

Exhibit Number: 11

Handout for HB 258

This exhibit exceeds the 5-page maximum; therefore only a small portion of the exhibit is scanned for your research. The original exhibit is on file at the Montana Historical Society and may be viewed there

Quote from an Indian parent on one of Montana's reservations:

I asked my child what they planned to be when they grew up, my child said, "I want to be a teacher aide." When I said why not a teacher, my child replied, "Indians are teacher aides, they're not teachers."

This quote came from Denise Juneau, OPI Indian Education Specialist, in one of her visits to a school located on one of Montana's reservations.

**Handout for HB 258 – Indian Preference Bill, Jan 17, 2005
(Representative Carol Juneau Testimony)**

United States Supreme Court, in Morton v. Mancari, upheld an Indian employment preference within the BIA and explained the preference did not violate equal protection guarantees because Indians, as members of a tribe, are political entities rather than a racial classification. The Mancari Court held that laws that afford Indians special treatment are constitutional as long as those laws can be tied rationally to the fulfillment of the unique federal obligation toward Indians.

State v. Shook, the Montana Supreme Court adopted the rationale in Mancari, which removes Indians from the usual equal protection arguments. The Montana court used Article I of its constitution and noted that the state “is required to follow this federal precedent by the express terms of both our own Constitution and the federal enabling act establishing Montana as a state. The court also noted that, because of the enabling act requirements and previous case law, Indian treaties are regarded as a part of Montana’s law as much as its own laws and Constitution are effective and binding on the state legislature, and are superior to the reserved powers of the state. *“Consequently, federal Indian law regarding the rights of Indians is binding on the state.”* Therefore, the state equal protection guarantees under Article II, Section 4, of Montana’s Constitution, must allow for state classifications based on tribal membership if those classifications can rationally be tied to the fulfillment of the unique federal, and consequent state, obligation toward Indians.

Montana's Constitution - Article X
Education and Public Lands

Section 1. Educational Goals and Duties: (1) It is the goal of the people to establish a system of education, which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(2) **The state recognizes the distinct and unique cultural heritage of the American Indian and is committed in its educational goals to the preservation of their cultural integrity**

Supreme Court Decision – Nov. 9, 2004 – Unanimous Decision

“We affirm the District Court's conclusion that the current funding system violates Article X, Section 1 (2), of the Montana Constitution in that the state has failed to recognize the distinct and unique cultural heritage of American Indians and has shown no commitment in its educational goals to the preservation of Indian Cultural identity.”