. Council meetings were open to a plurality of standpoints where every participant had a right to speak and be heard. Protracted deliberations caused that meetings were often lengthy, at times lasting even a few days (Proceedings of the General Council of 9 July 1918). Generally, the council did not reach a decision after a single meeting and delegates would return to their reservations to discuss matters in their local councils. Leaders' authority was based on their ability to represent the will and attitude of the people they spoke for. It was a simple and effective democratic process.

Beginning in 1921, the Congress refused to appropriate money from the trust fund for the expenses of the General Council. In spite of this, the factionally divided General Council continued to meet until 1927 when

¹¹ The usufructuary right to land means using the land for survival purposes. Collins English Dictionary defines "usufruct" as "the right to use and derive profit from a piece of property belonging to another, provided that the property itself remains undiminished and uninjured in any way." See *Collins English Dictionary*. See also Treaty with the Chippewa, 29 July 1837 in Kappler.

it was dissolved. Local community and reservation matters remained in the hands of local councils which held their meetings until the mid-1930s when they were replaced by the new tribal organization under the Indian Reorganization Act of 1934.

SIGNIFICANCE AND IMPLICATIONS

The General Council of the Chippewa did not come into being simply from the wish of individual reservations to be represented in a joint governing body. It was rather a reaction to Indian policy and an effort to defend themselves against violations of the Nelson Act by the Indian Office. For mixed-bloods the General Council embodied a hope for reinstating justice and lawfulness to the Anishinaabeg. They felt uncomfortable with their position as wards of the federal government, whose guardianship role was carried out by the Indian Office. They had little or no voice in the management of their affairs and they were convinced that they were capable of taking care of themselves without the encroachment of the Indian Office. Conservative oriented leaders saw their participation in this political arrangement in agreement with *bimaadiziwin* principles as *nwenamdanwin* (choice making) and *n'dendowin* (responsibility taking).¹² Their responsibility to the community was manifested in fostering ethical and cooperative relationships. In this way, they exercised internal sovereignty in the process of community building.

The transitional form of the General Council reflects the effort to adjust to the changed political, legal, territorial and cultural conditions, and underpin this governing body by Anishinaabe value system. Considering the later political development of Anishinaabe reservations, the Nelson Act and the establishment of the General Council represent a watershed that I understand as the first critical juncture. This critical juncture established the direction of institutional development of Anishinaabe reservations toward federalized arrangement. On this trajectory, the creation of the Minnesota Chippewa Tribe in 1936 under the Indian Reorganization Act provisions was another critical juncture that has shaped political development of constituting reservations for following decades and effectively prevented change.

The failure of the General Council was not caused simply by internal division among the Anishinaabeg. A great share of responsibility for the

¹² The Anishinaabe terms *nwenamdanwin* and *n'dendowin* are taken over from the glossary in D'Arcy Rheault's book *Anishinaabe Mino-Bimaadiziwin: The Way of a Good Life* (158–59).

failure can be attributed to Indian policy implemented by the Indian Office—a rigid institution that was maintained by self-reinforcing processes aimed at cultural transformation of Native people. The hostility of Indian Office officials to the General Council could also be caused by the fact that this governing body was not organized as a business council, which the Indian Office preferred, but as a general-purpose government suggesting a certain continuity with traditional Anishinaabe governance. Despite its short existence, the General Council affected the future direction in the development of the Minnesota Chippewa Tribe. The General Council’s significance can be summed up as follows: first, this inter-reservation government preserved certain Anishinaabe governance practices, which would not be entirely forgotten and served as an inspiration and guidance in future reform efforts. Second, the Anishinaabe experience with this form of government created a specific trajectory of institutional development that fundamentally affected the future way of organizing the Anishinaabe reservations under the Indian Reorganization Act. Third, the General Council represented the beginning of the White Earth Nation’s path to modern constitutional government.

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