

The Development of the MCT Constitution

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Power Point Presentation

Overview of Presentation

- Important Federal Laws
- History of the MCT Constitution
- Powers & Duties of the TEC
- Powers & Duties of RBC
- Day-to-day operations

Important Federal Laws

- General Allotment Act of 1887
- Nelson Act of 1889
- Indian Reorganization Act of 1934

General Allotment Act of 1887

- Converted communally owned Indian land to individually owned parcels through allotment
- Goal was to break up the communal aspect of Indian society and turn Indians into farmers
- Individual members would receive allotments to work and live on
- Excess lands sold to non-Indians
- Led to the dispossession of millions of acres of Indian land and significantly fractionated ownership

Nelson Act of 1889

- Federal law that intended to relocate Anishinaabe people in Minnesota to the White Earth Reservation
- Mandated allotment of communal lands and allowed the sale of surplus lands
- Focused on all Anishinaabe in Minnesota, including Red Lake
- Improper timber valuations and the taking of land led to the Nelson Act Settlement

Indian Reorganization Act of 1934

- Combatted the alienation of Indian land
- Imposed a standardized model of governance on tribes
- Adoption of the IRA was voluntary and each reservation had 18 months to vote on whether or not to adopt

Initial Organization of MCT

- The Anishinaabe in Minnesota followed traditional political systems which employed localized control by hereditary chiefs
 - Bands lived in fairly independent communities scattered throughout the northern part of the state
- There was no tribal organization that represented all of the Anishinaabe in Minnesota
- Initial reservations were set aside for individual Bands of Anishinaabe pursuant to treaties
- Nelson Act created the “Chippewa in Minnesota Fund”
 - included all Anishinaabe, even Red Lake

Initial Organization of MCT (continued)

- To ease administration of the fund, the Indian Office attempted to deal w/ the Anishinaabe in Minnesota as one tribe instead of as individual reservations
- In the span of four years, the Indian Office began with practically no local organizations and built a tribal organization to represent all Anishinaabe in Minnesota
- In 1913, the Chippewa General Council was formed to act as a medium between the Anishinaabe and their money in the Nelson Act's "Chippewa in Minnesota Fund"
- Considerable controversy occurred between full-blooded Indians and mixed-bloods related to administration
- Red Lake's opposition to allotment led to them being considered separate from the 6 Bands of the MCT
 - Separation was upheld by the 1937 Supreme Court case titled *Chippewa Indians of Minnesota v. United States (Red Lake Band, Interveners)*
- The Chippewa General Council failed to garner local support and lost legitimacy

Overview of MCT Constitution

- IRA Constitution adopted in 1936
- Amended and Revised Constitution adopted in 1963
 - 4 additional amendments
 - Amendment I – 1972
 - Amendment II – 1972
 - Amendment III – 2006
 - Amendment IV - 2006

1936 MCT Constitution

- After passage of the IRA, significant discussion occurred on whether the 6 Reservations should be organized separately or together
 - Indian Office only saw confusion ahead if the Bands organized separately so they pushed a centralized form of governance on the 6 reservations
- 1936 MCT Constitution was drafted by Leech Lake member and Indian Office employee Jacob Munnell and Cass County Attorney Edward Rodgers
 - Included a consolidated governmental structure (the TEC) based on tribal communities/districts
 - Called for the creation of separate charters for each of the six reservations
- Tribal Delegates
 - Each Community/ District was allowed to select 2 delegates
 - Tribal delegates from each Reservation would then elect 2 members from each Reservation to sit on the TEC
 - Originally there were approximately 32 reservation precincts (over 65 elected officials)
- Governing body was TEC
 - 1936 MCT Constitution embodied the concept of a "Tribe" covering several reservations
 - Idea was approved by tribal delegates but they still didn't want the principal powers of the Tribe channeled through a centralized government
 - "We understand from the representatives who met with the tribal delegates that the tribe does not wish to give the tribal organization power to control the local reservation or community organizations and wishes to leave these local organizations free to operate in an independent way."
 - Memo from Indian Agency Personnel Zimmerman to Burns

1936 MCT Constitution (continued)

- Submitted for ratification to the MCT on June 20, 1936
 - 1,528 votes for
 - 544 votes against
- Approved by Secretary of Interior on July 24, 1936
 - BIA had a strong influence in drafting the initial constitution
 - Provided little localized autonomy
- In order to ensure localized control, the Indian Agency called for the passage of Local Charters of Organization
 - Supposed to be tailored to each specific reservation, but ended up being nearly identical
- Opposition to the form of government incorporated in the 1936 MCT Constitution was significant
 - Some argued that Munnell and Edwards drafted the Constitution for the benefit of the Indian Office to ensure easier administration
 - Some stated that the local Indians did not understand the governance structure when they voted on accepting the IRA
 - By 1945, 3 reservations wanted to leave the central government due to a lack of local control

Revised Constitution (1963)

- Revised Constitution and Bylaws of the Minnesota Chippewa Tribe was enacted in 1963 and approved by the Secretary of the Interior on March 3, 1964
- Removed local charters
- Created Reservation Business Committee structure
 - Allowed for greater local control
- Implemented ¼ degree blood quantum
- Changed term from 1 to 4 years

Revised MCT Constitution

- Preamble
- Article I – Organization and Purpose
 - Conserve and develop tribal resources, promote general welfare, preserve and maintain justice
- Article II – Membership
 - 1941 roll; children of 1941 roll born from 1941 to 1961; and ¼ bloods born to a member
- Article III – Governing Body
 - TEC for larger issues; RBC for local issues
- Article IV – Tribal Elections
- Article V – TEC Authorities
- Article VI – RBC Authorities
- Article VII – Duration
 - Perpetual duration
- Article VIII – Majority vote
 - At all elections under constitution, the majority of eligible voter cast shall rule, unless otherwise provided by an Act of Congress
- Article IX – Bonding
 - Required bonding of officials for the faithful performance of duties

Revised MCT Constitution (continued)

- Article X – Vacancies and Removal
 - Vacancies filled on TEC by Indians from Reservation which vacancy occurs, in interim, RBC can select temporary TEC member until an election can occur, requires 2/3 vote of RBC for removal
- Article XI – Ratification
 - Not operative until ratified by a majority vote of adult members of the MCT, provided that 30 percent of those entitled to vote shall vote
- Article XII - Amendment
 - Can be amended by majority vote of adult members, provided that at least 30 percent of those entitled to vote shall vote
- Article XIII – Rights of Members
 - Members accorded equal rights, equal protection, and equal opportunity to participate in economic resources and activities of tribe, no member denied any constitutional rights or guarantees enjoyed by other citizens of the United States
- Article XIV – Referendum
 - Submit any enacted or proposed resolution or ordinance to a referendum vote of all TEC members upon receipt of a petition signed by 20 percent of resident voters, or by affirmative vote of eight (8) members of the TEC
- Article XV – Manner of Review
 - Review by Secretary of Interior is required
- Bylaws
 - Article I – Duties of TEC Officers
 - Describes duties of President, Vice-President, Secretary, Treasurer
 - Article II – TEC Meetings
 - Article III – Installation of Members
 - Oath of office
 - Article IV – Amendments
 - Same manner as constitution
 - Article V – Miscellaneous
 - Fiscal year starts July 1, books audited yearly
 - Article VI – RBC Bylaws
 - RBCs shall by ordinance adopt bylaws

Constitutional Amendments

- Amendment I
 - Approved by Secretary of Interior on November 6, 1972
 - Stated all members of the Tribe, over 18 years of age shall have the right to vote at all elections held within the reservation of their enrollment
- Amendment II
 - Approved by Secretary of the Interior on November 6, 1972
 - Stated candidates must reach 21 years of age before the election
- Amendment III
 - Approved by Secretary of Interior on January 5, 2006
 - Candidates must reside on the reservation of his/her enrollment for one year before the date of election

Constitutional Amendments (continued)

- Amendment IV
 - Approved by Secretary of the Interior on January 5, 2006
 - Election disqualification for felony or conviction of a lesser crime involving theft, misappropriation, or embezzlement

Powers & Duties of the TEC

- a) To employ legal counsel for the protection and advancement of the rights of the MCT;
- b) To prevent any sale, disposition, lease or encumbrance of tribal lands, interests in lands, or other assets including mineral, gas or oil;
- c) To advise with the Secretary of the Interior w/ regard to all appropriation estimates or Federal projects;
- d) To administer any funds within the control of the Tribe; to make expenditures from tribal funds in accordance with a budget
- e) To consult, negotiate, contract, and conclude agreements on behalf of the MCT with Federal, State, and local governments or private persons or organizations;
- f) Except for the powers granted to the RBCs, the TEC shall be authorized to manage, lease, permit, or otherwise deal w/ tribal lands, interests in lands or other tribal assets; to engage in any business; to borrow money to loan the money thus borrowed to Business Committees of the Reservation...
- g) Levy licenses or fees on non-members or non-tribal organizations doing business on two or more Reservations;
- h) To recognize any community organizations, associations or committees open to members of the several Reservations and to approve such organizations, subject to the provision that no such organizations, associations, or committees may assume any authority granted to the TEC or the RBC;
- i) To delegate to committees, officers, employees or cooperative associations any of the foregoing authorities, reserving the right to review any action taken by virtue of such delegated authorities.

Powers & Duties of the RBC

- a) To advise the Secretary of the Interior with regard to all appropriation estimates on Federal projects for the benefit of its Reservation;
- b) To administer any funds within the control of the Reservation; to make expenditures in accordance with a budget;
- c) To consult, negotiate and contract and conclude agreements with Federal, State and local governments or private persons or organizations; manage, lease, permit or otherwise deal with tribal lands, when authorized to do so by the TEC; engage in business; to borrow money or to loan the money;

Powers & Duties of the RBC (continued)

- d) Levy licenses or fees on non-members or non-tribal organizations doing business solely within their respective Reservations;

Interpretations

- No. 1-80 - only TEC can interpret the Constitution
- No. 2-80 - allowed the creation of a court system on the Band and Tribal levels
- No. 3-81 - related to eligibility for education funds (largely outdated today)
- No. 4-81 - reaffirmed No. 1-80
- No. 5-84 - rescinded in 1996
- No 6-84 - related to records
- No. 7-86 - local RBC decision for what determines the 20% of resident eligible voters
- No. 8-94 - related to delegations of authority
- No. 9-95 - rescinded in 1996
- No. 10-96 - made clear that the BIA had no authority to ignore the MCT Constitution
- No. 11-09 - rescinded
- No. 12-09 - affirmed the Enrollment Ordinance language that only the blood of the biological parent could be counted
- No. 13-09 - whether a conviction for attempt is a disqualifying factor
- No. 14-2011 - 4/5th requirement for removal
- No. 15-2011 - majority vote necessary for recall election

Day-To-Day Operation

- Day-to-day operations are largely a matter of RBC control
- MCT is currently involved in:
 - Administration
 - Education
 - Finance
 - Human Services

Administration

- Executive Direction
- Tribal Operations
 - Enrollment
 - Elections
- Accounting and Liquor Licensing
- Human Services

Education

- Scholarship Information
- Johnson O'Malley Compliance
- Curriculum Development

Finance Corporation

- Home Loans
- Business Loans
- Homes for Sale

Human Services

- Senior Services
- Investment, Employment, and Welfare
- Food Stamp Nutrition Education