

-copy of letter to Wilson

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY

WASHINGTON

NOV - 8 1942

MEMORANDUM for the Commissioner of Indian Affairs.

Your attached letter to Mr. Ed. W. Wilson, President of the Minnesota Chippewa Tribe, prepared for my signature, is returned to you for revision in accordance with the following explanations:

The letter deals with Resolution No. 4 embodying rules governing the qualifications for enrollment in the Minnesota Chippewa Tribe. That resolution was adopted by the Tribal Executive Committee of the Minnesota Chippewa Indians on July 26, 1941, and was ratified on the same date by the Tribal Delegates.

Your letter disapproves that resolution. I agree with that conclusion. I believe, however, that the reasons for that disapproval should not be sought in departmental rules and regulations and in a discussion of the so-called Mahaffie and Patterson opinions, but rather in the mistaken beliefs as to law and expected congressional action which underlay the resolution.

The Indian Reorganization Act 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 regulations become thereby ineffective. In the case of the Minnesota Chippewa Indians that means that tribal membership is henceforth ruled by the provisions contained in article II of the constitution of that tribe and by regulations adopted by the tribe with the approval of the Secretary.

In view of this legal situation, the tribe is, therefore, no longer bound by departmental rules and regulation and decisions such as the so-called Mahaffie and Patterson opinions. For that reason, while the tribe is in no way bound to recognize all descendants of Minnesota Chippewa Indians as entitled to membership in the tribe, it has a perfect right to recognize them, if it so desires and if the Secretary approves it.

However, section 2 of the resolution, which relies on the act of 1889 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 did

believe they were legally bound to accept as members all descendants of Minnesota Chippewa Indians.

From other remarks made during those meetings I have seen that part of the reason for the readiness of the tribe to admit to membership all descendants of 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." In time of war financial demands on Congress for military expenditure are so large that Congress cannot be justifiably expected to make large appropriations in order to distribute unearned benefits to numerous Americans whose Indian character has been all but lost. The Minnesota Chippewa Tribe must, therefore, realize that every new name which they add to the membership roll will by that much decrease the share every member now enrolled has in the limited assets of the Minnesota Chippewa Tribe.

I believe that once they are informed of the foregoing legal and factual situation, they may themselves want to reconsider the provisions embodied in Resolution No. 4.

I must add that those rules 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 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 provided 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

believe they were legally bound to accept as members all descendants of Minnesota Chippewa Indians.

From other remarks made during those meetings I have seen that part of the reason for the readiness of the tribe to admit to membership all descendants of 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. In time of war financial demands on Congress for military expenditure are so large that Congress cannot be justifiably expected to make large appropriations in order to distribute unearned benefits to numerous Americans whose Indian character has been all but lost. The Minnesota Chippewa Tribe must, therefore, realize that every new name which they add to the membership roll will by that much decrease the share every member now enrolled has in the limited assets of the Minnesota Chippewa Tribe.

I believe that once they are informed of the foregoing legal and factual situation, they may themselves want to reconsider the provisions embodied in Resolution No. 4.

I must add that those rules 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 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 provided 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.)

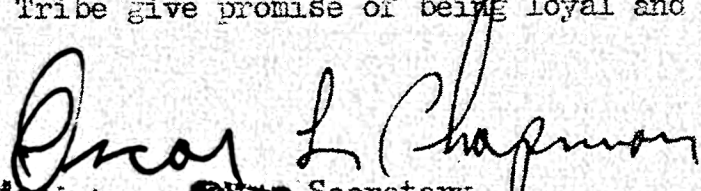
This provision makes it quite clear that nonresident persons of less than one-half Indian blood are not even included in the basic enumeration of groups

considered Indian 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.


Assistant ~~Secretary~~ Secretary.

Enclosure 2927017.