



MILLE LACS BAND OF CHIPPEWA INDIANS

Legislative Branch of Tribal Government

RESOLUTION 05-71-86

A RESOLUTION TO PETITION THE CONGRESS OF THE UNITED STATES OF AMERICA TO OPPOSE ATTEMPTS OF THE DEPARTMENT OF TREASURY TO IMPOSE FEDERAL TAXES ON INCOME DERIVED FROM TREATY PROTECTED RESOURCES.

- WHEREAS, The United States Department of Treasury - Internal Revenue Service has determined that income derived personally by a restricted Indian in his exercise of fishing rights guaranteed by treaty is taxable unless the particular treaty contains language conferring an income tax exemption; and,
- WHEREAS, in Earl v. Commissioner, 78 T.C. 1014 (1982) and in Strom v. Commissioner, 6 T.C. 621 (1946), aff'd per curiam 158 F. 2d 520 (9th Cir. 1947), the United States Tax Court held that the Internal Revenue Service position on this issue is the legally correct position; and,
- WHEREAS, The Solicitor for the Department of Interior concluded in 1983 and 1985, that the treaty language reserving fishing rights to Indian Tribes precluded federal taxation of income derived from the exercise of those rights; and,
- WHEREAS, The United States Department of Interior has re-affirmed the position of Solicitor Coldiron favoring an income tax exemption based upon the threshold requirements of Squire v. Copoeman, 351 U.S. 1 (1956); and,
- WHEREAS, A disagreement exists between the two aforementioned agencies of the Executive Branch regarding this issue; and, such disagreement is reviewable by the Office of Legal Counsel, on behalf of the Attorney General pursuant to the provisions of Executive Order No. 12146 (July 18, 1979) and 28 C.F.R. 0.25; and,
- WHEREAS, The Office of Legal Counsel of the United States Department of Justice ruled on December 12, 1985, that the position maintained by the Internal Revenue Service that income earned from the exercise of treaty fishing rights is subject to federal income tax and that this view is "fully consistent with the applicable Supreme Court precedents and is consonant with the trust relationship held by the United States with respect to Indian Tribes"; and,
- WHEREAS, The United States of America made treaties with the vast majority of Indian Tribes with the said treaty containing language recognizing the property rights of the Tribes to hunt,

fish, trap being guaranteed to the Indians; and,

WHEREAS, The rights, privileges and obligations afforded to the Indians in the treaties are property rights held by the Tribe for the benefit of the individual members of the Tribe as a matter of the Tribe's aboriginal and sovereign right to protect in a governmental capacity, the best interests of its members; and,

WHEREAS, The United States of America does not impose any income tax upon the federally recognized Indian Tribes, nor may political sub-divisions of the United States as a matter of law impose property taxes upon lands held in trust by the United States for the benefit of Indian Tribes; and,

WHEREAS, Indian Tribes possess the aboriginal sovereign and legal right to regulate trust resources that impact upon the political integrity, economic security and general health and welfare of the Tribe; and,

WHEREAS, Since the United States Supreme Court has ruled that an Indian treaty is "not a grant of rights to the Indians, but a grant of rights from them," U.S. v. Winaus, 198 U.S. 371 (1905); and, it is clear that any rights, including the right of taxation of resources which is not expressly extinguished by the treaty or federal statute is "reserved" to the Tribe; and,

WHEREAS, The right of the United States to impose income tax upon profits earned from the exercise of usufructuary rights by members of the Tribe is an abrogation of the "reserved rights principle" which only serves to discredit the integrity of the United States; and,

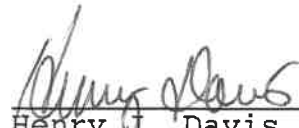
WHEREAS, Congress has not explicitly intended to impose an income tax upon the profits earned from the exercise of usufructuary rights by members of the Tribe in the enactment of the general income tax laws of the United States any attempt, implied or otherwise to accomplish this result constitutes an abrogation of reserved treaty rights.

NOW, THEREFORE, BE IT RESOLVED, that the Non-Removable Mille Lacs Band Of Chippewa Indians does hereby petition the Congress of the United States of America to oppose the attempt by the Department of Treasury - Internal Revenue Service to impose federal taxes on income derived from treaty-protected resources.

BE IT FINALLY RESOLVED, that the Non-Removable Mille Lacs Band of Chippewa Indians, does hereby further petition the Congress of the United States of America to demonstrate that this is a great Nation, comprised of great men who should keep their word to respect its treaties and protect Indian Tribes and recognize its obligations under law.

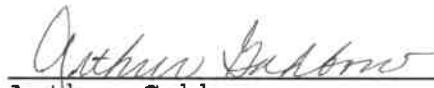
WE DO HEREBY CERTIFY, that the foregoing Resolution was duly concurred with and adopted at a regular session of the Band Assembly in Legislative Council assembled, a quorum of Legislators being present, held on Wednesday the 9th day of July, 1986 at Vine-land, Minnesota by a vote of 3 FOR, 0 AGAINST, 0 SILENT.

IN WITNESS WHEREOF, We, the Band Assembly hereunto cause to have set the signature of the Speaker of the Assembly to be affixed to this Resolution.



Henry J. Davis,
Speaker of the Assembly

IN CONCURRENCE with the action of the Band Assembly and upon the recom- mendation of the Executive Cabinet, the Chief Executive sets his hand to this Resolution.



Arthur Gahbow,
Chief Executive

[OFFICIAL SEAL OF THE BAND]