

# MCT CONSTITUTIONAL REFORM DRAFTING COMMITTEE

Date: 4/9/24 Time: 6 PM

Facilitator: Carol J.

Present: Raymond B., Gerald W., Julie H-C., Marcie M.

## NEW BUSINESS

1. Request from Mille Lacs Band (MLB) to answer the questions presented at the last convention.
2. There was a conversation between Carol J. and Berdie R. of MLB, who asked how we would change federal law to remove MCT and the MCT Constitution? and What the Authority to make these changes. My response was that we can amend or revoke our Constitution to remove the oversight of the Secretary through a Secretarial Election, but it doesn't change the fact that MCT will still be there. They were created and organized under the IRA. We have no authority to get rid of MCT.
3. Carol pulled together a summary of the Legal authorities creating an Alliance. While doing that, I came across a video clip on Native Nation Institute (NNI). Now I know why the TEC might have thought they could use an Ordinance to change enrollment criteria and not amend the Constitution by a Secretarial Election. A member of the FDL Band was in the audience and asked a question about it.
  - Attorney Vanya Hogan worked for the Shakopee Mdewakanton Sioux Community. After a failed attempt to amend the enrollment criteria from Blood Quantum to Lineal Descent by a Secretarial Election, they tried another avenue, the use of an Ordinance. After several appeals, the tribe successfully changed the enrollment criteria. This approach worked because the Constitution had a procedure that allowed the governing body has the power to pass a resolution or ordinance, subject to the Secretary of Interior's approval. They ended up enrolling descendants by adoption into membership.
  - You have to follow the Constitution's Language, and our Constitution does not have language for using an Ordinance in this manner.
4. When the IRA organized us under the MCT, and we voted on an IRA Constitution, we were recognized as an IRA Tribe. If we remove the Secretary from our Constitution, we remain an IRA Tribe.
5. The Committee reviewed the research Carol did on the legal Authority, which is as follows:

### **The Indian Reorganization Act,**

Section 16 of the Act of June 18, 1934 (25 USC 476), the following occurred:

1. The Minnesota Chippewa Tribe
2. The six Bands under the MCT were as recognized as an IRA Tribe
3. An IRA Constitution

## **25 CFR Part 2 Section 81.**

### **Subpart A—Purpose and Scope**

#### **§ 81.1 What is the purpose of this part?**

This part prescribes the Department's procedures for authorizing and conducting elections when Federal statute or the terms of a tribal governing document require the Secretary to conduct and approve an election to:

- (a) Adopt, amend, or revoke tribal governing documents;

## **Native American Technical Corrections Act of 2004**

This Act aimed to improve legal provisions, address specific issues, and enhance the well-being of Native American communities across various aspects of governance and resource management.

**SEC. 103. TRIBAL SOVEREIGNTY.** Section 16 of the Act of June 18, 1934 (25 USC 476), is amended by adding at the end the following:

"(h) TRIBAL SOVEREIGNTY.—Notwithstanding any other provision of this Act—

"(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section;" and

"(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1)."

## **Historical Precedent**

Indian nations always had leadership and governance. It should be the framework for constitutional reform. Our traditional values came from respect, compassion, responsibility, and an obligation to each other and our relatives.

## **Inherent Sovereignty:**

- The recognition of our sovereignty came from international laws.
- As sovereign nations, we have the rights and authority to determine how we will structure our governance, and thereby
- the rights to reverse our experiences of colonialism [remove the IRA Constitution] and
- the rights and authority to interpret and apply laws created by indigenous peoples within the limits of territory controlled by the indigenous communities (Varese, 2006).

### **Treaties**

Treaty-making was the ultimate form of sovereignty. They are Binding agreements made between two sovereign Nations.

### **Self- Determination**

- Self-determination is one of our goals. Self-determination gives us the freedom to choose how we achieve specific goals.

### **International Law Regarding Self-Determination**

(\*U.S. signed as a member, or they endorsed the law)

1. Customary International Law recognized our Sovereignty early on.
2. \*UNDRIP
3. \*The International Labor Organization has two conventions that protect the rights of indigenous peoples:
  - The Indigenous and Tribal Peoples Convention, 1989 (ILO Convention 169 or C169) is the binding international convention concerning indigenous and tribal peoples. It is a forerunner of the Declaration on the Rights of Indigenous Peoples.
  - The Indigenous and Tribal Populations Convention, 1957 (No. 107) was adopted to protect Indigenous populations from oppression and discrimination.
4. \*Committee for Elimination of Racial Discrimination (CERD)
5. \*United Charter 1945 Article 1, & 55. Regarding the Right to self-determination
6. \*Charter of the United Nations Article 1 & 55.
7. \*Universal Declaration of Human Rights (UNDHR)
8. \*International Human Rights comprised of the following:
  - a. \*The International Covenant on Civil and Political Rights
  - b. \*The International Covenant on Economic, Social, and Cultural Rights
  - c. \*The Universal Declaration of Human Rights (The U.S. signed it in 1948.)

## **Indian Self-Determination and Education Assistance Act (ISDEAA) of 1975 (Public Law 93-638)**

The ISDEAA authorized the Secretary of the Interior, the Secretary of Health, Education, and Welfare, and some other government agencies to enter into contracts with and make grants directly to federally recognized Indian tribes.

### **Comments:**

1. Raymond: The Sovereignty was there, but what came about was their recognition that we have Sovereignty. But as it is right now today. We're being duped. We're being misled because they keep saying they're doing a government-to-government relationship, and it's not a big lie. The RBCs and TEC are not government or business committees. So, in essence, the United States is their government-to-government relationship. They are branches of the federal government. The people are the government.
2. Carol stated that change and reform are scary. It shakes our sense of security economic stability, and the risk of losing our identity. Once we remove the Secretary of Interior by amending or revoking the Constitution, we don't lose federal recognition as an IRA tribe. We will adopt our local constitutions, and they will form our governance. The Bureau can decline our request for a Secretarial Election. But that can be challenged. We have a solid basis for constitutional reform. For example, the Pueblo of Laguna in New Mexico removed the Secretary of Interior from their IRA constitution. They didn't remove the whole Constitution. They just removed the Secretary of Interior oversight. They received a letter from the BIA stating that this [removal of the Secretary] will not affect the current status as an IRA tribe. The Pueblo of Laguna will continue to be an IRA tribe with a non-IRA constitution. So it appears the BIA views that once a tribe removes the Secretary, the Tribe's Constitution is no longer an IRA Constitution.

## **ANSWERS TO MILLE LACS BAND QUESTIONS.**

### **What Is The Primary Purpose of The Alliance?**

The Alliance name states its purpose. MAAMAWIINO ANISHINAABEG NATION (aka CHIPPEWA) [WE ARE ALL ANISHINAABEG TOGETHER]. We will all be together under an alliance, not the MCT organization.

### **What problems does the Alliance Solve?**

- We will assert our Sovereignty and take control of what MCT and the TEC have done to diminish our Sovereignty.

- It will provide a framework for values and principles under which the Alliance members will function and unite on common interests.
- Alliances foster meaningful connections with other members with common goals and benefits.
- We will be recognized as sovereign people, not the MCT organization, which is not a sovereign entity.
- Instead of TEC and MCT representing us, we, as sovereign people, will define ourselves. We will have a say.
- Instead of MCT and TEC overseeing themselves, all the Alliance citizens will have the oversight.
- We're stronger in numbers and stronger against the federal government.
- The Alliance will help us all get along better and live more peacefully and cooperatively.
- The Alliance will improve transparency and accountability.
- The process will be equal for everyone by giving everyone a voice.
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### **Is the Alliance considered an organization or a government?**

- We do not think an Alliance meets the definition of an organization or government.
- We know, historically, that Alliances between Indian Nations were more in line with "agreements," not government or an organization. In those alliances, each member had their own form of government. We have all heard of the Iroquois Confederacy, the people of the longhouse that shared the same values. They saw themselves as a sovereign nation; as such, each member tribe united to stand against issues that affected their sovereign rights, to keep their land, to resist wars, etc. Under the Alliance, each member tribe had equal representation in decision-making and participation.
  - Marcie noted that she would like to see a government, which is her personal bias. She said we have anarchy if we don't have a government, whether it's an organization or a government.
  - Carol stated that in the Alliance title, we are all one Nation and have principles or core values for governing. The Alliance gives guidance to the local constitutions. Everyone's local constitutions have to be consistent with those principles/values. It guides the bands in the drafting of their governance structure. The Delegation voted to have an individual local constitution.
  - The Alliance outlines the fundamental principles by which we're all going to function just like our ancestors, who had unwritten customs, values, and traditions they followed while having separate governing systems. When it comes down to conflicts and issues, the principles and core values remain the same.

### **Is the Alliance draft document a constitution?**

No, this Alliance is not a Constitution. The delegation directed the Drafting Committee to write an Alliance, and the individual Bands would write their Local Constitutions.

### **What is the Scope of the Intent?**

- Join together to strengthen our political power and protect our uniqueness.
- We are returning to our native ways and the concept of Mino Binadizwin. We have to get back to who we are, which we never left entirely, but we've strayed away from it.
- Learn together. Alliance members should absorb knowledge from each other and outside sources. Learning should be an ongoing process. Along with learning, we need to teach the next generations. An ongoing emphasis on learning puts Alliance members in the position to be proactive rather than responding to issues, frequently under a deadline. We share our knowledge, like the treaties, so that people are aware of what's going on. When somebody tries to put a project upon us, we are informed to ask appropriate questions. We can exercise our Right to Free Prior Informed Consent.
- Members of the Alliance, through the elected representatives of each local government, shall oversee the programming and funding of the current MCT.
- The scope of the Alliance can go from broad to narrow or vice versa, depending on the issue. Common issues could collectively produce benefits or risks for the members, so all members are interested in that issue. Yet, other matters explicitly related to individual Alliance members. We are all there to support, but if we truly evaluate the problems and decide not to help them, we don't.

### **What are the Responsibilities of the Alliance?**

- The Alliance members would be responsible to each other, honor our Treaties and Local Constitutions, and follow the principles outlined in the Alliance.
- To ward off corruption for personal individual "gain."
- To recognize the federal government's various tactics to relocate, assimilate, take more land, or disband Indian tribes. Be prepared to resist them through creative and common strategies.
- We interact and foster effective tribal government-to-tribal government relations by identifying our shared history and agreed principles.
- Learn and be prepared to state our concerns and solutions instead of being told the solutions.
- Continuously reevaluation issues.

Comments:

Carol notes that the MCT is not going away. They will be alongside us, not above us, and we have to make a bridge between our local governments and the MCT instead of TEC being that bridge. It will look like the Grand Council representatives and the citizens have that voice, but we have the power to oversee MCT.

Gerald noted that MCT, we all know, is an agent of the federal government and would not be the overseer. Through our local constitutions and their representatives, the citizens of our bands would oversee the programs and funding handled by the current MCT.

Raymond stated that an act of Congress created MCT. They will take another form. TEC nominated and appointed the Director, and the others were hired.

Marcie noted that TEC hires the Executive Director, and then the feds appropriate money under certain types of legislation, and then they have programs that the MCT administers. Then, people are hired to administer those programs. The MCT will be reconstructed, reconstituted, or reformed.

Raymond stated that the MCT organization purports to represent a sovereign people. How can they represent a sovereign people when they are an agency of the federal government? That's such a conflict. We are the sovereign people, and we don't have any representation in the United States Constitution whatsoever. We are extremely limited, with no representation to resist.

Marcie noted that the MCT employees administer these federal and state programs and funds. MCT created an Indian middle class. Their jobs exist because of because of our misery. So they're living off the the backs backs of us. They have been doing that for years, and then they don't even tell us what exactly they do.

Carol said MCT should take out the descriptions and their responsibilities and roles and rephrase them. It is not their job to advise, monitor, and decide which programs and funding are best for us. They should evaluate the effect those programs have on us and whether it warrant the using funds in that manner.

### **Does the MCT still exist alongside the Alliance?**

- MCT is not going away.
- The existing Minnesota Chippewa Tribe is not a Tribe. It is an agent of the federal government and, as such, it should not be called The Minnesota Chippewa Tribe (MCT). It should be called the Minnesota Chippewa Tribal Organization (MCTO) or a name without the word "Minnesota."
- As an agency of the federal government, MCTO's primary responsibility is to achieve the U.S. Government's goals. MCT has a trust responsibility. It also has to protect and uphold treaty rights, among other things.

Comments:

Marcie noted that TEC passed around this idea of Sovereignty and gave lip service to it for so many years that now there's this perception that we're sovereign. Still, they don't organize themselves or act like they are sovereign, and often, they don't oppose certain things that need to be opposed. They have a lot of political clout in Minnesota that they don't use. They don't take advantage of setting forth their political power and things they can do. They're there acting like they're still under colonial domination. They haven't gotten out from underneath the oppressor's vote, and that undermines all of us.

Carol said we need to find another word for 'Article' in the Alliance that fits our culture better.

Marcie suggested that there's this Ojibwe people dictionary online that is put together by Earl Nyholm, the guy who wrote that dictionary out there, and Laura Lipsy administers it. And, anyhow, the one who pronounces the words is Eugene Stillday from Red Lake. The MCT staff are administrators of federal and state programs. They are employees who evolved into this bureaucratic structure and are supposed to serve their clientele. It's deteriorating because the clients are supposed to be us as people living on the reservations. They don't serve us. Instead, they've gone the way of the usual bureaucracies where they're just trying to maintain their existence. That's what I see the TEC doing. These people get elected and sit on that TEC but don't do anything. Some don't even say anything because they're afraid they'll get voted out and are just really careful. And, you know, I don't think they will do anything about that enrollment. It's just lip service to appease the constituencies, you know, so that's what I think of them because if they wouldn't, if they wanted to do something, they could have done it 20 years ago, and they didn't know.

Carol: It is our sovereign right to self-governance, and the enrollment staff may lose their jobs because it is our decision who will handle enrollment. We will make a decision that is in our best interest and is suitable for us.

**Next meeting:** 4/16/2024 at 6 PM