



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #PHX-16-003

TITLE: Support an Amendment to the Immigration and Nationality Act to Recognize Tribal Citizenship rather than Blood Quantum for Purposes of the Jay Treaty

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the 1794 Treaty of Amity, Commerce, and Navigation (Jay Treaty) delineated the United States-Canadian border, splitting many tribal communities living along this border in half. In order to reconcile this division, Article III preserved the right of Native Americans to pass freely across the border by land, inland, or water; and

WHEREAS, in an attempt to further preserve this right, Congress implemented Article III of the Jay Treaty with the enactment of the 1952 Immigration and Nationality Act (INA)(Pub.L. 114-38). The INA reads: "Nothing in this subchapter shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race." (8 U.S.C. § 1359); and

WHEREAS, current law therefore authorizes border security agents to ask tribal members to prove they have at least 50 percent Indian blood quantum; and

WHEREAS, reference to blood quantum in 8 U.S.C. § 1359 stems from the termination era where lawmakers sought to eradicate tribes; and

WHEREAS, realizing the negative impacts of termination era derived policies, Congress has since worked to restore the government-to-government relationship by promoting self-determination, self-governance, and subsequent rights such as the right of tribal governments to determine their own membership; and

WHEREAS, regulations currently enforced continue to use outdated and inconsistent language with federal Indian law creating unnecessary tension along the border between tribal members and border security agents; and

WHEREAS, NCAI recognizes the right of tribes to determine their own requirements for membership and that current language in 8 U.S.C. § 1359 is outdated and inconsistent with current federal Indian law; and

WHEREAS, NCAI finds that subjecting tribal members to language stemming from the termination era is offensive and creates unnecessary tension at the border between tribal members and border security agents; and

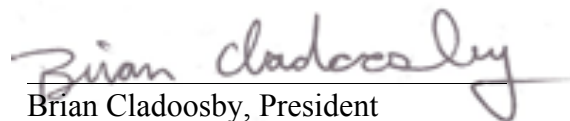
WHEREAS, NCAI further finds that failing to recognize the right of tribal governments to determine their own membership when exercising treaty rights is a direct attack on tribal sovereignty and the principles of the self-determination.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians urges Congress to quickly pass a technical amendment to the INA that recognizes tribal citizenship identification cards rather than proving one's blood quantum for the purposes of utilizing this treaty right; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2016 Annual Convention of the National Congress of American Indians, held at the Phoenix Convention Center, October 9 to October 14, 2016, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary