

Indians as Citizens

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Indians were not citizens of the United States for most of the nation's history. It made a kind of sense. The idea was that Indians belonged to their tribe, and their tribe was a separate nation. They were citizens of their tribe, not the United States. The Constitution said that members of the House of Representatives should be in proportion to each state's population, not counting "Indians not taxed," meaning tribal Indians. "Indians not taxed" were governed by their tribes, not by the United States, and should not be represented in Congress. Despite this general rule, Indians occasionally became citizens. Some Cherokees, Choctaws, and Wyandotts became citizens under treaties signed with their tribes in the late 1800s. The Dawes Act said Indians became citizens if they accepted an allotment of land under the Act. But in 1884 the Supreme Court reminded that, in general, an Indian born in the United States was no more a citizen than "children ... born within the United States, of ambassadors or other public ministers of foreign nations."^{viii}

After WWI, Indians who had served in the war were allowed to become citizens. Finally in 1924 Congress passed a law declaring that all Indians were citizens, with the implication that they might also be citizens of tribes. But it was only a limited kind of citizenship. It didn't automatically mean that Indians could vote. That was in the hands of the states. Arizona's Supreme Court, for example, ruled that Indians were prevented from voting by the Arizona Constitution's provision that persons under "guardianship" could not vote. Indians were not allowed to vote in New Mexico and Arizona until 1948.^{ix}

ⁱ Lawrence C. Kelly, *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform* (Albuquerque: University of New Mexico Press, 1983)

ⁱⁱ Prucha, op cit, pp. 801 - 804

ⁱⁱⁱ The Problem of Indian Administration (known as the Meriam Report) (Baltimore: Johns Hopkins Press, 1928, especially Chapter IX, available at

http://www.alaskool.org/native_ed/research_reports/IndianAdmin/Indian_Admin_Problms.html

^{iv} "Contagious and Infectious Diseases among the Indians," Senate Document no. 1038 (Washington: Government Printing Office, 1913).

^v John Collier, "America's Treatment of Her Indians," *Current History* 18 (August, 1923), 772 and ff.

^{vi} Prucha 951.

^{vii} Vine Deloria, Jr. and Clifford Lytle, *The Nation Within: The Past and Future of American Indian Sovereignty* (New York: Pantheon Books, 1984), pp. 186 -

http://books.google.com/books?id=FLgEf5kGLWQC&pg=PA186&lpg=PA186&dq=indian+reorganization+act+kelly&source=web&ots=JOUisRX1HE&sig=NMBDpMrTD1r-w_gkbsz_ghuGvkU#PPP1,M1

^{viii} *Elk v Wilkins*, 112 U.S. Reports 94 (1884), available at <http://supreme.justia.com/us/112/94/case.html>.

^{ix} N.D. Houghton, "The Legal Status of Indian Suffrage in the U.S.," *California Law Review* 19 (July, 1931). Also op cit Prucha 794.