



THE MILLE LACS BAND OF
OJIBWE INDIANS
Executive Branch of Tribal Government

SOLICITOR'S OPINION 98-19

PROCEDURAL HISTORY

On December 19, 1997, the Solicitor General received a written request dated December 18, 1997, from Chief Executive Marge Anderson asking for a Solicitor's Opinion clarifying the process for computing the amount of time which the Chief Executive has to sign or veto a bill passed by the Band Assembly.

QUESTION PRESENTED

How many days does the Chief Executive have to sign or veto a bill pursuant to 3 MLBSA § 16(c) which states that the Chief Executive "shall have five calendar days from the date of receipt" to either sign or veto a bill? Five working days.

PRINCIPLES OF STATUTORY INTERPRETATION

Various rules and principles of statutory construction have been developed by courts to aid in the interpretation of statutes. The Court of Appeals of the Court of Central Jurisdiction has adopted many of these principles. In The Matter Of: The Interpretation of the Solicitor General 15-OSG-92, 92-CV-5359 (1993).

The starting place for any statutory interpretation "is the language itself." However, in those cases where a literal application would produce an absurd result, "the intention of the drafters or the meaning of the statute, rather than [its] strict language, controls." Interpretation of 15-OSG-92 at 6. "If the language of a Band statute is plain, unambiguous and uncontrolled by other parts of the Band statute or other Band statutes upon the same subject," then it should be given its customary meaning. Id. at 7. Often, though, "the meaning of a statute lies deeper than the actual words of the statute" and "involves questions of judgment." Id. at 9.

Where there is uncertainty as to the true meaning of a statute, "consideration must be given to the problem in our [community]" that the Band Assembly was attempting to remedy. Interpretation of 15-OSG-92 at 8. In addition, a rational and sensible construction of the meaning of statutory language is favored. "The unreasonableness of the result produced by one among alternative possible interpretations of a statute is reason for rejecting that interpretation in favor of another which would produce a more reasonable result." Id. at 9.

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Finally, rather than adopt a bright line method of statutory interpretation the Court of Appeals held that the method of interpretation "which achieves a liberal and reasonable interpretation of the statute" should be used. Interpretation of 15-OSG-92 at 10.

DISCUSSION

How many days does the Chief Executive have to sign or veto a bill pursuant to 3 MLBSA § 16(c) which states that the Chief Executive "shall have five calendar days from the date of receipt" to either sign or veto a bill?

3 MLBSA § 16(c) gives the Chief Executive "five calendar days" to either sign into law or veto a bill that has been passed by the Band Assembly. We have previously determined that the five calendar day period begins to run only when a bill has been personally received by the Chief Executive. See Solicitor's Opinion 97-18. The question before us now is whether in computing this five day period weekend days and holidays are included or excluded.

Black's Law Dictionary (6th ed. 1990) defines **calendar day** as a period "contain[ing] 24 hours." See also, Sherwood v. American Sugar Refining, 8 F.2d 586, 587 (2nd Cir. 1925). The term **calendar day** is "equivalent to . . . 'working days.' It has a settled and definite meaning; it means days as they succeed each other, exclusive of Sundays and holidays." Id. at 588 (citation omitted). We conclude that the plain meaning of **calendar day** is working day and does **not** include weekend days or holidays.

This interpretation of **calendar day** also reflects the intent of the legislature and is reasonable. The clear intent of the statutory provision at issue is to provide a reasonable, but not overly lengthy, opportunity for the Chief Executive to consider and either approve or veto legislation passed by the Band Assembly as a part of the separation of powers form of government which has been established. See Solicitor's Opinion 97-18. Checks and balances would not be meaningful unless there was a reasonable opportunity to exercise this power. Id. If **calendar day** were interpreted to include weekend days and holidays, the intent of the Assembly might well be frustrated. For example, if a bill had been received by the Chief Executive at 4:00pm on Tuesday, December 23, 1997, the five calendar day time period would have expired at 4:00pm on Sunday, December 28, 1997, if holidays and weekend days were included in the computation. Because December 24, 25 and 26 were holidays and December 27 and 28 weekend days, the Chief Executive would have had only one hour of work time (4:00 - 5:00pm on December 23) in which to consider the bill and ask questions of and seek input from her staff prior to the five day time period expiring. Clearly, under this scenario, the Chief Executive would not have a reasonable opportunity to consider the legislation before having to make a decision to approve or veto it.

This example also illustrates why it would be unreasonable to interpret **calendar day** as including weekend days and holidays. Conversely, interpreting that term to exclude weekends and holidays is reasonable and sensible. Allowing the Chief Executive five working days after receipt to review a bill is not an unreasonable amount of time taking into consideration the length of Band Assembly sessions, the amount of work which all of us are doing, and the travel required of anyone in the Chief Executive position. We also note that because a **calendar day**

is a 24 hour period, 3 MLBSA § 16(c) requires that the Chief Executive be given five full working days after receipt of a bill in which to sign or veto it.

Therefore, we conclude that the term "five calendar days" as used in 3 MLBSA § 16(c) means five working days and does **not** include weekend days or holidays. The five calendar day period in which to sign or veto a bill begins to run on the day when the bill is personally received by the Chief Executive. The period expires at the end of the day on the fifth full working day after the date on which the bill was received.

Dated this 13 day of January, 1998.

A handwritten signature in blue ink, appearing to read "James M. Genia", written over a horizontal line.

James M. Genia
Solicitor General