REFER IN REPLY TO THE FOLLOWING:

ADDRESS ONLY THE COMMISSIONER OF INDIAN AFFAIRS

Land Division
Claims
37276-41

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

MAR 31 1942

MEMORANDUM for Mr. Flanery:

I am returning for reconsideration a draft of a proposed letter to the President of the Minnesota Chippewa Tribe disapproving resolution No. 4, concerning tribal enrollment.

Your memorandum of January 14 expresses disagreement with the first paragraph on page six of the letter, which interprets Section 3, Article II of the tribal constitution to mean that the rules which the tribal governing body is thereby authorized to enact should govern both (1) adoption of members, and (2) enrollment of individuals entitled as a matter of right to enrollment; yet the memorandum indicates agreement with the next, and last, paragraph of the letter, which logically follows with the suggestion that consideration be given to sets of rules to govern (1) and (2), above. We do not understand in what particular way the letter is incorrect.

That the tribal authorities fully appreciate the far-reaching scope of their proposed action is, we believe, conclusively shown by the following excerpts from the minutes of meetings of the Tribal Executive Committee of May 15-18, and July 25-26, 1941. Apparently these minutes had not been brought to your attention when the memorandum of January 14, was prepared.

The following excerpts are taken from the minutes of the meeting of May 15-18, 1941, at the page number indicated:

Page 19. "Resolution No. 16 was presented. Mr. Rogers explained that last year everyone spoke on the question and from the notes he took at that time he found the concensus of opinion was that everyone who was entitled to enrollment under the Treaty of 1889, regardless of blood degree, place of residence, etc. should be approved.

"According to the Resolution No. 16 just read, the first thing would be to approve the rolls as they are at the present time. The second thing would be to provide that all issue of members of the Tribe who are entitled to enrollment under the treaty of 1889 should be enrolled, provided that they are descended from enrolled members.

"He explained that the Tribal Council would first have to approve the Resolution, then the delegates would approve it and finally it would go to the Washington Office for approval.

"Mr. Fairbanks brought up the question as to whether people enrolled at this time as the result of this Resolution might not seek back payments made during the years they were not on the rolls.

"Mr. Rogers said they would not be entitled to such back payments.

"Mr. Connor asked if the Wisconsin delegation would be here and Mr. Wilson advised him he did not believe so. Mr. Connor spoke of the 600 Wisconsin names taken out of the rolls on lottery and the effort being made now to put them back on the rolls. He mentioned the amount of research work necessary to dig things out.

"Mr. Wilson pointed out that the money comes from gratuity and not Tribal funds and the ones entitled to any claim will be investigated and the lands valued according to the valuation of lands in that area and that the Department was investigating that now. As soon as it was completed a bill would be introduced to take care of the ones entitled to this money.

"Mr. Rogers pointed out that under the regulations suggested any degree of blood would count...could be one-hundredth...just so a descendent. And they would be born anywhere, either on or off the Reservation.

"Mr. Connors suggested that in his opinion they might lose rather than gain members on such a scheme.

"Mr. Kahdub advised that he has been told the Treaty of 1889 is not a treaty at all.

"Mr. Sanders replied that it is recognized as a treaty but it has some limitations in regard to funds.

"Mr. Savage questioned whether or not there might not be a lot of law suits on back payments.

"Mr. Rogers agreed it was easy to get into law suits but didn't believe they could get far with one. Particularly since they were approving the rolls as they are now and will be adding more names."

Page 28. "Rogers: Mr. President and Delegates - A year ago you elected me President of your council. We were meeting over in the

court rooms here and this question was brought up and at that time I appointed an enrollment committee. This committee didn't function. This question of enrollment has been up for discussion for the past five years. We have a large number of applications in the Agency office for enrollment. Nothing can be done with the applications until we make some rules and regulations. Since the enrollment committee did not function, Mr. Sanders and I got together and drafted the rules that we now have in your hands. They are not perfect and they can be changed at any time but it will give you something to talk about and if you don't like them you can take them or leave them. These rules throw the gate wide open. Any descendents of the original members who were entitled to enrollment under the treaty or agreement of 1889 are entitled to enrollment.

"These rules provide that any descendent, no matter what degree of blood he possesses or where he lives, or where he is born, so long as he can prove that he is a descendent or issue of one of the original families, is entitled to enrollment under these regulations. That is the idea. We want to enroll everybody who is entitled to enrollment. We didn't consider the quantum of Indian blood, nor we didn't consider the place where they were born or where they lived. You may live or might have been born in any part of the world and still be entitled to enrollment under these rules we have given out.

"The present policy of the Department is to enroll only those who were born or are born in the Indian country. We felt there are a great number of members of the tribe who are rightfully entitled to enrollment that are not on the rolls because they were born just outside the reservation. If they happened to be born outside of the Indian country they were not enrolled. That seemed to be the sentiment of the delegates a year ago and when this matter was discussed I made some notes of what the different speakers said."

Page 30. "Now we have the approved rolls. Then we have a lot of descendents who are not on the rolls and your provision No. 2 takes care of that. Your section 2 reads - 'That all issue of members of the Minnesota Chippewa Tribe, pursuant to the Act of January 14, 1889 (25 Stat. 642) are hereby declared eligible for enrollment in said tribe.'

"You will recall that the Treaty of 1889 uses the word 'issue' and your constitution uses the word 'decendent', and issue and decendent are one and the same, so section No. 2 takes care of all the new-borns and those who have been stricken from the rolls. If they are entitled to enrollment they have to prove they are decendents and issue of the original members that would be entitled to enrollment under these rules. Your Sec. No. 3 provides a manner in which these applicants shall prove how they are entitled to enrollment; that is, they must file a birth certificate and other supporting evidence so that it will be possible for the tribe and the agency to definitely establish the fact that they are rightfully entitled to enrollment. In other words, they have to prove to you and to the Agency that they are issue or decedents of some of the original members of the tribe. If they can prove that, under these rules, they are added to the rolls."

Page 34. "Wm. Anywaush: (In Chippewa - interpreted by Shingobe)

Friends and Relatives - The reason I say 'relatives' is that you are Indian and so am I. This question that is being discussed now is a very dangerous one. It has been about six years that I have come from White Earth and we have gone over this blood status. Some of the older boys at White Earth, both mixed-bloods and full-bloods, said the only way we could take care of our business is to have a line drawn on the one-fourth. I went to work and presented a bill to them and told them that they must consider the grandchildren and different things that might interfere with this bill. There was never in the past any mention made of drawing any line; relationship was the only thing that was considered in the past. Even though the child had very little Indian blood, in considering relationship, he was still an Indian. One thing that these old folks over there urged me to do was to have mercy on my Indian people. Don't ever, as long as you live, discriminate against your fellow Indians. Since I have been active in council work I have heard that some have come in on your rolls through the courts - hired lawyers so as they could get on the rolls. I understood there was a committee appointed to draw up a bill and that at such time as they drafted the bill they were going to send it to each reservation where our Indians reside so they would have the privilege of discussing this question and so every individual Indian would know and understand and have thorough knowledge of the proposition. In this way, when it was finally acted upon and passed, nobody could come up and say he didn't know anything about it or didn't understand it."

Page 47. "Lawrence Connor: Mr. Chairman and Fellow Delegates - We said quite a lot yesterday and, summarizing all that has been said, it comes to my mind that we should go into further detail in studying the matter. If we accept the rules as they are, or the bill as has been drafted, to take on those who have been scratched off for some reason and just put them back on the rolls - if we accept one we will be doing injustice to the one following if we reject him. Tribal funds are about exhausted. We would be doing injustice to the full-blood Indian to have a large tribe of mixed-bloods. When these half-breeds appear before the law-making bodies in the interest of the needs of the Indian they will say they are white men. Burdick says he is part Indian, that there is some Indian blood in him but he doesn't take advantage of it. My fellow delegates, if we want to do justice to the man who needs the help - the Indian - I think we will be doing an injustice if we accept the bill as it is and thereby make a wholesale tribe of the Minnesota Chippewas. On the other side, the half-breed would be very glad to be taken into the Chippewa Tribe. He would feel honored to be recognized as an Indian but are we doing full justice to the original American Indian?"

Page 52. Mr. Northrup. "I appreciate the position taken by our friend, Mr. Connor, from Nett Lake, when he is trying to protect the tribal funds but the government has lots of money. It gives monies to people and nations across the water who have no right whatever to this money. And we, as a nation, have claim on this money because they haven't paid what they bought from us. So we needn't fear we are going to use up this tribal money, if we accept the rightful heirs to this estate which you, my friends, mentioned a while ago. There will be ample provision made when the time comes to settle. That will be about all I

have to say on this question at this time but I would like to add to the Chairman and to the other officers here present that we should not hurry this thing through for lack of money. There is plenty of money and you have the authority to use it under your constitution. I thank you."

The following excerpts are taken from the minutes of the meeting of July 25-26, 1941, at the page number indicated:

Page 4. "Mr. Anywaush, however, spoke on the various phases of the enrollment question which had already been discussed before his arrival and he was so informed. He earnestly requested the delegates, however, to seriously, carefully and fully consider the matter before them considering its seriousness to them and their children, not to be hasty in anything they did concerning it. He stated the White Earth people felt that the Indian people would be endangered unless extreme care were exercised in passing these rules."

Page 14. "Mr. Anywash admonished the delegates to look into the resolution thoroughly, as he believed they would find something there and made the statement 'This is not a small matter'. He again urged each and every member to be careful, to understand the question thoroughly because of those who had sent them there, that all due caution should be taken for the sake of the children who would live after the delegates. He stated that whoever had Indian blood in their veins and was on the rolls was an Indian but that he also had grandchildren who were not on the rolls. He stated there were some so-called Indians who 'got enough money out of their enrollment to start a shop to sell that which we are not allowed to have', so that the only time they professed to be 'Indians' was when they wanted to be enrolled to get this money, that they have now forgotten they are supposed to be Indians and claim to be something else. He begged the delegates to be careful that they did not tie a knot which their children and grandchildren could not untie."

Page 17. "Rogers: I have been interested in your organization since it was started, and I have before me here your Constitution and By-laws. They were approved July 24, 1936, that is five years ago day before yesterday. I have attended your meetings and listened to your discussions and every year this enrollment question came up. We would spend a lot of time at each meeting talking over this matter. These rolls you are discussing today should have been made out five years ago. I notice in the audience here your first president, John Broker, and I notice another past president, John Pemberton, and I am a past president, too. Your present president here was a president before he got the Chair this year. Last year I made you a promise when you elected me president, that 'before the year was up I would have a set of rules and regulations for enrollment' and I have kept my promise. You have your rules and regulations that you are now discussing. If these are bad, I will take all the blame because I drew them up. I had Tom Sanders of the Indian Office to help me, but these are my ideas. Where did I get them? For five years I

listened to you delegates talk on the enrollment question and I tried in the best way that I could to set down your ideas in these rules and regulations. The way I have set them down is the way you have talked for the last five years. Now you may talk one way and vote another but this is the way you have talked for the past five years. You have all talked of the Rice Treaty and you wanted to abide by the treaty and these rules and regulations take you right back to the Rice Treaty. Maybe you don't want these rules. Probably you are satisfied the way things are now. I don't know whether you are or not. If you are, I would be glad to draw up a set of rules and regulations along those lines. Now a lot has been said about the time taken to draw up these rules and regulations but these are the result of five years of delioeration and I have tried to set down your wishes in these rules and regulations. Now they may not be perfect. Nothing is perfect. They may look alright to some of you now, they may look alright to me, but after we try them out for a year there may be a lot of things wrong with them and you have the power to change it. The suggestion of the chairman to appoint a committee I think is a very good idea and if there is any changes to be made, then this committee can suggest them. If there are to be any amendments to be made or suggestions it is to go back to the Executive Committee and if they are satisfied they may make the required amendments and send them back to you. This is a deep subject. What you do today will affect the lives of a lot of people. If you adopt these rules you are going to open the rolls wide open. That is, the children of children's children of the signers of the treaty of 1889 are going on the rolls no matter where they are born. They may be born right here in Cass Lake, or they may be born in China or Africa, if they are a descendent of the signers of the treaty they would be entitled to enrollment. That is what your rolls provide. Now if you are not satisfied with that arrangement, don't pass these rules. I am not going to try to influence you one way or the other, that is not my business. I want to do what you want done and your Executive Committee wants to do the same thing. You have elected them to represent you and they want to represent you. So if the committee that is appointed wants to change these rolls, why, I am sure that the Executive Committee will agree to that. If there is anything wrong with these rules that they will so state and change them according to their satisfaction. I agreed with some of these other delegates here that this is not a light subject. It is a subject that you have to give a lot of thought to and I want to say this: That the Indian Office has nothing to do with these rules. These are yours and the Committee's rules. If the office had anything to do with them they would want rules to jibe with those rules that they have now. But the office is leaving this entirely to you. You are the one to decide and you are the ones who are going to be affected. Even if you have to give

it some thought. I understand we have only enough money to pay the delegates for today but you are going to have another meeting next May and we will have some more money by that time so if you feel it is too deep for you to cover in any two days, take it back and give it another year's thought because it is that important!"

In view of the foregoing, we believe that the proposed action in disapproving the resolution is entirely proper. We do not feel that machinery which would have such a far-reaching effect upon the Minnesota Chippewa Tribe should be set in motion without congressional knowledge and approval. It is suggested, therefore, that the letter be approved as written and that if the Minnesota Chippewa Indians persist in their demands for such all-inclusive enrollment rules, it would probably be well to suggest to them that the matter be made the subject of an Act of Congress.

William Zimmerman, Jr.

ASSISTANT Commissioner