A Preliminary Analysis of the Organization known as the Minnesota Chippewa Tribe

Prepared by The Non-Removable
Mille Lacs Band of Ojibwe
MCT Constitution Reform
Delegation Committee

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EXECUTIVE SUMMARY

The Non-Removable Mille Lacs Band Constitution Reform Delegation Committee presents to the reader a report which addresses our efforts to learn about the Minnesota Chippewa Tribe Constitution and think about whether and how it might be revised. Much to our surprise, we learned that the Constitution is a matter of United States law, not Mille Lacs Band law or the law of any of the remaining five Bands who make up the Minnesota Chippewa Tribe. It became very clear that the foundation of our work must be based upon the Mille Lacs Band's Sovereignty and the Band's Self- Determination efforts and opportunities.

The Non-Removable Mille Lacs Band Delegates adopted sovereignty as the primary concept to focus our work. Sovereignty, simply put, is power. Power to make a decision and enforce it without asking anyone else for permission.

The source of the sovereignty of the Non-Removable Mille Lacs Band is our people. We believe the people determine the direction and power given to the peoples' government.

We have identified four cornerstones that illustrate the key provisions of our report, the meaning of Indian, Enrollment, Membership, and Tribe. We then examined these four cornerstones in detail.

Our examination of many documents put us in a position to discover four significant points:

1. There is nothing more critical to our people's continued future existence under United States law than the people and their elected leaders continuing to take action to protect, preserve, and advance our sovereignty, at all costs. In addition, self-determination demands that the people and their elected leaders make decisions for the benefit of the people NOW to preserve, protect, and advance Band Sovereignty.

2. The Minnesota Chippewa Tribe is likely the offspring of the Nelson Act. The Minnesota Chippewa "Tribe" is not an "Indian Tribe," as it did not exist on June 18, 1934, the date of enactment of the Indian Reorganization Act. Instead, the United States Secretary of Interior created it by ratifying a constitution on July 24, 1936, after the affirmative vote of those voting. Moreover, that Constitution refers to the Minnesota Chippewa Tribe in multiple places as an "organization," not an Indian tribe.

   The Committee is persuaded that the Mille Lacs Band's continued

association with an organization that is erroneously believed to be an "Indian Tribe" and lacks a solid foundation in United States law is seriously questionable — even if that organization was delegated only corporate, not governmental powers.

3. The Federal Register does not identify "federally recognized Indian Tribes." Instead, it identifies "Indian Tribal Entities." The Minnesota Chippewa Tribe is listed as the recognized "Indian Tribal Entity" comprised of six reservations, not Bands or Indian Tribes. This is significant because a reservation is not a political entity like an Indian Tribe; a reservation describes a geographical location. Equally significant, the United States does not conduct political relations with reservations but with Indian Tribes.

   The Federal Register also states the purpose for being listed on the Federal Register is eligibility for services and funding from the U.S. Department of Interior — Bureau of Indian Affairs. This is also not associated with a political relationship — a government-to-government relationship — between the United States and Indian Tribes.

   The Non-Removable Mille Lacs Band is not listed separately as an "Indian Tribal Entity." We find this to be a gross error.

   It is important that the United States recognize the Non-Removable Mille Lacs Band of Chippewa Indians as an "Indian Tribal Entity" separate from the Minnesota Chippewa Tribe, not as one of its reservations.

4. Amending the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe does not fix the legal problems underpinning the creation of the Minnesota Chippewa Tribe under the Indian Reorganization Act. It can't fix the problem that membership in the Minnesota Chippewa Tribe is based on the Nelson Act's Permanent Roll and not based on being a person of Indian descent or the offspring of a person of Indian descent or of some percentage of Indian blood.

We recommend steps be taken to inform our people through multiple sessions such as public hearings or educational presentations so they can also understand how and why we have concluded that it is necessary now to exercise our sovereignty and self-determination rights and opportunities.

The Committee will share with the people its assessment of the documents and information it reviewed and provide recommendations for future actions through educational presentations to continue to build on this work.

BACKGROUND INFORMATION

On February 8, 2017, Resolution 41-17 was passed by the Minnesota Chippewa Tribe (MCT) Tribal Executive Committee (TEC) to develop a curriculum regarding the Revised Constitution's history, development, and bylaws.

In June 2017, the TEC of the organization known as the MCT agreed to hold three Constitutional Convention meetings throughout the state in August, September, and October 2017. The TEC called for the Constitutional Convention to address several critical concerns within the MCT document adopted in 1936 and revised in 1964. For example, the current MCT Constitution reflects the United States' influence on many early Indigenous constitutions after the passage of the Indian Reorganization Act of 1934 (IRA). They offered a model for Native Nations to organize that often conflicted with their own governing traditions.

From April 27, 2018, through October 30, 2018, the TEC revamped its approach by discontinuing the Constitutional Conventions and instead moved to initiate six Constitution Delegation Committees. The six Delegations would represent Bois Forte, Fond Du Lac, Grand Portage, Leech Lake, Mille Lacs Band, and White Earth. The six Delegations representing the Constitution Reform Delegation Committee would meet regularly and recommend revisions to the current MCT Constitution. No guidelines or timelines were established before the initiation of the Delegation Committees.

The Non-Removable Mille Lacs Band Constitution Reform Delegation Committee was officially formed on December 13, 2018, consisting of ten (10) Delegates. The areas represented are District I, District II, District IIa, District III, and the Urban Area of the Mille Lacs Reservation.

The first step taken as a Committee was to identify the priorities we needed to address before making any recommendations to revise the Constitution. First and foremost, the Committee decided it was necessary to learn the MCT's history and obtain a thorough understanding of the legal opportunities and legal limitations surrounding this Constitution.

On July 1, 2019, the first educational session was conducted. We reviewed the chronological history of the Mille Lacs Band and the U.S. government.

On December 16, 2019, the Committee conducted another educational session. At this session, the Committee reviewed a Mille Lacs Band Constitution drafted in 2010.

On March 20, 2020, a more extensive educational session was conducted. Unfortunately, due to the COVID-19 pandemic, this session was interrupted and not completed. The educational sessions resumed via video conference and continued after that on various dates between February 2021 and July 2021. In-person educational sessions were held on March 29, 2021, through April 1, 2021, May 10, 2021, through May 11, 2021, June 8, 2021, through June 11, 2021, July 6, 2021, through July 7, 2021, with the final in-person session between October 12, 2021, through October 14, 2021.

The Committee continues to meet regularly. In addition, the Committee will conduct educational presentations to provide our factual findings to the community members of the work that has been completed and what work lies ahead. These presentations will also provide community members with the conclusions drawn from our findings of fact.

THE COMMITTEE'S WORK APPROACH

At our March 29, 2021, in-person educational session the Non-Removable Mille Lacs Band Delegates considered three possible concepts to guide our work:

1. An MCT model that tracked the United States' federal-state system;
2. a cultural and traditional model; and
3. a political science model grounded in Sovereignty and Self-determination.

After considerable discussion of the benefits and risks of each model, the Committee decided to follow the Sovereignty and Self-determination model as the primary concept. Sovereignty, simply put, is political power. Power to make a decision and enforce it without asking anyone else for permission.

The Committee liked the Sovereignty and Self-determination model because, without any doubt, the source of the sovereignty and self-determination of the Non-Removable Mille Lacs Band is our people and not some outside source.

The Committee believes the people determine the direction and power given to the peoples' government, which is also the foundation of our Band Statutes. The Mille Lacs Band did that back in 1982 when the people agreed to follow Art Gahbow, Doug Sam, Marge Anderson, Leonard Sam, and Sylvester Thomas. They passed legislation to create a new form of government of the people, by the people, and for the people.

Their decision charted a new course for the Band to be governed by. This new form of government is based on the Rule of Law, and decisions are no longer solely at the whim of a Reservation Business Committee.

In addition, this new course created an independent Court of Law called the Court of Central Jurisdiction. The judges of this Court were popularly elected by the people, not appointed. The decision of the Full Court was final, not the Reservation Business Committee. While there were amendments to this government in the 1990s, it is almost 40 years old now, so we know the people continue to support it.

After selecting the Sovereignty and Self-Determination Model to guide our work, the Committee began our research by reviewing the Revised Constitution and

bylaws of the Minnesota Chippewa Tribe. As we carefully reviewed this document, we realized the word “Revised” was important — that is, we should first begin with the Original Constitution before reviewing the Revised Constitution.

This Constitution is based on authority set out in Unites States law, the Indian Reorganization Act of 1934. Further, the Constitution’s membership provisions are based on another United States law known as the Nelson Act. These four documents proved critical to understanding the creation of the Minnesota Chippewa Tribe, its members, how a person becomes an MCT member and other related issues.

The Committee spent many hours reading and re-reading these four documents using “Rule No. 1.” Rule No. 1 is “words matter.” Applying this rule, we needed to look up many words in the dictionary. Some words we looked up in Black’s Law Dictionary. We had to know the specific meaning of each significant word to understand the intended purpose. We noticed that a word that referenced a particular thing, like a “reservation,” would be different in Section 16 and Section 19 of the IRA and that a BIA legal Memorandum would create other words when referring to the word “reservation” from Sections 16 and 19 of the IRA.

For example, the Indian Reorganization Act’s Section 16 uses the word “reservation.” Significantly, the word before “reservation” in IRA Section 16 is “same,” but Congress used the word “one” before the word “reservation” in IRA Section 19. In addition, in an important United States Department of Interior legal Memorandum, “Jurisdiction-Definition of Tribe as Political Entity,” November 7, 1934, the lawyer, Nathan Margold, ignored the statute’s words “same reservation” in the IRA, Section 16, and “one reservation” in the definition of a “tribe” in the IRA, Section 19. Instead, Margold chose his own words, “two or more reservations,” in his legal Memorandum.

Rule No. 1 guided the Committee to think about facts and the importance of facts to complete our work instead of opinions. We broke down the facts into four categories of interest as we read documents. We looked for what could be:

1. “known” as facts from the documents;
2. “unknown” and needs further fact research;
3. “knowable” if more fact research needs to be done; and

4. “unknowable” because of lack of documentation or other reasons.

After extensive, careful reading, the Committee identified six questions that needed to be answered so that the Mille Lacs people and elected leadership could make informed decisions about these future actions.

These questions are:

1. Did the Minnesota Chippewa Tribe exist before 1936? Did it sign any treaties with the United States? Did it own any lands held in trust by the United States? Did it have an established reservation?
2. Is the Minnesota Chippewa Tribe organized under United States law or the six constituent tribes’ inherent sovereignty?
3. Does the Minnesota Chippewa Tribe have complete sovereignty to determine who comprises its membership? If the Minnesota Chippewa Tribe is organized under United States law, how does it have absolute sovereignty to determine its membership?
4. What does U.S. law say about who is an enrolled member of an Indian tribe?
5. Under United States law, what does it mean to be “organized” as an organization--and not as an Indian tribe?
6. Is the Minnesota Chippewa Tribe an organization or a tribe?

DOCUMENTS IMPORTANT TO THE COMMITTEE'S WORK

The Committee examined several documents in great detail. We determined it was essential to work in chronological order through the documents. We started with a transcript of the Indian Service's (now BIA) presentation of the Wheeler-Howard Bill to Indian people at Hayward, Wisconsin, on April 23-24, 1934. Once passed by Congress, the Wheeler Howard Bill became the Indian Reorganization Act, which led directly to the creation of the Original Constitution of the Minnesota Chippewa Tribe. After reviewing the membership provisions set out in Article II of the Original Constitution, we realized that there was another important document to review, the 1889 Nelson Act. The Committee began reviewing the Nelson Act and proceeded in chronological order from that point in time.

Below is a summary of each important document – listed in chronological order. The Committee's more in-depth review and findings appear in separate sections.

I. Nelson Act of 1889

An Act for the relief and civilization of the Chippewa Indians in the State of Minnesota (51st-1st-Ex.Doc.247; 25 Stat. 642) A United States federal law intended to re-locate all the Anishinaabe people in Minnesota to the White Earth Indian Reservation in the western part of the state, and confiscate the vacated reservations for sale to European settlers. Approved by Congress on January 14, 1889, the Nelson Act was the equivalent for reservations in Minnesota to the Dawes Act of 1887, which had mandated allotting communal Indian lands to individual households in Indian Country, and selling the surplus.

II. Wheeler-Howard Bill

John Collier, Bureau of Indian Affairs Commissioner, January 1934 to June 1934. On June 18, 1934, the Wheeler-Howard Act, also known as the Indian Reorganization Act, reverses the U.S. policy favoring Indian assimilation and becomes the basis for United States policies that recognize the right of self-determination for Native Americans. The law curtails the land allotment system, permits tribes to establish formal governments with limited powers, and allows the formation of corporations to manage tribal resources. In addition, funds are authorized for educational assistance and to assist tribes in purchasing tribal lands.

III. Indian Reorganization Act

The Indian Reorganization Act (IRA) of June 18, 1934, or the Wheeler-Howard Act, was U.S. federal legislation that dealt with the status of American Indians in the United States. It was the centerpiece of what has been often called the “Indian New Deal.” The major goal was to reverse the traditional goal of cultural assimilation of Native Americans into American society and to strengthen, encourage, and perpetuate the tribes and their historic Native American cultures in the United States.

IV. Solicitor’s Opinion IRA Interpretation regarding Devisee Questions — Tribal Organization and Jurisdiction-Definition of Tribe as Political Entity

A legal Memorandum to the Secretary of Interior dated November 24, 1934, and authored by Nathan R. Margold, the Solicitor for the United States Department of Interior, concerning Section 4 of the Wheeler-Howard Act (Public No. 383, 73d Congress), extends the privilege of receiving a devise (disposition of land or realty) of restricted Indian lands to the lawful heirs of the testator (a person who makes a valid will), whether or not members of any Indian tribe. His opinion was requested upon the proper construction of Section 4 of the Wheeler-Howard Act (Public No. 383, 73d Congress) in so far as this section limits the class of persons to whom an Indian may devise restricted lands.

V. MCT Original Constitution

The original MCT Constitution was adopted in a referendum vote held June 20, 1936, and approved by the Secretary of the Interior on July 24, 1936, under the authority granted in the 1934 Indian Reorganization Act.

VI. Mille Lacs Band Charter

The Minnesota Chippewa Tribe’s Tribal Executive Committee issues a governing Charter to the Mille Lacs Band, approved by the Secretary of Interior on February 16, 1939, after a referendum vote by the people residing on the three Districts comprising the Non-Removable Mille Lacs Band of Chippewa Indians.

VII. MCT Revised Constitution

Under an order approved September 12, 1963, by the Assistant Secretary of the Interior, the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe was submitted for ratification to the qualified voters of the reservations, not the entire membership, and was duly adopted on November 23, 1963, in accordance with Section 16 of the Indian Reorganization Act.

VIII. Article II of the Original and Revised MCT Constitution — Enrollments

IX. HAAS Report

Ten Years of Tribal Government Under "The Indian Reorganization Act" by Theodore H. Haas, Chief Counsel for the United States Indian Service, 1947.

The Haas Report identifies the vote of the Indian people who voted to accept the IRA. It also sets out the constituent Band of the MCT. Interestingly enough, the Non-Removable Mille Lacs Band of Chippewa Indians is not listed as an MCT "constituent Band."

X. Federal Register

Published by the Office of the Federal Register, National Archives and Records Administration (NARA), the Federal Register is the official daily publication for rules, proposed rules, and notices of Federal agencies and organizations as well as executive orders and other presidential documents.

XI. United States Laws

Congress has amended the IRA and enacted other laws such as 25 USC 5129, 25 USC 5130, and 25 USC 5131 (5123).

The Committee's detailed look into each important document follows.

WHEELER-HOWARD BILL

JANUARY 1934 TO JUNE 1934

Mille Lacs Anishinaabe's Joe Eagle and Chief Wodena attended the two-day conference held in Hayward, Wisconsin, on April 23 and 24, 1934. They attended the conference to listen to the Indian Service's (Bureau of Indian Affairs) review of the contents of the Wheeler-Howard Bill of Rights. Congress would pass the Wheeler-Howard Bill on June 18, 1934, less than 60 days after the Hayward meeting.

The Indian Service advised the Indians (Attendees) the Bill was divided into four main sections:

1. The first one sets up the machinery by which Indians may organize for self-government;
2. provides machinery by which Indians may be educated so that they may better operate and manage business affairs;
3. deals with the principal item of Indian Property, namely land; and
4. deals with the proposed Court of Indian affairs.

The law curtails the land allotment system, permits tribes to establish formal governments with limited powers, and allows the formation of corporations to manage tribal resources. In addition, funds are authorized for educational assistance and to assist tribes in purchasing tribal lands.

Another intent of the Bill was to reform the guardianship of the Federal Government over the Indians. The Indian Service told the Indians gathered that the Bill was changing the Indian's relationship with the U.S. Government. The proposed Bill will take away many powers of the Interior Secretary and the Commissioner and give them to the Indians. However, before this could happen, the Indians must be organized before doing that for many purposes.

1. Self-Government

   The Wheeler Howard Bill of Rights was intended to reverse the U.S. policy favoring Indian assimilation and became the basis for United States policies that recognize the rights of self-determination for Native Americans. Indians needed to be organized to take care of their own local affairs, to do business in a modern world in competition with the white world. They were told the Bill proposes the Indians shall be allowed to organize for their mutual benefit.

They will only organize when they want to. It proposes to give the ward Indian the power to organize in any way he sees fit. It aims to allow him to form cooperative societies, livestock, corporations, etc., to better his general living conditions.

If they do organize, their organizations will be instrumentalities of the Federal government. When they do organize, it will be under Federal laws enacted by Congress.

2. Education

   Title 2 deals with educational privileges. The amended Bill identified what amounts would be set aside for special Indian education — for the special training of the young men and women. They were to be given professional training in administration, medicine, law, agriculture, and all kinds of technical subjects that are closed to them now because of the excessive cost of obtaining them. The money provided would be considered a loan.

3. Indian Property

   Collier stated the General Allotment Act was the basis of Indian Affairs, and they wanted to change the allotment system to stop the loss of Indian lands.

4. Court of Indian Affairs

   Title 4 deals with setting up a special system of Indian courts. It will impose more limits and become more regulated. The Secretary of the Interior will no longer select the judges. The right of any appeal will be administered by a special Federal court of Indian Affairs.

COMMITTEE'S PRELIMINARY ANALYSIS:

This convention was only held for two days. At other conventions across the country, the conventions lasted four days. Mr. Woehlke (Field Representative to Commissioner John Collier) stated Attendees at this convention should already be familiar with the Bill since they received amended documents. He hoped they had gained a fair knowledge of what this Bill proposed to do before their arrival.

Given that the Attendees more than likely knew very little English, much less able to read written English, it's doubtful the Attendees were familiar with the Bill.

There was an interpreter who translated from English to Ojibwe, Mr. Frank Smart from Wisconsin. We think it would have been difficult for Mr. Smart to interpret the

Wheeler Howard Bill accurately and entirely to our two representatives in Ojibwe. The Transcript also stated that the Bill was translated into the Ojibwe language and was available for review at the historical office. We don't know whether the Transcript is reliable, especially Mr. Smart's translation from the English language into the Ojibwe language.

Joe Eagle gave a statement; it was the only comment made from the Mille Lacs Band Attendees. His statement confirmed to us he and Wodena were not familiar with or understood the contents of the Bill.

"My statement is very short. I just want to tell why I am here. My people held a council last Saturday and delegated us to come here — but we were not invested with the authority to accept or reject the Bill — but we were instructed to listen to what is being said here and get the opinions of other Indians in regard to this Bill."

The Wheeler-Howard Bill became the basis for United States policies that recognize the rights of self-determination for Native Americans, but very little time was dedicated to reviewing the Bill and the language within its four sections at the convention.

During this convention, very little time or effort was given to cover the topic of exercising self-government. The description The Indian Services provided on exercising self-government was not positive. It told the Indians that the city of Chicago had failed at it, even though also telling them to give it a try.

The Committee was struck by how little self-governance was reviewed and discussed in the Transcript since it would be one of the more critical pieces within the Bill.

Title 2, the education section, was also not covered in any detail.

Indian Property is the one section the Indian Service spent most of the convention running through with the Attendees. Different scenarios were explained and how this Bill would change the current allotment system. There were many questions from the Attendees concerning this section.

The Court of Indian Affairs section was also not covered in any detail.

In many cases, when the Attendees raised questions, the presenters would re-direct their question to something else, such as" it's time for dinner, we'll come

back to the topic at a later time." When they reconvened, they would not go back to the past questions.

Because our original intent was to locate information that supported the creation of the MCT, we tried to find any reference to the Chippewa Indians of the Mississippi and Lake Superior Bands organizing as one Indian tribe comprised of "six-component reservations" at the April 23-24, 1934 meeting. But unfortunately, there was no discussion about the Chippewa of the Mississippi forming or organizing as "one Indian tribe" comprised of "six-component reservations" at this convention.

The Bill recognizes the Tribal Delegates' attendance by tribe only.

The Wheeler Howard Bill was passed 60 days after this convention. Any input gained from these Attendees was likely ignored. Based upon our research, we believe the Bill was already completed and moving through the Federal government approval process when this convention was held.

In the interest of time, we did not compare the Wheeler Howard Bill to the Indian Reorganization Act for any similarities or differences. We do not know the number of amendments and revisions made in the Indian Reorganization Act from the original Wheeler Howard Bill.

INDIAN REORGANIZATION ACT

JUNE 18, 1934

The purpose of the IRA is to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians.
(A general definition for home rule – self-government with limited autonomy in internal affairs by a dependent political unit such as the U.S. government).

The Committee's work focused on five significant provisions, Sections 5, 7, 16, 17, and 19. There are three basic but essential things to know about these five IRA sections:

1. Section 5 and 7 refer to land
2. Section 16 and 17 refer to organizing for the common welfare and tribe's forming corporations
3. Section 19 defines who is an Indian

Section 5
"The Secretary of the Interior is hereby authorized, in his discretion, to acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights or surface rights to lands, with or without existing reservations" . . .

..."Title to any lands or rights acquired pursuant to this Act shall be taken in the name of the United States in trust for the Indian Tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State or local taxation".

COMMITTEE'S PRELIMINARY ANALYSIS:
The Secretary took land into trust located in each of the three Mille Lacs districts, but he put the lands taken in the name of the Minnesota Chippewa Tribe and not the Mille Lacs Band.

Based on our research, the Secretary appears to have acted unlawfully by taking Mille Lacs Band lands into trust for the Minnesota Chippewa Tribe for the following reasons:

- The Minnesota Chippewa Tribe did not exist until July 24, 1936, more than two years after the enactment of the Indian Reorganization Act on June 18, 1934.
- Both the Original and Revised Constitutions of the Minnesota Chippewa Tribe designate the MCT as an "organization," not an Indian tribe.
- The Minnesota Chippewa Tribe did not and could not meet the IRA definition of a "tribe" see Section 19 of this Act.

Section 7
"The Secretary of the Interior is hereby authorized to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by this Act, or to add such lands to existing reservations. That lands added to existing reservations shall be designated for the exclusive use of Indians entitled by enrollment or by tribal membership to residents at such reservations".

COMMITTEE'S PRELIMINARY ANALYSIS:
The Secretary used this power under Section 7 to "proclaim a new Indian reservation" for the Minnesota Chippewa Tribe or to take lands into trust for the purpose of "adding to existing reservations," for example, the Mille Lacs Reservation. But, since the MCT is an organization and not an Indian tribe and did not have an existing reservation, the Secretary may have acted unlawfully.

Section 16
"Any Indian tribe, or tribes, residing on the same reservation shall have the right to organize for its common welfare. They may adopt an appropriate constitution and bylaws, which shall become effective when ratified by a majority vote of the adult membership of the Tribe" . . .

COMMITTEE'S PRELIMINARY ANALYSIS:
The people of the Mille Lacs Band were granted the right to organize under Section 16 only if we resided on the "same reservation."

Clearly, the Mille Lacs Band did not reside on the "same" reservation as the people residing at Bois Forte, Grand Portage, Fond du Lac, Leech Lake, or White Earth. Instead, they resided on six geographically different reservations. Section 16 requires that only an Indian tribe or tribes residing on the "same" reservation could organize. Therefore, the Mille Lacs Band people were not legally entitled to "organize" under the MCT with the people who resided on the other five reservations as a "tribe."

Because Section 16 required the Indians to live on the "same" reservation, based on our research, the Committee thinks it's doubtful the Secretary of the Interior had the legal authority to organize Chippewa Indians from the six bands, except for Red Lake, under Section 16. In addition to the legal issue that the Indian Service ignored the "same" reservation requirement in Section 16, it also ignored the "one" reservation requirement in the definition of the word "tribe" in Section 19.

Accordingly, the Chippewa Indians of the six bands did not reside on the "same" or "one" reservation and should not have been permitted to "organize" under the IRA.

The Indian Service conducted a referendum vote to accept the Indian Reorganization Act in 1936. Ten years later, the Indian Service produced the Haas Report, which identifies the vote of the Chippewa Indian people in Minnesota (except for Red Lake), who voted to accept the IRA. It also sets out the constituent Band of the MCT.

The Haas Report does not record any vote by the people then residing on the Mille Lacs Reservation. It also does not record any vote by the people residing at Isle, Rice Lake, Sandy Lake, Knife River, Snake River, or Kettle River. However, the Committee found a document suggesting a Mille Lacs polling station on the White Earth Reservation during the IRA referendum vote. If that information is accurate, then it is possible that the only Mille Lacs Band members who voted were persons known as "Removables," the individuals who took land allotments on the White Earth Indian Reservation, it is not likely to be the "Non-Removables" who remained residents of the Mille Lacs Reservation.

Interestingly enough, the Non-Removable Mille Lacs Band of Chippewa Indians is not listed in the Haas Report as an MCT "constituent Band." More factual research is needed to understand why.

The Committee now understands that the Mille Lacs Band people could have surrendered some of the Band's sovereignty when they "agreed" to "organize" under United States law, the Indian Reorganization Act, particularly if it is believed that MCT is organized as an Indian tribe or government, instead of organized as an organization.

Section 17
"The Secretary of Interior may, upon petition by a petition of at least one-third of the adult Indians, issue a charter of incorporation to such Tribe: Provided, that

such charter shall not become operative until ratified at a special election by a majority vote of the adult Indians living on the reservation" . . .

COMMITTEE'S PRELIMINARY ANALYSIS:
The Committee reviewed a Charter of government issued by the MCT and ratified on February 16, 1939. The voters at all three districts agreed to accept the Charter and form a governing Mille Lacs Council. That Charter remained in existence for some 25 years before it was revoked and superseded by the terms of Article VI Section (f) of the 1964 Revised MCT Constitution. We do not know why this Charter was revoked at the time of this report.

The Committee received information that the Secretary may have issued a "charter of incorporation" to the MCT, but we could not confirm this information at the time of this report.

Section 19
Section 19 definition of an "Indian" identifies three categories:

1. Category One
   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."

   COMMITTEE'S PRELIMINARY ANALYSIS:
   Carcieri v. Salazar, 555 U.S. 379 (2009)
   In *Carcieri*, the United States Supreme Court interpreted the phrase *"now under federal jurisdiction"* in connection with the Secretary of Interior's authority to take fee land into trust land for tribal applicants. The Court held that the phrase *"now under federal jurisdiction"* requires tribal applicants to have been *"under federal jurisdiction"* on June 18, 1934. The Court did not construe or interpret the phrases *"recognized Indian tribe"* or *"under federal jurisdiction."*

   Based on our research, the Committee thinks it would be hard to interpret this phrase differently – when referring to an Indian Tribe. The Indian Tribe in Carcieri, like the Minnesota Chippewa Tribe, did not exist on June 18, 1934. This will require further legal review.

   The Minnesota Chippewa Tribe did not exist on June 18, 1934. The MCT was formed on July 24, 1936.

Nothing in Section 16 of the IRA authorized the Secretary of the Interior to create an Indian tribe that did not already exist. And, none of the six bands resided on the same reservation. So, this may explain why MCT was created as an "organization" and could not be an Indian tribe.

Moreover, nothing in Section 16 authorized the Mille Lacs Band to create an Indian tribe, but the Non-Removable Mille Lacs Band of Chippewa Indians existed before June 18, 1934.

Persons of Indian descent who comprise the Non-Removable Mille Lacs Band of Chippewa Indians were "Indians" *"now under Federal jurisdiction"* as required by Category One, who were members of the MCT.

There were no "Indians" who met the IRA Category One criteria of the MCT. Consequently, there were no MCT "Indians" who could meet the requirements of Category One under the IRA.

The Non-Removable Mille Lacs Band was recognized because we were then *"now under Federal jurisdiction"* and receiving services from the Indian Service (BIA). Further, Mille Lacs Band was not a member of the MCT on June 18, 1934, and didn't become a member until July 24, 1936.

2. Category Two
   ...all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation.

   COMMITTEE'S PRELIMINARY ANALYSIS:
   On June 1, 1934, it is clear that MCT had no "members" who could have qualified as being descendants of such "members." Furthermore, you had to have resided within the boundaries of any Indian reservation to qualify. There is no MCT reservation and never was one.

   All persons who were then descendants of the Non-Removable Mille Lacs Band of Chippewa Indians members on June 1, 1934, who resided within the boundary of the Mille Lacs Band Reservation qualify as an Indian under Category Two.

3. Category Three
   ...and shall further include all other persons of one-half or more Indian blood.

COMMITTEE'S PRELIMINARY ANALYSIS:
The words "and shall further include" carries forward the requirements of a "member" from Category One and "descendants of such members" in Category Two into the "one-half or more Indian blood" in Category Three. Because an MCT member does not qualify under Category One and Two, no one can satisfy the Category Three requirement.

However, because members of the Non-removable Mille Lacs Band of Chippewa Indians and their descendants qualify as "Indian under Category One and Category Two," a Mille Lacs Band member who is one-half Indian blood or more would be eligible under Category Three.

The term "tribe" wherever used in this Act shall be construed to refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation.

The words "adult Indians" wherever used in this Act shall be construed to refer to Indians who have attained the age of twenty-one years.

SOLICITOR'S OPINION IRA INTERPRETATION REGARDING DEVISEE QUESTIONS — TRIBAL ORGANIZATION AND JURISDICTION- DEFINITION OF TRIBE AS POLITICAL ENTITY

Based on our research, the Committee believes that a legal Memorandum to the Secretary of Interior dated November 24, 1934, and authored by Solicitor Nathan R. Margold, the Solicitor for the United States Department of Interior, might have provided the legal basis for the Indian Service's action to organize the Chippewa Indians of the Mississippi, (except for Red Lake and Lake Superior) residing at Boise Forte, Grand Portage, Fond Du Lac, Leech Lake, Mille Lacs, and White Earth under the roof of an organization to be known as the Minnesota Chippewa Tribe.

His opinion was requested on the question of whether, under the provisions of the Wheeler-Howard Act of 1934, devisees other than heirs at law under wills of restricted Indians must be confined to the Indians of the same reservation without regard to original tribal blood or affiliation.

COMMITTEE'S PRELIMINARY ANALYSIS:
Because a federal agency has broad authority to make rules and regulations over the subject matter, in this case, Indian people, Nathan R. Margold issued a legal opinion designated as "M-27796" on November 7, 1934. The Memorandum purported to answer the question of "how Indian tribes should be organized" under Section 16 of the Wheeler-Howard Act.

Margold begins his Memorandum by stating that it is "administrative;" in other words, not "legal." His choice of the word "administrative" opened the door to allow the Indian Service to use its general authority to administer the Indians and do what they wanted to do with the Chippewa Indians in Minnesota for the convenience of the U.S. government.

The Committee understands that "administrative" issues involve how one does something to implement the law. Thus, legal denotes changing the law.

Is Margold answering a "how" or procedural question, or did he re-write IRA Section 16?

The legal Memorandum states that Margold was interpreting IRA Section 16, but he did not discuss the words in Section 16.

Did the Indian Service have the legal authority under the IRA to do what it did in Minnesota?

Based upon our research, the Committee believes this authority does not include changing the law and believes this legal issue requires further review.

He identifies four possible circumstances in which an Indian tribe or band, or group of Indians could organize. The Committee could not find any of these four circumstances in the wording of IRA Section 16.

While the Memorandum discussed matters unrelated to the original question, Margold started his opinion by looking to Section 19, the definition of a "tribe" because Section 16 did not define the word "tribe." Margold stated that, in his opinion, the IRA "permits the organization of a tribe" of any of the following groups:

a. A band or Tribe which has only a partial interest in the lands of a single reservation;

b. A band or Tribe which has rights coextensive with a single reservation;

c. A group of Indians residing on a single reservation, who may be recognized as a "tribe" for purposes of the Wheeler-Howard Act regardless of former affiliations;

d. A tribe whose members are scattered over two or more reservations in which they have property rights as members of such Tribe.

The only one of the four circumstances that come close to the Minnesota Chippewa "Tribe" is Section (d). Therefore, we believe Section (d) was used as the legal authority to create the MCT.

Based upon our research, we think there are two possibilities for the Indian Service to attempt to hang its hat on whether the Chippewa Indians of the Mississippi could "organize" under IRA Section 16 within Section (d). But unfortunately, neither possibility seems to work.

1. Because the membership provision in the original Constitution of the Minnesota Chippewa Tribe is based on the Nelson Act, the Committee thinks the Indian Service was greatly influenced by continuing to implement the Nelson Act. (Act of January 14, 1889, 25 Stat. 642). In addition, Section (d) makes reference to "property rights." The Committee asked one of the Mille

Lacs Band lawyers whether the Nelson Act's Permanent Fund is a "property right." That lawyer confirmed it is considered a property right.

We focused on the Nelson Act words within the Legal Memorandum and took into consideration "except the White Earth and Red Lake reservations." These words told the Committee that neither the White Earth Band, nor the Red Lake Band was subject to the Nelson Act as neither Band surrendered Reservation land to the United States.

a. The first factor found in Section (d) requires a "tribe." It is difficult to understand how the Indian Service could find that a "tribe" of Chippewa Indians existed in northern Minnesota on June 18, 1934. If it did exist, what was its name? What were the geographical boundaries of its reservation? What treaties did it sign with the United States? Not even the Nelson Act could be interpreted to refer to "a tribe" of Chippewa Indians. The Committee thinks there are no facts to support the existence of a "tribe" of Chippewa Indians on November 24, 1934, the date of the Margold Memorandum, and, therefore, application of the first factor in Section (d) fails.

b. The second factor found in Section (d) requires "members" of a "tribe." Since the Minnesota Chippewa "Tribe" did not exist until July 24, 1936, it did not exist on November 24, 1934, the date of Margold's Memorandum. Therefore, if there were no members, the Committee thinks there also could not be a singular "tribe." Consequently, there are no facts to support the existence of a "tribe" on November 24, 1934, the date of the Margold Memorandum. Therefore, the application of the second factor in Section (d) fails.

c. The third factor found in Section (d) requires members "scattered over two or more reservations." If one thinks about it with the Nelson Act in mind, it seems clear that the Chippewa Indians of the Mississippi (except the White Earth, Red Lake, and the Lake Superior in Minnesota) did reside on "two or more" reservations. Therefore, all the Indian Service had to do was find one more reservation, in addition to White Earth, to satisfy Margold's "scattered over two or more reservations requirement in Section (d). That could be Bois Forte, Grand Portage, Fond Du Lac, Leech Lake, or Mille Lacs Band Reservations.

   The Committee thinks there are plausible facts to support a contention

that Chippewa Indians were "scattered over two or more reservations."

d. The fourth factor requires that the "members" have a "property right." The Committee thinks the Nelson Act's Permanent Fund could qualify as a "property right." The Committee believes there are plausible facts to support a contention that Chippewa Indians of the Mississippi (except the Red Lake Band and the Lake Superior Bands in Minnesota) held a "property right" in the Nelson's Act Permanent Fund.

e. The fifth factor requires that the "property right" be held as "members of such tribe." The Committee thinks that while the Chippewa Indians of the Mississippi (except the Red Lake Band, and the Lake Superior Bands in Minnesota) did hold a "property right" in the Nelson Act Permanent Fund, they did not do so "as members of such "tribe" because no such singular "tribe" existed on June 18, 1934, the date the IRA was enacted. For this reason, the Committee thinks there are plausible facts to support a contention that Chippewa Indians of the Mississippi (except the Red Lake Band and the Lake Superior Bands in Minnesota) did hold a "property right in the Nelson's Act Permanent Fund, but that they did not do so as "members of such tribe" because the "tribe" MCT did not exist.

To summarize, it does not appear to the Committee that the Indian Service could have reasonably applied the Margold Memorandum Section (d) provision to "organize" the Chippewa Indians of the Mississippi (except the Red Lake Band and the Lake Superior Bands in Minnesota) as one Tribe under the authority of IRA Section 16. The Committee thinks that Margold's theory, the Indian Service acting under "administrative" authority is not reasonable. We defers to the fact and legal research of the Mille Lacs Band lawyers to make that determination.

2. IRA Section 16 only authorized an Indian tribe or tribe to "organize" if that entity resided on the "same" reservation. Since the Nelson Act did not disestablish the White Earth Reservation and Indians resided on the White Earth Reservation on June 18, 1934, there must be an "Indian Tribe" that existed on the White Earth Reservation on that date. That is, namely, the White Earth Band of Chippewa Indians.

   In addition, IRA Section 19 defines a "tribe" as: "The Indians [to be] residing on one reservation." So, if the Indian Service was trying to organize the Chippewa Indians of the Mississippi, except the Red Lake Band, and the Lake Superior Bands in Minnesota into "one" Tribe, then White Earth could have

been that "tribe." But, the only members would have been those who were originally White Earth members and those who "removed" to White Earth. The remaining Chippewa Indians of the Mississippi, (except the Red Lake Band and the Lake Superior Bands) who resided on their respective villages on their respective reservations, would not have been White Earth members.

COMMITTEE'S PRELIMINARY ANALYSIS:
Based on our research, it appears that Section 16 could not and did not provide the Indian Service with authority to organize the Chippewa Indians of the Mississippi, (except the Red Lake Band and the Lake Superior Bands) as one Indian Tribe. Neither the IRA nor IRA Section 16 authorized the Secretary of Interior or any of the Chippewa Indians of the Mississippi, (except the Red Lake Band and the Lake Superior Bands) to create an "Indian tribe" or "tribe" – especially one that did not exist at the time of the IRA's enactment on June 18, 1934.

However, the facts show that the Indian Service did create something here in Minnesota. But that something was not an "Indian Tribe or tribe" under Section 16. Instead, the Secretary of Interior approved a constitution for an entity known as the Minnesota Chippewa Tribe – as an organization – but not an Indian Tribe or tribe. Thus, forming the Minnesota Chippewa Tribe as an organization avoided the problem of creating the Minnesota Chippewa Tribe as an Indian Tribe or tribe. In addition, the Committee notes that IRA Section 16 does not specify the type of "organization" to be created. Therefore, the Indian Service was not required to identify what type of entity the Minnesota Chippewa Tribe was to become.

The Committee also noted that the Minnesota Chippewa Tribe – created on July 24, 1936 – was not and could never be a "sovereign" like the Boise Forte, Grand Portage, Fond Du Lac, Leech Lake, Mille Lacs, and White Earth Bands. The Minnesota Chippewa Tribe had never signed any treaty with the United States. The Minnesota Chippewa Tribe had no Indian reservation created by treaty or Executive Order.

In conclusion, the Minnesota Chippewa Tribe did not exist on June 18, 1934 – the date Congress enacted the Indian Reorganization Act. And, under United States law, it makes a big difference if you are sovereign or not.

MCT ORIGINAL CONSTITUTION

The Original MCT Constitution was adopted in a referendum vote held June 20, 1936, and approved by the Secretary of the Interior on July 24, 1936, under the authority granted in the 1934 Indian Reorganization Act.

The Committee began our approach with our No. 1 Rule, “Words matter.” We defined individual words to come to their intended meaning. We looked at the words such as tribe, treaty, organization, under existing law, to name a few, to understand the intended meaning of a sentence.

Early into our review of the Preamble, Article I — Organization and Purpose, and Article II — Representation and Membership, we recognized many inconsistencies with the meaning of words and their intended meaning within the document.

The Committee spent many hours reading and re-reading these three sections within the document and elected to review the other Articles within the document at another time.

MCT REVISED CONSTITUTION

Under an order approved September 12, 1963, by the Assistant Secretary of the Interior, the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe was submitted for ratification to the qualified voters of the reservations, not the entire membership, and was duly adopted on November 23, 1963, in accordance with Section 16 of the Indian Reorganization Act.

The Committee began by starting with the same rule, “Words matter.” As we reviewed the words within this document, we also compared the language in the Original Constitution to the language within the Revised Constitution. Our approach was the same as the Original Constitution; we reviewed the Preamble, Article I — Organization and Purpose, and Article II — Membership. We again recognized many inconsistencies with the meaning of words and their intended meaning within the document.

The Committee spent many hours reading and re-reading these three sections within the document and elected to review the other Articles within the document at another time.

Article II — Membership is given special attention with its own section.

ENROLLMENTS/MEMBERSHIP UNDER THE ORIGINAL AND REVISED MCT CONSTITUTIONS

The Committee spent a lot of time reading and reviewing MCT Constitution Article II concerning Enrollments and Membership. We had multiple legal guidelines and requirements to take into consideration when evaluating this Article. We focused on three documents, the Indian Reorganization Act, the Original MCT Constitution, and the current Revised MCT Constitution, to arrive at our position concerning Enrollments/Membership.

1. Indian Reorganization Act
   The Committee reviewed Section 16 and Section 19 of the IRA to create a foundational base of U.S. law to work from concerning enrollments.

   IRA Section 16
   "Any Indian tribe or tribes, residing on the same reservation, *shall have the right to organize for its common welfare"...*

   IRA Section 19
   This section defines who is an "Indian" per U.S. law, and it contains three categories:

   A. Category One
      "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'*"...*

      COMMITTEE'S PRELIMINARY ANALYSIS:
      Persons of Indian descent who comprise the Non-Removable Mille Lacs Band of Chippewa Indians were "Indians" "now under Federal jurisdiction" as required by Category One, who were members of the MCT.

      There were no "Indians" who met the IRA Category One criteria of the MCT. Consequently, there were no MCT "Indians" who could meet the requirements of Category One under the IRA.

      The Non-Removable Mille Lacs Band was recognized because we were then "now under Federal jurisdiction" and receiving services from the Indian Service (BIA). Further, Mille Lacs Band was not a member of the MCT on June 18, 1934, and didn't become a member until July 24, 1936.

Category Two
"...all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation"...

COMMITTEE'S PRELIMINARY ANALYSIS:
On June 1, 1934, it is clear that MCT had no "members" who could have qualified as being descendants of such "members." Furthermore, you had to have resided within the boundaries of any Indian reservation to qualify. There is no MCT reservation and never was one.

All persons who were then descendants of the Non-removable Mille Lacs Band of Chippewa Indians members on June 1, 1934, who resided within the boundary of the Mille Lacs Band Reservation qualify as an Indian under Category Two.

Category Three
"...and shall further include all other persons of one-half or more Indian blood."

COMMITTEE'S PRELIMINARY ANALYSIS:
The words "and shall further include" carries forward the requirements of a "member" from Category One and "descendants of such members" in Category Two into the "one-half or more Indian blood" in Category Three. Because an MCT member does not qualify under Category One and Two, no one can satisfy the Category Three requirement.

However, because" members" of the Non-removable Mille Lacs Band of Chippewa Indians and their descendants qualify as "Indian under Category One and Category Two," a Mille Lacs Band member who is one-half Indian blood or more would be eligible under Category Three.

But, as we pointed out above, the Non-removable Mille Lacs Band did exist and was then "now under Federal jurisdiction."

2. Original Constitution

   A. Article I Section 2
   Provides "this name of this tribal organization shall be the Minnesota Chippewa Tribe."

B. Article II Section 2
States that members of the organization known as the Minnesota Chippewa Tribe would be:

"All the Chippewa Indians duly registered on the approved rolls of any of the above reservations or bands of Indians as recognized by the United States pursuant to the Treaty with said Indians as enacted by Congress in the Act of January 14, 1889 (25 Stat. 642), and Acts amendatory thereof, are a member of this Tribal organization. Provided, however, that the governing body of the Tribe may make necessary corrections in the rolls subject to the approval of the Secretary of the Interior."

COMMITTEE'S PRELIMINARY ANALYSIS:
The membership provision in Article II Section 2 in the Original Constitution does not comply with the definition of an "Indian" in Section 19 of the IRA.

Membership is instead based on a person being on the rolls of the Nelson Act Permanent Fund. The Nelson Act was a very anti-Chippewa statute because it called for the "complete cession and relinquishment in writing of all their title and interests in and to all the reservations of said Indians in the State of Minnesota except the White Earth and Red Lake reservations . . ."

C. Article II Section 3
Authorized the "governing body of the Tribe shall have power to make rules governing the qualifications required for enrollment in the Tribe of descendants of members of the Tribe, which descendants are not on the approved rolls of the Tribe at the time of the ratification and approval of such rules. These rules shall not be effective until such ratified by the Tribal Delegates at the annual or any special meeting of such delegates, approved by the Secretary of the Interior. No person shall be enrolled as a member of the Tribe unless he is a descendant of a member of a tribe.

COMMITTEE'S PRELIMINARY ANALYSIS:
You have to be a "descendant" of a Chippewa Indian who is included in the Nelson Act Permanent Fund roll to be an MCT member. Remember in this Original Constitution you are tied to the Nelson Act but not to Section 19 of the IRA; definition of an" Indian." This is a problem.

3. Revised Constitution

A. Article II Section 1

"(a) Basic Membership Roll. All persons of Minnesota Chippewa Indian blood whose names appear on the Annuity Roll of April 14, 1941, prepared pursuant to the Treaty with said Indians as enacted by Congress in the Act of January 14, 1889 (25 Stat. 642), and Acts amendatory thereof, and as corrected by the Tribal Executive Committee and ratified by the Tribal Delegates, which roll shall be known as the basic membership roll of the Tribe."

"(b) All children of Minnesota Chippewa Indian blood born between April 14, 1941, the date of the Annuity Roll, and July 3, 1961, the date of approval of the membership ordinance by the Area Director, to a parent or parents, either or both of whose names appear on the basic membership roll, provided an application for enrollment was filed with the Secretary of the Tribal Delegates by July 4, 1962, one year after the date of approval of the ordinance by the Area Director."

"(c) All children of a least one-quarter (1/4) degree Minnesota Chippewa Indian blood born after July 3, 1961, to a member, provided that an enrollment application was or is filed with the Secretary of the Tribal Delegates or the Tribal Executive Committee within one year after the date of birth of such children."

COMMITTEE'S PRELIMINARY ANALYSIS:
(a) Major changes were made to the MCT membership in the 1964 MCT Revised Constitution and Bylaws. However, none of these changes meet the definition of an "Indian" under Section 19 of the IRA.

Article II Section 1a adopts BIA's creation of a 1941 Annuity Roll. It is unknown why the BIA needed to create a new Annuity Roll. It is possible that BIA created this new Roll because the Nelson Act Permanent Fund lasted only 50 years and expired in 1939. In any event, the 1941 Annuity Roll was based entirely on the Nelson Act Permanent Fund. Neither of which complies with the definition of an "Indian" in Section 19 of the IRA.

(b) There is no "Minnesota Chippewa blood" because there was no Minnesota Chippewa Tribe "now under Federal jurisdiction" June 18, 1934. Even though the MCT was created July 24, 1936, it was not created as an "Indian tribe" but rather as an "organization" (See Article I). Organizations don't have blood quantum requirements unless it has an

association concerning dogs and horses.

However, there were children of Mille Lacs Band blood who were then "now under Federal jurisdiction" as of June 18, 1934, unlike the MCT.

(c) MCT created the one-fourth blood quantum requirement, which the Secretary of the Interior signed off on March 3, 1964. It appears the blood quantum requirement is of our own doing.

The one-fourth blood quantum does not satisfy the definition of an "Indian" in the IRA Section 19, Category Three.

The one-fourth requirement in Category One applies only to those born to a member. And, the "member" is someone who is either a one-fourth blood quantum person or someone tied to the 1941 Annuity Roll instead of being tied to section 19 Category One and Category Two of the IRA.

CONCLUSION

In conclusion, the Non-Removable Mille Lacs Band Constitution Reform Delegation Committee has arrived at the following findings:

First and foremost, the Committee's foundation of work has always been to protect, preserve, and advance our sovereignty and continue to self-govern as an Indian tribe. We believe our ultimate goal should be to be 100% self-sufficient and no longer dependent on the United States for our continued existence and prosperity. We acknowledge we are very far from that goal, but we must first exercise our sovereignty and self-determination rights to reach that goal, and we must begin now.

There is much confusion on the powers of the MCT; some believe it has governmental authorities, while others believe it is only an organization with corporate powers.

First, the MCT did not exist before July 1936. MCT has no sovereignty powers, it entered into no treaties with the United States, and it has no reservation. The Non-Removable Mille Lacs Band Constitution Reform Committee believes it is not a federally recognized Indian tribe but is just an organization.

Based on our research of the historical events that created the MCT, we think the MCT sits on an unstable legal foundation because the Indian Reorganization Act did not authorize the Chippewas of the Mississippi, Lake Superior Bands, or the Secretary of Interior to create an Indian Tribe. Therefore, we believe the Bands affiliated with the MCT must first come to terms with this significant problem. Once it does, each Band, as the Mille Lacs Band Committee has, may also conclude that its status under United States law has been diminished by the Bureau of Indian Affairs in favor of the MCT. We believe this must be corrected before thinking about revising the MCT Constitution for a second time.

Although it is acceptable for an organization to have a constitution, we believe the MCT Constitution should be eliminated for the reason stated above. Instead, we encourage the Mille Lacs Band to take action to establish its own constitution based upon our inherent rights of sovereignty and self-determination.

If the MCT continues to exist, Mille Lacs' participation should be only as an informal association, a practice many participants in other organizations follow; a mutual agreement to associate from which one can withdraw at its own discretions and terms. This understanding will eliminate the confusion from the people of the respective Bands that it is a governing body for an Indian tribe; in this case, "The Minnesota Chippewa Tribe."

The National Congress of American Indians ("NCAI") serves as an example of such an association. NCAI is a powerful voice that advocates on behalf of its member Indian tribes to the United States Congress and before courts throughout the country. There are nearly 600 federally recognized Indian tribes in the United States today, and many of them are members of NCAI. However, none relinquished or delegated sovereign authority to NCAI for membership purposes. An analogous entity can be established to replace the MCT and expanded to include each Indian tribe in Minnesota. Under this framework, such an organization could advocate for all the tribes' interests to the State of Minnesota and the United States while each tribe retains their inherent sovereign authority.

Second, MCT cannot determine enrollment criteria or authorize enrollment for anyone eligible for enrollment of one of the six Bands because MCT is not an Indian Tribe. The Non-Removable Mille Lacs Band, as well as the other five Bands, are the historical Indian Tribes who possess sovereignty and self-determination and, therefore, only the six Bands can determine who is a "member."

Third, there is no need for the Mille Lacs Band to participate collectively with the other five bands to initiate a "referendum" on enrollments. Because we believe the MCT is an organization, not a historical Indian Tribe, MCT does not have the legal authority to authorize enrollments for the six Bands; that authority can only rest with each Band under their respective sovereignty. This should be done separately by each of the six Bands in the interest of protecting, preserving, and advancing their sovereignty.

Fourth, we are a Committee that believes in the voice of our people. Therefore, our Report intends to provide the Mille Lacs Band Anishinaabeg with enough

factual information to aid them in forming their own opinions and to thereafter come together collectively as a family to determine the Non-Removable Mille Lacs Band's future.

At no time did we believe our charge was to make these decisions on behalf of the Non-Removable Mille Lacs Band Anishinaabeg. Our only mission was and continues to be to find factual information and pass it along to our people and to help, to the best of our knowledge, our people so they can make the best decision for themselves and the people they care for.

Upon completing our upcoming educational presentations on this Report, we look forward to the direction we will take as a historical sovereign nation, the Non-Removable Mille Lacs Band of Ojibwe.

NON-REMOVABLE MILLE LACS BAND DELEGATES

The Mille Lacs Band Constitution Reform Committee members who contributed to this Report:

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