

TRIBAL CONSTITUTION

INTERPRETATION NO. 3-81

WHEREAS, the Tribal Executive Director has requested a written opinion as to whether the Minnesota Chippewa Tribe is violating Article XIII—Rights of Members when it contracts and administers education contracts with the United States and the State of Minnesota which do not allow the funds granted under said contracts to be used to educate children of less than one-fourth (1/4) Indian blood and whose parents are citizens of the United States and of the State in which they reside.

WHEREAS, Article XIII—Rights of Members provides:

“All members of the Minnesota Chippewa Tribe shall be accorded by the governing body equal rights, equal protection, and equal opportunities to participate in the economic resources and activities of the Tribe, and no member shall be denied any of the constitutional rights or guarantees enjoyed by other citizens of the United States, including but not limited to freedom of religion and conscience, freedom of speech, the right to orderly association or assembly, the right to petition for action or the redress of grievances, and due process of law.”

And,

WHEREAS, Title 25, Section 297 of the United States Code, 40 Stat. 564, provides:

“S297. Expenditure for children with less than one-fourth Indian blood. No appropriation, except appropriations made pursuant to treaties, shall be used to educate children of less than one-fourth Indian blood whose parents are citizens of the United States and of the State wherein they live and where there are adequate free school facilities provided.”

NOW, THEREFORE, it is the opinion of the Tribal Executive Committee that the Tribal Executive Committee may, through its employees on behalf of the Minnesota Chippewa Tribe, contract and administer grants and education programs with the United States government and the State of Minnesota even though said grants and programs limit their use to children of at least one-fourth Indian blood. The contracting and administering of said education programs does not violate Article XIII of the Tribe's Constitution.

The Tribe's Constitution under Article II, Section C, now limits tribal enrollment to “all children of at least one-quarter (1/4) degree Minnesota Chippewa blood born after July 3, 1961, to a member, provided that an application for enrollment was or is filed with the Secretary of the Tribal Delegates for the Tribal Executive Committee within one year after the date of birth for such children.”

The United States Congress and the Legislature of the State of Minnesota have seen fit to pass legislation that limits their educational appropriations for the education of Indian children of one-fourth Indian blood or more. The acceptance and administering of these funds for educational programs by the Minnesota Chippewa Tribe is not denying equal rights, and equal opportunities to members of the Tribe who possess less than one-fourth Indian blood.

The Tribe, through its officers and employees, is merely administering Federal and State funds according to the provisions of the legislation authorizing said funds and programs. The Tribe is not exercising any authority or creating any classes among its members.

The reasonable classification of members of the Tribe that grant or deny certain rights or benefits is not a violation of the rights of those members. The Tribe's Constitution sets out reasonable classes by setting forth membership requirements in Article II, Voting Rights, and Conditions for being a Candidate for Office in Article IV.

It is not unconstitutional to decide that people over 65 will receive retirement benefits; that people under 18 cannot vote; that one must be a resident of a reservation for one year or more to be eligible to run for office.

The Minnesota Chippewa Tribe did not create the classification or pass the legislation with the language contained in 25 U.S.C. 297, 40 Stat. 564. The Tribal Executive Committee finds that the contracting and administering of educational programs that limit the benefits to children of one-fourth or more Indian blood does not violate the rights of members as set forth in Article XIII of the Tribal Constitution.

We do hereby certify that the foregoing Constitution Interpretation was duly presented and acted upon by a vote of 9 for, 0 against, at a regular meeting of the Minnesota Chippewa Tribal Executive Committee, a quorum present, held on January 27 & 28, 1981, at St. Paul, Minnesota.

Darrell Wadena, President
The Minnesota Chippewa Tribe

ATTEST: Alfred Pemberton, Acting Secretary
The Minnesota Chippewa Tribe