Land Division
Claims
46957-41

FILE COPY
Surname:

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON

DEC 29 1942

Mr. Ed. H. Wilson,
President, Minnesota Chippewa Tribe,
Through Supt., Consolidated Chippewa Agency.

My dear Mr. Wilson:

On July 26, 1941, the Tribal Executive Committee of the Minnesota Chippewa Tribe adopted Resolution No. 4 governing future enrollment of members in the tribe, which resolution, pursuant to Section 3, Article II of the Constitution of the Minnesota Chippewa Tribe, was ratified by the tribal delegates on July 26, 1941, and submitted for approval by the Secretary of the Interior.

For the reasons hereinafter discussed I find it necessary to disapprove Resolution No. 4.

The resolution re-enacts Section 2 of Article II of the Tribal Constitution in that only descendants of Chippewa Indians duly registered on the approved rolls of any reservation or band referred to in Section 1, Article II of the Constitution as recognized by the United States pursuant to the Act of January 14, 1889 (25 Stat. 642), shall be eligible for membership in the Minnesota Chippewa Tribe, and also in that it recognizes the present rolls maintained by the Consolidated Chippewa Agency subject, however, to correction by the governing body. The resolution declares that all descendants of the persons mentioned are eligible for enrollment as a matter of right regardless of place of birth, degree of Indian blood, place of residence at present, tribal affiliation, etc., and further provides that such persons shall file a birth certificate or other supporting evidence as proof of their right to enrollment. The procedure, after the establishment of their right to enrollment, is, according to Section 4, Article II of the Tribal Constitution, for the applications of such persons to receive consideration by the governing body and the decision thereon to receive ratification by the tribal delegates. The resolution provides that upon ratification thereof by the tribal delegates and approval by the Secretary of the Interior, "the present policy now existing of enrolling only Indians who are residents of the recognized Indian country, or their issue, shall by those acts be forever abrogated." The resolution, however, recommends that consideration be given to "association, recognition, and affiliation" in determining future membership, apparently leaving such consideration to the discretion of the governing body.

At the outset it should be stated that the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), by providing for the organization of Indian tribes on the basis of self-government, has delegated to those tribes the right to determine their own membership wherever constitutions such as that of the Minnesota Chippewa Tribe have been promulgated pursuant to that act and embodying provisions governing tribal membership. Those provisions are alone governing and all prior departmental

COPY FOR THE ~~SECRETARY'S~~ INDIAN OFFICE

regulations thereby become ineffective. In the case of the Minnesota Chippewa Indians, this means that tribal membership is henceforth ruled by the provisions contained in Article II of the Tribal Constitution and by regulations adopted by the tribe with the approval of the Secretary of the Interior.

The tribe, therefore, is not bound by departmental rules and regulations and decisions such as the so-called Patterson and Mahaffie opinions which were referred to a number of times in the minutes of the meetings. The tribe may recognize all descendants of Minnesota Chippewa Indians as entitled to membership in the tribe if it so desires and if the Secretary of the Interior approves any resolution passed for that purpose.

A study of the minutes, however, appears to reveal that section 2 of the resolution which relies on the Act of January 14, 1889 (25 Stat. 642), in order to provide for such a general right of enrollment seems to be based on an error of law. That act did not require that all descendants of ancestors listed on the 1889 roll be recognized as members of the tribe. It is clear, however, from several remarks made by tribal members who spoke during the meetings at which resolution No. 4 was discussed and adopted, that they believed they were legally bound to accept as members all descendants as Minnesota Chippewa Indians.

From other remarks made during these meetings it appears that part of the reason for the readiness of the tribe to admit to membership all descendants of the Minnesota Chippewa Indians was the belief that such an enormous increase in tribal membership and in the number of Indians thereby entitled to share in tribal benefits would not result in a depletion of tribal assets now available. The belief was expressed that Congress would readily appropriate large sums of money in order to satisfy the claims of these new tribal members so that they would not result in decreasing the share of assets now available for each present member of the Minnesota Chippewa Tribe.

It should be made clear to the tribe that any expectation of such congressional appropriations is without any basis in fact. If the Minnesota Chippewa Indians desire to share their property with a large number of persons who are Indians neither by name, residence, or attachment but merely by the accident of a small portion of Indian blood, in order to extend such benefits as may be available to Minnesota Chippewa Indians to the largest possible number of persons, that does not constitute any reason for Congress to increase those tribal assets in order to safeguard the share which present members of the tribe may now expect. Congress cannot justifiably be expected to make large appropriations in order to distribute unearned benefits to numerous Americans whose Indian character has been all but lost. Especially is this true in time of war when financial demands upon Congress for military expenditure are so very large. The Minnesota Chippewa Tribe, therefore, must realize that every new name which they add to the membership roll will by that much decrease the share every member now has in the limited assets of the Minnesota Chippewa Tribe.

It should be added also that the rules represented by Resolution No. 4 are fundamentally opposed to the policy enunciated again and again by Congress and

followed by this Department. It is the basic policy of the Indian Reorganization Act, supra, to enable tribal organizations to maintain their identity and to follow a natural development unhampered as far as possible by outside influences. Section 19 of that act provides that:

> "The term 'Indian' as used in this act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction and all persons who are descendants of such members who were on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood."
> (Underscoring supplied.)

This provision makes it quite clear that nonresident persons of less than one-half Indian blood are not even included in the basic enumeration of groups considered by the very act under which the constitution of the Minnesota Chippewa Tribe has been promulgated.

Similarly, the recent appropriation acts provide that educational benefits may be available only to persons of at least one-fourth Indian blood. The same restriction applies to loans to be made from revolving credit funds set up under the annual appropriation acts of this Department. Generally speaking, an ever increasing number of Indian tribes are incorporating in their constitutions provisions limiting membership to persons having a minimum quantum of Indian blood. This is in entire accord with the policy of Congress and this Department. The purpose of the Indian Reorganization Act and the system established thereunder could never be realized if the orderly and well-organized life of Indian tribes based on a close-knit membership steeped in the tradition and usage of their tribe were to be disrupted by the large scale admission of persons whose only contact with the Indian tribe is a negligible quantum of Indian blood and the desire to reap financial benefits from such membership.

This Department is charged with the responsibility of protecting the Indian tribes in their identity and their property, and of securing to them the benefits of the system of orderly tribal self-government established by the Indian Reorganization Act. This responsibility has been implemented by giving this Department the right to approve or disapprove certain tribal resolutions, and especially those dealing with admission to membership. I believe that Resolution No. 4 would have undesirable consequences which were not made manifest in the consideration given to that resolution by the council, and that in disapproving that resolution the Department will protect the tribe and its future generations from the damage to their property and to their tribal organization which that resolution might cause.

I am confident that once the errors of law and fact on which that resolution was clearly based are fully realized by the tribe, they will wish to modify these provisions and to limit tribal membership to those persons who by their degree of Indian blood, their residence within the Indian reservation, or other

evidence of their intimate and continuous connection with, and interest in, the affairs of the Minnesota Chippewa Tribe give promise of being loyal and responsible members of the tribe.

Sincerely yours,

(Sgd.) OSCAR L. CHAPMAN

Assistant Secretary

WBB:ms 10/20/41
WBB:rl 11/11/41
WBB:ms 11/18/41

cc Consolidated Chippewa Agency.

Indian Organization