

## **United States Policy toward Indigenous People**

We have decided to have a year with emphasis on Indigenous peoples and our relations with them. We have the land dedication on the wall. We had Jim Bear Jacobs come to talk with us and we took his Spiritual Walk. We had the author Kent Nerburn talk. We had Kent Nerburn book “The Wolf at Twilight” as our common read. A good part of our Thanksgiving program was looking at Thanksgiving from the Indian point of view. We will have another Ramsey County Historical Society Dakota History walk this summer. As we said when we put up the land dedication, doing that was not sufficient. It is hoped that by year’s end, we as a congregation will have a better understanding.

I wrote this program and every time I go into it to shorten it, I make it longer, so Lollie suggested I facilitate it myself and can make some of it as the welcome, meditation and closing words. But if it still goes long please accommodate me. Please save your questions to the end.

It begins with the **Spice and Silk trade routes** which brought to Europe silk from China and Spices from India and Southeast Asia. Prices were established and were acceptable to the European Trading Partners

In 1090 that trade was interrupted by the Seljuk Empire, and that was the main reason that triggered the Crusades, although others were developed and became more important in the history books.

In 1453 that trade was interrupted by the Ottoman Empire – that triggered the Age of Discovery and European Colonization

**The Age of Exploration** began in the nation of Portugal under the leadership of Henry the Navigator. King Henry sent out ships to map and explore the west coast of Africa. Hoping that he could find an alternate way to get spices to Europe. He began in 1436 and had trade routes to India established by 1498.

Spain got into the action in 1492 sending Christopher Columbus West. The theory being that if the Earth were round, and most people already believed that it was, that by heading west one would eventually reach the east and they could compete with Portugal in the lucrative Spice Trade.

This was going to cause trouble between two good Catholic countries so Pope Alexander IV published two papal bulls.

In March of 1493 he published the “inter Caetera” (inter set er a) dividing the world in half. Anything west of 100 leagues west of the Azores would be Spanish purview and anything east of that line would be Portuguese. Imagine he believed he had that right, and I guess he did.

In May of that some year, he published the Doctrine of Discovery that said in effect that any land not inhabited by Christians was available to be "discovered," claimed, and exploited by Christian rulers but it declared that "the Catholic faith and the Christian religion be exalted and be everywhere increased and spread, **that the health of Indigenous souls be cared for** and that barbarous nations be overthrown to brought to the faith itself."

Let us understand that the Catholic Church, that was once omnipresent in Europe, was losing ground in the reformation and this new policy allowed them to grow in these new lands – The Americas, Philippines, and some settlements in the Indian Ocean and Africa. Portugal did not do as good at this as Spain. But the Catholic Church is the largest Christian church in the world, solely because of this policy.

If we have any guests today who are willing to introduce themselves to the group; this is your opportunity. We want everyone to use a microphone so that the people on Zoom can hear. Anyone on Zoom?

## **Population**

No one really knows how many Indigenous peoples were in the America's before the whites arrived. Anthropologists have guessed as low at 8 million and as high as 112 million. Well there is one outside the realm, but insists there were 563 million

And today we do not know how many are in the United States . If we accept the BIA 25% bloodline rule the United States has about 4 million indigenous citizens. But why does the BIA have that power. The United States does not require citizens to be 25% anything. Should not the people of a race decide who are members of that race? But understand that in North America almost all those who claim to be indigenous have some European DNA; whereas, in Mexico, Central and South America, nearly all those who claim to be white, have some Indian DNA.

## **Many European nations “discovered” parts of the Americas.**

**Sweden's** policy towards Native Americans during the colonization of New Sweden was friendly and mercantile. All land that was colonized was directly purchased from the local tribes.

The **Dutch** generally followed a policy of live and let live: they did not force assimilation or religious conversion on the Indians. Both in Europe and in North America, the Dutch had little interest in forcing conformity on religious, political, and racial minorities. They attempted to deal with indigenous people as equals.

Relations between the indigenous people and the **Portuguese** were initially cooperative. However, the donatory system, where the monarchy for ease of administration, divided Brazil into fifteen zones, displacing traditional indigenous tribal boundaries, and the rise of sugarcane plantations led to efforts to enslave native peoples to work them. This also resulted in mass importation of slaves from Portuguese controlled Africa, considerably more there than anywhere else in the Americas.

**France** saw Indigenous nations as allies, and relied on them for survival and fur trade wealth. Indigenous people traded for European goods, established military alliances, intermarried, sometimes converted to Christianity, and participated politically in the governance of New France. The French were not interested in sending many people to colonize the territory but they did claim large swaths of it in the name of the French King. The French were everywhere and generally where already there when the white English decedents discovered anything.

**Spain** had a tortured history, with early colonies enslaving everyone to decrees that the King was the protector of the indigenous peoples, to when gold and silver replaced any hope of riches from spices; the colonies were allowed to enslave indigenous peoples again. But the crown was most interested in making them Catholic and they encouraged intermarriage. They were very successful there. Exploration by in large was led by the Catholic monks, not settlers or military.

**Great Britain** Between 1754 and 1829, British policies toward native North Americans sought three key objectives: recruitment and supply of native military allies to help against the French and Spanish and eventually against the United States; regulation of trade and diplomacy; and protection of native peoples' territorial integrity through negotiated settlement of boundary lines. Of course this was after most of the Atlantic Colonies already took the indigenous land, because Great Britain allowed the settlers in the Atlantic coast to develop their own policies.

The King finally established that all lands west of the Appalachians as Indigenous land and tried to deter any colonial settlement beyond the Appalachians; it was one of the things with which the colonials disagreed which led to the War of Independence. Number 6 of 26 specific items in the Declaration of Independence was that He (the King) raised conditions of new Appropriations of Lands. Understand among other business ventures, George Washington and others of his ilk had made a claim on lands west of the Appalachians and would, among many others of the moneyed class, lose a great deal of money if the King's doctrine continued in effect.

### **United States policy toward Indigenous peoples**

After the war of Independence, the United States Government under the Articles of Confederation had no taxing authority. But they assumed ownership of lands under the treaty of Paris from Great Britain and with the *many good things* the Northwest Territories Act did, it also encouraged people to move into the Northwest Territory buying the land from the United States

Government. The sale of land, that was indigenous lands, was the first major income stream for the new government and led to early Indian Wars. 1789 the Bureau of Indian Affairs was created in the War Department. They conducted treaty negotiations, imposed governmental rules and ran the reservations, once they were established, very much like prisoner of war camps. The rule was that the Indians could live their traditional lives on the reservations, but not leave those reservations. The policy was to keep them apart from the white society. A court ruling in 1879 however said “Peaceful Indians could come and go as he wishes with the same freedom of a white man” But it was left up to the BIA to determine who were “peaceful.” This is how Buffalo Bill, for instance, got Indians for his Wild West Shows.

In 1790 the congress passed a law to license traders. This was designed to stop the French who were in the territory and trading without such a license. It also said that the federal government would deal with anyone who broke laws in Indian lands. The problem is that this in effect removed the indigenous people rights to prosecute whites.

There here been conflicts between Whites and Indigenous peoples since the first white British settlers arrived in North America. But in the early 1800s, the issue had come down to white settlers encroaching on Indigenous lands in the Northwest Territory.

The states said they wanted the Indian to assimilate, so it was more complex in the southern United States. Five Indigenous tribes were located on land that would be highly sought for settlement, especially as it was prime land for the cultivation of cotton. But the tribes on the land were the Cherokee, Choctaw, Chickasaw, Creek, and Seminole. The Americans said that their aim was for them to assimilate. Over time, these tribes in the South tended to adopt white ways, such as taking up farming, in the tradition of white settlers and, in some cases, even buying and owning enslaved Black people and there are a few cases of white indentured servants. They valued education and literacy and took on some white dress, at least at formal occasions. These efforts at assimilation led to the tribes becoming known as the “Five Civilized Tribes.” Although Assimilation was what the white’s said they wanted. Yet taking up the ways of the white settlers did not mean the Indigenous peoples would be able to keep their lands. In fact, settlers, hungry for land, were actually dismayed to see these tribes adopting the farming practices of the White Americans.

## **Removal**

The American Indian Removal policy of President Andrew Jackson was prompted by the desire of white settlers in the South to expand into lands belonging to these five Indigenous tribes. After Jackson succeeded in pushing the Indian Removal Act through Congress in 1830, the U.S. government spent nearly 30 years forcing Indigenous peoples to move westward, beyond the Mississippi River. In the most notorious example of this policy, in 1838; 1,000 Choctaw, 2,000 Chickasaw, 15,000 Creek and 17,000 Cherokee were forced to walk from their homes to a

designated territory in present-day Oklahoma. Many died along the way. This forced relocation became known as the “Trail of Tears” because of the great hardship faced. In brutal conditions, nearly 15,000 in total and 4,000 Cherokees alone died on the Trail of Tears.

In 1823, in *Johnson vs. McIntosh*, Supreme Court Chief Justice John Marshall declared that the European countries that took possession of the land and “Made ample compensation to the inhabitants bestowing upon them civilization and Christianity.” He continued, “Indians could acquire no proprietary interest in the vast land on which they hunted any more than a fisherman could acquire ownership of the sea in which he fished.” They had no rights to land because they didn’t make the best use of it and only occupied it. Title came from the Doctrine of Discovery to the Crown and title could only be passed from the Crown to the new nation and then to white individuals.

In 1831 the same Chief Justice of the Supreme Court, John Marshall attempted to define the status of ingenious peoples. He declared that Indian tribes were ‘domestic dependent nations’ whose ‘relation to the United States resembles that of a ward to his guardian’. Marshall was, in effect, recognizing that America’s Indians are unique in that, unlike any other, they are both separate nations and part of the United States. A guardian prepares his ward for adult independence, and so Marshall’s judgment implies that US policy should aim to assimilate Native Americans into mainstream US culture. But ‘a guardian also protects and nurtures a ward until adulthood is achieved,’ and therefore Marshall also suggests that the federal government has a special obligation to care for its Native American population. As a result, federal policy towards Native Americans has lurched back and forth, sometimes aiming for assimilation and, at other times, recognizing its responsibility for assisting Indians as a separate culture.

The Constitution mentions Indians twice. Article 1 Section 2 Representation. Although Blacks are counted as 3/5<sup>th</sup> a person Indians are not to be counted at all, unless they are taxed. The assumption was that if they assimilate they would be taxed...of course they still could not vote.

Article 1 Section 8 says that only congress can set up systems to regulate trade with the Indians. Because of course they are ‘domestic dependent nations.’

What complicates the story further is that Indians were in possession of some valuable land and resources over which white Americans have cast envious eyes. Imagine you as a farmer looking to benefit yourself and your family and here are the Indians; who in your eyes are not making full use of the land as you, as a farmer could see it being used more productively. The nation did thrive, mostly on the agricultural backs of those same farmers who were farming the land that once was indigenous land. Indians by in large did not have the concept of land ownership (one can not own their mother) so early on, when whites wanted to pay the Indian for land, the Indians accepted thinking, of course, that that did not mean they could not still use it for hunting, fishing, and gathering.

**There are so many we will use examples in Minnesota** - In 1837, the Fort Snelling Treaty was negotiated and the first time the Ojibwe and Dakota were asked to cede land for annual payments to provide land for lumber interest in the north and settlers in the south. The tribes reserved their rights to hunt, fish and gather on the land. However, whites that moved on the land did not respect the Indian rights to hunt, fish and gather.

Much of the land was subsequently lost by treaty, sometimes forced on them by mere numbers of whites in an area, or by trickery, often the Indians did not know what they had negotiated away and often those Indians, who did the negotiating, did not have the authority of the Indians to consummate such agreements. Often when the Indigenous people discovered what had happened, it was too late and it either had to be accepted, or... Indian Wars ensued.

The 1855 the treaty of friendship and peace said all Indian lands were government owned lands and reservations were set aside for the Indians. Again the tribes reserved their rights in the 1855 treaty to hunt, fish and gather on the lands.

In 1862 with the Homestead Act, whites could get 160 acres of government owned land free, if they lived on it and improved it. Of course it had all once been Indigenous land. It was worse for the Dakota; because the Whites wanted farmland and the farmland was south and west. The Dakotas ceded so much land, and each time they were going to get payments, but the payments were at best late, if they came at all. In 1862, the Dakota decided to drive the Whites out. In Minnesota, they asked the Ojibwe to join them. The Ojibwe also had their grievances. Baganogizhig led the northern Ojibwe. Some say he wanted to join the Dakota in their war. Shagobay, the leader of the southern Ojibwe, sent braves to near Camp Ripley, where the north and south Ojibwe joined forces. Some say the Shagobay stopped Baganogizhig. The massing the Ojibwe near the Indian agency there, however, caused the Indian agent to give them all his stores, which the Indians already believed were theirs anyway, and he fled. No shots were fired, no one was killed.

The Dakota on the other hand chose war and lost their war quickly and were banned from the state, forcefully moved to the Dakota Territory and 38 were hung in Mankato.

Indians ended up on reservations, land set aside for them to live as they liked – in their own culture - but on far less ground than they had.

**Assimilation** - The Bureau of Indian Affairs was moved from the War Department to the Interior Department in 1869. Between 1887 and 1933, US government policy aimed to assimilate Indians into mainstream American society. The white elite that dominated U.S. society saw this policy as

a “civilizing mission”. As one US philanthropist put it in 1886, the Indians were to be ‘safely guided from the night of barbarism into the fair dawn of Christian civilization’. In practice, this meant requiring them to become as much like white Americans as possible: converting to Christianity, speaking English, wearing western clothes and hair styles, farming and living as self-sufficient, independent Americans.

Federal policy was enshrined in the General Allotment (Dawes) Act of 1887 eliminated communal ownership, which was their tradition and decreed that Indian Reservation lands belonged to the government and that land was to be divided into plots and allocated to individual Native Americans. These plots allocated could not be sold for 25 years, but the rest of the reservation land left over was still owned by the federal government and therefore after the distribution of allotments could be sold to outsiders. This meant that the Act became, in practice, an opportunity for more white Americans to acquire more Indian land, a process accelerated by the 1903 Supreme Court decision in *Lone Wolf v. Hitchcock* said that Congress could dispose of Indian land without gaining the consent of the Indians involved. Not surprisingly, the amount of Indian reservation land shrank from 154 million acres in 1887 to a mere 48 million half a century later. Don’t be taken in by the size of the White Earth Reservation on the map of Minnesota for instance. The map shows the original size, less than a third of it is still in Indian hands.

The Dawes Act also promised US citizenship to Native Americans who took advantage of the allotment policy and ‘adopted the habits of civilized life’. And who decided if they adopted such habits – the Bureau of Indian Affairs. This meant that the education of Native American children needed to take place – many in boarding schools away from the influence of their parents – These schools were considered an essential part of the civilizing process. The principal of the best-known school for Indian children - The Carlisle School in Pennsylvania - boasted that his aim for each child was to ‘kill the Indian in him and save the man’.

### **Preservation and Protection**

The 1924 Citizenship Act granted US citizenship to all Native Americans who had not already acquired it. In theory, this recognized the success of the assimilation policy, but the reality was different. Indians were denied the vote in many Western states by much the same methods as African-Americans were disenfranchised in the South. The Meriam Report, published in 1928, showed that most Indians lived in extreme poverty, suffering from a poor diet, inadequate housing and limited health care. Schools were overcrowded and badly resourced. The Meriam Report, while accepting that government policy should continue to enable Indians to ‘merge into the social and economic life of the prevailing civilization as adopted by the whites’, rejected ‘the disastrous attempt to force individual Indians or groups of Indians to be what they do not want to be, to break their pride in themselves and their Indian race, or to deprive them of their Indian culture’.

This new approach began with the Indian Affairs Act in 1933. It allowed that Native American community life and respect for the environment had much to teach American materialism, It was determined to preserve as much of the traditional Indian way of life as possible. In particular, Native American reservations were to be permanent, sovereign homelands. The centerpiece of this policy was the 1934 Indian Reorganization Act (IRA) which ended the policy of allotment, banned the further sale of Indian land and decreed that any unallotted land not yet sold should be returned to tribal control. It also granted Indian communities a measure of governmental and judicial autonomy.

The IRA was vitally important in arresting the loss of Indian resources, directing New Deal funds towards the regeneration of Indian reservations, successfully encouraged a renewed respect for Native American culture and traditions. Some conservative added the One-quarter blood quantum rule. Can a people be free, if others decide what makes you one of those people. Besides the One-quarter blood quantum would eventually eliminate tribes, because there would be fewer and fewer people who would be recognized as Indians. The IRA was highly controversial and, in many respects, unsuccessful. The Act assumed that most Native Americans wanted to remain on their reservations, and so it was vigorously opposed by those Indians who wanted to assimilate into white society and resented the paternalism of the Bureau of Indian Affairs (BIA). These Indians criticized the IRA as a regressive 'back-to-the-blanket' policy that aimed to turn them into living museum exhibits. Although the IRA was accepted by 174 out of a total of 252 Indian tribes, a number of the larger tribes were among those who rejected it. With approximately 97,000 Indians who were declared eligible to vote on it, only 38,000 actually voted in favor of the Act. Those who voted against it totaled almost 24,000. Nor did the electoral rules add to its credibility. It is pointed out that the practice of not counting no vote at all or counting them as a vote in favor of the measure helped swing close elections, especially on smaller reservations. The Santa Ysabel reservation in California was counted as giving the Act a 71- 43 margin of approval, but we are told that only nine persons could be found who actually voted for the IRA.

Moreover, the policy failed in the most crucial areas of all. The erosion of Indian land as a result of allotment had created a class of 100,000 landless Indians, adding to the problems of the reservations whose best land had been sold off since 1887. Few reservations could become self-sustaining economically and the IRA succeeded in adding only four million acres to the reservation land base. Furthermore, the annual budget of the BIA was not large enough to cope with the demands of economic development for the reservations, let alone provide adequate educational and health facilities.

**War Policy** - The Second World War further damaged the Indian New Deal. Its budget was cut as federal resources were devoted to more urgent war-related activities. The reservations lost a further million acres of land, including 400,000 acres for gunnery ranges, where else to practice new armaments than on land that no white's wanted and were according to officials "under



utilized.” Some thousand of acres were used for the housing of Japanese-American internees. Yes, they put those concentration camps in Indigenous concentration camps. Of course those lands were reservations, but still government owned land.

The experience of war also transformed the lives and attitudes of many Native Americans. There were approximately 350,000 Native Americans in the USA in 1941, of which 25,000 served in the armed forces. This was a higher proportion of total population of any other ethnic group.

A further 40,000 Native Americans worked in war-related industries. For many, this involved a permanent relocation to the cities and a willingness to assimilate into mainstream white culture. The federal government would need to change its Native American policy fundamentally as a result of the war. In 1941 it was pointed out that, ‘with resources inadequate to meet the needs of those already [on the reservations], the problem of providing employment opportunities and a means of livelihood for each of the returning soldiers and workers will prove a staggering task’. Should economic conditions after the war continue to offer employment opportunities in industry, many Indians will undoubtedly choose to continue to work away from the reservations. Never before have they been so well prepared to take their places among the general citizenry and to become assimilated into the white population.

**Termination** –The Second World War profoundly changed the ideological climate in the United States. The nation had just fought a major war to destroy one collectivist ideology – Nazism – and the onset of the Cold War in the late 1940s made most Americans worried about the power and ambitions of another – Communism. Americans began stridently trumpeting the virtues of individual freedom against the collective ideology of the USSR. The nation’s Indian policies were regarded with intense suspicion, and the IRA came to be seen as a domestic version of socialism, or even communism. Many conservative Congressmen had never liked it because they believed that the autonomy it granted to Native American communities gave them special privileges. The IRA seemed to perpetuate the status of Native Americans as wards of the federal government who would require continued supervision and economic support, which, to conservative Congressmen, was an expensive and unnecessary bureaucracy funded by white taxpayers. The IRA was also criticized by the National Council of Churches for the support it gave to Native American religions.

The notion that it was time to terminate the wardship status of Native Americans and wind up federal responsibility for their welfare became increasingly popular in Washington. This would mean that BIA could be abolished, the reservations broken up, Indian resources sold off and the profits divided among tribal members. Indians would become just like any other Americans – responsible as individuals for their own destiny.

After all the IRA report of 1948 as The Meriam Report, of 1928, found that most Indians lived in extreme poverty, suffering from a poor diet, inadequate housing and limited health care. Schools

were overcrowded and badly resourced. (sounds familiar). Nothing had improved since 1928. In this context, the IRA, rather than inadequate federal funding, was blamed for the economic backwardness of the reservations. The IRA, by returning the land to communal ownership and making it inalienable, had limited the property rights of individual Indians. Furthermore, the wartime migration of many Indians to the cities appeared to suggest that what many Native Americans themselves wanted participation in America's booming postwar industrial economy rather than a life of rural squalor on the economically deprived reservations.

**Relocation** - In 1948 the government began a policy of relocating Indians – initially from two tribes – to the cities where the job opportunities were better than on the reservations. This program was gradually expanded and by 1960 nearly 30 per cent of Native Americans lived in cities, as opposed to just 8 per cent in 1940. Although the BIA provided some financial support and advice for relocating Indians, it reported as early as 1953 that many Native Americans had ‘found the adjustment to new working and living conditions more difficult than anticipated’. Securing housing, coping with prejudice and even understanding the everyday features of urban life such as traffic lights, elevators, telephones and clocks made the experience traumatic for many Indians. Not surprisingly, many suffered unemployment, slum living and alcoholism. Federal funding for the relocation project was never sufficient to assist Native Americans to cope with these problems, and many drifted back to the reservations.

**The Indian Claims Commission** - The first step towards terminating the reservations came in 1946 when Congress, in part to reward Native Americans for their contribution to the war effort, set up the Indian Claims Commission to hear Indian claims for any lands stolen from them since the creation of the United States in 1776. It was clear that the Commission would provide only financial compensation and not the return any land. The federal government regarded the Commission as the first step to ‘getting out of the Indian business’. This was clearly how President Truman saw it: ‘With the final settlement of all outstanding claims which this measure ensures, Indians can take their place without special handicaps or special advantages in the economic life of our nation and share fully in its progress.’ The original intention was for the Commission to sit for five years, but there were so many claims that it remained in existence until 1978 or 32 years.

The Termination of the Reservations - In August 1953, Congress endorsed House Concurrent Resolution 108 which is widely regarded as the principal statement of the termination policy:

“It is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as

wards of the United States, and to grant them all the rights and prerogatives pertaining to American citizenship.”

In the same month Congress passed Public Law 280 which, meant to terminate all reservations and among other things repealed the laws banning the sale of alcohol and guns to Indians. These measures could be justified as merely bringing Indians into line with other US citizens. Of course it also complied with the lobbying by the alcohol and firearm industries.

Many Native Americans were alarmed about the termination policy. One Blackfoot tribal chairman pointed out that, ‘in our language the only translation for termination is to “wipe out” or “kill off”’. Senator Arthur Watkins of Utah, the principal Congressional advocate of termination, claimed in a 1957 article that it could be compared to the abolition of slavery: ‘Following in the footsteps of the Emancipation Proclamation of 94 years ago, I see the following words emblazoned in letters of fire above the heads of the Indians – THESE PEOPLE SHALL BE FREE!’

These remarks were, of course, self-interested. Termination would open up yet more Indian land and resources to white purchasers.

Termination proved very hard to resist. Opponents who stressed the backwardness of the reservations and the inability of individual Indians to cope without continued federal support only confirmed the Congressmen in their conviction that the IRA had failed and that a new policy was necessary. Even the lack of adequate facilities for Native Americans could be used as evidence that termination was necessary.

Many Native Americans favored termination. These were mostly Indians who had moved to the cities and, in many cases, adopted the values and lifestyles of the white majority. They stood to gain financially if the land on their reservations was sold and the money divided among tribal members

Two reservations were terminated resource-rich Menominee and Klamath, each were total disasters for the Indians. The pace of termination slowed in the mid-1950s as it became clear that many Indians had not been properly consulted and few fully understood its implications.

In 1958 the Secretary of the Interior declared that ‘it is absolutely unthinkable ... that consideration would be given to forcing upon an Indian tribe a so-called termination plan which did not have the understanding and acceptance of a clear majority of the members affected’. In the 1960s the termination policy was abandoned. This did not help the Menominee or the Klamath tribes.

The Impact of Termination – Judged by numbers alone, the impact of termination was small. It affected just over 13,000 out of a total Indian population of 400,000. Only about 3 per cent of reservation land was lost. But it caused huge anxiety amongst Native Americans and had the ironic result of stimulating the formation of the ‘Red Power’ protest movement of the 1960s. It remains an emotional issue. It seemed to be the most concerted drive against Indian property and Indian survival’ since the 1830s. ‘An utter betrayal of trust responsibilities by the federal government’, ‘termination increasingly resembled extermination’.

Even today, neither the Native American tribes themselves, nor the federal government, have successfully resolved exactly what the status and identity of the original inhabitants of the north American continent should be. Should the government policy aim for assimilation or recognize its responsibility for assisting Indians as a separate culture.

**Self Determination-1960** There was another new policy; Self Determination. Allow the reservations to invest their own money. Set up local units of government. Many started business enterprises.

That is what brought me to the Mille Lacs Reservation in 1970; I ran their electronic assembly business. The business went from 8 employees to over 60 in four years, and the business continued providing jobs for over 20 years. The reservation bought or started other businesses

Art Gahbow became the Mille Lacs leader in 1972, while I was there. He took the business formation further buying resorts and restaurants. He tried to acquire land, but failed, - tried to get arrested to test the treaty of 1855 on hunting, fishing and gathering right. Eventually he got an agreement with the state that the state legislature turned down, so they went to court and got full rights to hunt, fish and gather in the 61,000 acres they gave up in 1855. They have not used that right, but have established the fact that they never give up the 1855 treaty provisions.

He fought for the rights to administer their own anti-poverty programs and have increased the flow of money to the reservation in those programs from 11%, meaning 89% went to government bureaucracy, to over 54% today. That’s still a lot of bureaucracy, but a whole lot less than before. They set up their own construction company, the Indian Housing homes are better built and it supplies employment at the same time. Medical was a room in the Community Action Program building, they built a real clinic, they opened their own schools, Their water and sewer systems are so good, white neighbors have petitioned to join them

Three problems with self determination:

1. There have been instances of graft and corruption. But the fact that the indigenous people control their own money and governmental programs still seem to be better run than when the federal state or local governments ran them.

2. Even more is the Nepotism, The favoring of one family at the expense of another. This has destroyed some every good enterprises on Minnesota reservations alone.
3. Non-native governments not willing to understand that ingenious people can run their own affairs, all the way from townships to the BIA itself.

### **Then came gaming**

This whole idea Indian gaming began at the Ojibwe reservation of Grand Portage in the early 1970's. They believed they had the right to begin a casino. I agreed. There was a great deal of pressure both ways, and they finally decided to wait for legislation. Eighteen years latter, in 1988 Congress finally passed the Indian gaming act. An agreement was negotiated with the State of Minnesota and casinos became a windfall for some reservations.

Three reservations examples:

Midewaukten Sioux, Shakopee membership of a few hundred people, everyone gets a share of the profits each year. They are close to the Twin Cities so get good participation. They have created more than a few hundred millionaires.

Bois Forte, casino on the other hand, is far from the public and often does not make money. But they are still better off because of the new policy of self-determination, but gambling has not had an effect and poverty levels that have not changed there since the study in 1924

Mille Lacs, is some distance from the twin Cities but on major traveling routes north, Hwy 169 and Interstate 35. Art never lived to see the monies come in but established a very good system where the money is split three ways

1. 1/3<sup>rd</sup> to infrastructure including water system, roads, housing, schools, medical etc.
2. 1/3<sup>rd</sup> to investments including stocks and bonds and purchasing land within the 61,000 acres that was suppose to be set aside under the 1855 treaty. They have purchased back more than 1,200 acres of that 61,000. Art was concerned that the gambling money wouldn't last forever. He was sure that the whites will figure out some way to take it from them. so a good investment portfolio would be important.
3. 1/3<sup>rd</sup> to economic development, encouraging advanced education with scholarships, equity investment in privately owned or tribally owned businesses. Among other things the tribe now own the local bank in Onamia and Hinckley.

An example of Self Determination is The Indian Child Welfare Act of 1978 - a United States federal law that governs jurisdiction over the removal of Native American children from their families in custody, foster care and adoption cases. It gives tribal government's exclusive jurisdiction over children who reside on, or are domiciled on a reservation. Indian Children

should be adopted into Indian families instead of White families. A Supreme Court case against the Indian Child Welfare Act started when the state of Texas and residents sued the U.S. government in 2017 after a white's family adoption request for a child they had fostered for more than a year was initially denied. Under the act the child was eligible for citizenship in the Navajo Nation, which had found a potential Navajo family for the child in New Mexico. The white family ultimately was allowed to adopt the child. But the state of Texas continues the claim that the act is unconstitutional because it is discriminatory against whites. A right given and now attempts are being made to take it away

When I was at Mille Lacs there an arrangement made with Mile Lacs County to allow tribal police to patrol and have jurisdiction on tribal lands. Recently that agreement was opted out of by Mille Lacs County.

The Mille Lacs Band, like many tribal peoples, has legally gained their rights to hunt, fish and gather and with Casino money are now expanding their reservation lands, by buying land back that once was theirs.

However - The Oneida nation in New York purchased back lands that were once part of their reservation and declared that the land was theirs and therefore tax exempt. The City of Sherrill New York brought suit to declare that it was not tax exempt land. It went to the Supreme Court and of all justices, Ruth Bader Ginsburg ruled that: "Under the doctrine of discovery fee title to the lands occupied by Indians when the colonists arrived became vested in the sovereign—first the discovering European nation and later the original state of New York and the United States." Justice Ginsburg concluded that the proper way for the Oneida Nation to reassert its immunity over those re-acquired lands was to place the land in United States trust under the Bureau of Indian Affairs in the **Department of the Interior**, as authorized by the **Indian Reorganization Act** of 1934, This was in 2005. and the only way for them to get it back their lands was for the federal government to own it and allow them to have it,... because indigenous peoples are 'domestic dependent nations' whose 'relation to the United States resembles that of a ward to his guardian'

## **Closing Words**

The Doctrine of Discovery is not ancient history it was used as late as 2005 as precedence by the United States Supreme Court. And may very well be used again this year in overturning the Indian Child Welfare Act

The Pope in declaring the Doctrine of Discovery used the Exodus of the Jews from slavery in Egypt to the promised land of Canaan as justification for the doctrine. But there were indigenous peoples in Canaan, but it was OK for the Jews to acquire it because it was promised

them by God. But wait doesn't the same book of Exodus also give us the ten commandments including such rules as Do not Kill, Do not Steal and Do not Covet what is thy neighbors.

There is no end to problems and probably no end to policy shifts –The question remains: should the government policy aim for assimilation or recognize its responsibility for assisting Indians as a separate culture. John Marshall presented the problem to us in 1831, and we have yet to answer it.