

# THE TOMAHAWK.

"Truth before Favor."

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MINNESOTA  
HISTORICAL  
SOCIETY.

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## The TOMAHAWK.

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A WEEKLY NEWSPAPER devoted to the interests of the White Earth Reservation and general Northwestern News. Published and managed by members of the Reservation.

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THE TOMAHAWK  
WHITE EARTH, MINN.

### BEGINS ITS CAREER AS THE ORGAN OF THE CHIPPEWAS.

With this number THE TOMAHAWK begins its career as the organ of the Chippewa Indians of Minnesota; through its columns their sentiments will be voiced and their interests represented. Believing that "The pen is mightier than the sword" we start out on the war-path with a paper tomahawk, and we expect to do more effective and satisfactory work towards protecting and securing the rights of the Chippewa Indians than our red brethren did at Sugar Point with their tomahawks and Winchester rifles.

We may at times be compelled to criticize the administration of Chippewa affairs in Minnesota; this we will do in the plainest terms and without respect to parties or persons. We will uphold at all times those who deal fairly and justly in the administration of Indian matters, and criticize adversely those who do not. Whenever we are convinced of the existence of fraud, especially in relation to Chippewa pine timber interests, on the Chippewa Indian reservations of Minnesota, we will leave no stone unturned to expose it.

With this brief explanation of our policy we ask all those who are in favor of fair dealing towards the Indians to give us their support, and we trust that they will not be disappointed in our efforts in behalf of our red brethren either in Minnesota or elsewhere.

### RESERVATION LANDS TO LEASE

100,000 acres of first class farm lands on White Earth Reservation, in tracts of 80 acres and more.

For full particulars address THE TOMAHAWK.

### INDIAN PROTECTIVE Association

200 Bond Building

Washington D. C.

Dan'l B. Henderson, Att'y.

Indian claims against the United States—a speciality.

Gus H. Beaulieu

Local Representative

White Earth, Minn.

K. S. MURCHISON,  
ATTORNEY AT LAW.

LATE LAW CLERK, LAND DIVISION, INDIAN OFFICE. DEPARTMENT PRACTICE A SPECIALTY.

LOAN AND TRUST BLD'G.  
WASHINGTON D. C.

## THIS IS THE LAW.

WHEN AN ALLOTTEE MAY SELL THE TIMBER ON HIS ALLOTMENT OF LAND

For the information of the Indians on this reservation who desire to know under what conditions they may cut, remove and sell the timber on their allotments, we quote extracts from a decision of the United States Supreme Court, and although this decision was rendered a number of years since, and before the General Allotment Act became a law, it is the law of today, and is applicable to Indian allotments.

"1st. Timber standing on lands occupied by the Indians cannot be cut by them for the purpose of sale alone; though when it is in their possession having been cut for the purpose of improving the land, that is to say, better adapting it to convenient occupation, in other words, when the timber has been cut incidentally to the improvement, and not for the purpose of getting and selling it, there is no restriction on the sale of it.

"This right of use and occupancy by the Indians is unlimited. They may exercise it at their discretion. If the lands in the state of nature are not in a condition for profitable use, they may be made so.

If desired for the purpose of agriculture, they may be cleared of their timber to such an extent as may be reasonable under the circumstances. The timber taken off by the Indians in such clearing may be sold by them. But to justify any cutting of the timber except for use upon the premises, as timber or its product, it must be done in good faith for the improvement of the land.

The improvement must be the principle thing, and the cutting of the timber the incident only. Any cutting beyond this would be waste and unauthorized.

The timber while standing is a part of the realty, and it can only be sold as the land could be. The land cannot be sold by the Indians, and consequently the timber, until rightfully severed for the purpose of improving the land, or the better adapting it to the convenient occupation, but for no other purpose. When rightfully severed it is no longer a part of the lands, and there is no restriction upon its sale. Its severance under such circumstances is, in effect, only a legitimate use of the land. In theory, at least, the land is better and more valuable with the timber off than with it on. It has been improved by the removal. If the timber should be severed for the purpose of sale alone, in other words, if the cutting of the timber was the principle thing and not the incident, then the cutting would be wrongful, and the timber when cut, become absolute property of the United States." (United States vs. Cook, 19 Wallace 817.)

### RESERVATION RAILROADS.

Bright prospects that at least two will be built this summer

During the past week several engineers, connected with the Great Northern Railroads, have been upon this Reservation with the view to running lines for the road which, they stated, would probably be built through this reservation the coming summer.

The Twin City newspapers also bring the information of the proposed extension of the Soo-Route from Glenwood through this reservation to Fosston.

If these reports are true the prospects of having at least two railroads through this reservation at an early day are exceedingly bright. In this connection we would suggest to the members of the reservation that they should not hesitate to grant some liberal right of way concession to the railroad companies for nothing could be of greater benefit or more conducive to the prosperity of this reservation than to have two railroads operating here.

## AN ERRONEOUS RULING

In a recent letter to Mr. Steenson of Crookston, who is the attorney of certain claimants to allotments on this reservation, the Commissioner of Indian Affairs, who held that children born to White Earth annuitants after July 22, 1900, are not entitled to allotments, reiterates his former ruling. In this connection the commissioner says:—

"The provision of the treaty of March 19, 1867, (16 Statutes, 710) as far as allotments are concerned have been superceded by the act of January 14, 1889, (25 Statutes 642.) In your argument you fail to quote correctly article of the act above mentioned. You omit, after stating that the act authorized the President of the United States to appoint a commission, &c., to negotiate with all the different bands or tribes of Chippewa Indians in the State of Minnesota."

The very important words,—"for the complete cession and relinquishment in writing of all their title and interest in and to all the reservations of said Indians in the State of Minnesota."

By omitting this part, you fail to express the evident meaning and intent of the act, but seem to imply that the quoted passage should be construed that the Indians of the White Earth and Red Lake reservations were not to be negotiated with, except as relates to the lands which were actually ceded. The passage as it stands in the act does not bear out this construction. The Indian of the White Earth reservation were negotiated with, not alone as regards the four townships ceded, but as regards the entire reservation; and the acceptance of the provisions of the act constituted a new agreement with them."

We would suggest to the commissioner that he has also made a very important omission in his quotation of the act, which changes its sense very materially and which comes immediately after the word "Minnesota" and is as follows:—"except the White Earth and Red Lake reservation, and so much of these two reservations as in the judgment of the said commission is not required to make and fill the allotments required by this and existing acts, and shall not have been reserved by the Commissioners for said purposes and upon the terms herein after stated;" With this addition to the commissioner's quotations from the act the "evident meaning and intent of the act" cannot be questioned, and it is plain that it does not supercede the treaty of 1867, but simply confirms some of its provisions.

Whenever a law is made to supercede another it specifically repeals it or that portion which it intends to supercede. A careful perusal of the act of 1889, does not show in any particular that its intent is to repeal the treaty of 1867, or any portion of it, but simply secures certain concession from the Mississippi Chippewa Indians for whom the White Earth reservation was set aside by the treaty and confirms the allotments made thereunder. These concessions are confined to the right of the Chippewas who are living on the ceded reservation to take allotments of land in severalty on this reservation.

The rulings of the interior department have been obviously contradictory in relation to the status of this reservation, and the rights of the Chippewas of the Mississippi under the treaty of 1867, and the act of 1889.

Subsequent to the acceptance of

act, and prior to 1893, it held that allotments could be taken for a limited length of time under the provision of the treaty by improving forty acres of land. If this ruling was correct the Indians have the same right now as they had then as the laws have not been changed.

In this connection the question which naturally arises is where-in does the department get its authority for suspending the operation of the treaty and act referred to by limiting the time within which allotments may be made? It is the general opinion that the secretary of the interior exceeding his authority in so doing, and that the courts, if the Indians should appeal to them, will not sustain him.

## THE RED LAKE ACT.

"That the Secretary of the Interior is hereby authorized to sell, subject to the homestead laws of the United States, to the highest bidder at public auction, in tracts not to exceed one hundred and sixty acres to each individual, all that parts of the Red Lake Indian Reservation in the State of Minnesota lying westerly of the range line between thirty-eight and thirty-nine west of the fifth principal meridian, approximating two hundred and fifty-six thousand acres. And the land shall be sold for not less than four dollars per acre and shall be sold upon the following terms: One-fifth of the price bid therefor to be paid at the time the bid is made, and the balance of the purchase price of said land to be paid in five equal annual installments, payments to be made to the receiver of the United States land office for the district in which said land may be situated. And in case any purchaser fails to make such annual payment when due, or within sixty days thereafter, all rights in and to the land covered by his or her purchase shall at once cease and any payments made shall thereupon be forfeited, and the Secretary of the Interior shall thereupon declare such forfeited by reoffering such land for sale. And no title to said land shall inure to the purchaser, nor any patent issued to the purchaser, until the purchaser or his or her heirs shall have resided upon, improved, and cultivated said land for the full term of five years, without any commutation of time, and shall have in all respects complied with the terms and provision of the homestead laws of the United States: Provided, That such purchaser shall make his final proof conformable to the homestead laws within six years from the date of the sale; that aliens who have declared their intention to become citizens of the United States may become purchasers under this Act, but before making final proof and acquiring title must take out their full naturalization papers: Provided That in consideration of the benefits to be derived by said Indians from the acceptance of this agreement they expressly grant to the State of Minnesota for school purposes sections sixteen and thirty-six of each township.

"All of the Indians residing upon the tract above described shall remove therefrom to the diminished Red Lake Reservation within six months after the ratification of the Act; and there is hereby appropriated from the proceeds of said sale the sum of twenty thousand dollars or so much thereof as may be necessary, to be paid to those thus removing in proportion to their respective improvements, which payments to said Red Lake Indians shall be in full of all improvements which they will abandon, and also for the removal within the diminished reservation of their dead from where they are now buried on the tract above described. The proceeds of said lands, as realized from time to time, shall be paid into the United States Treasury to the credit of the Indians belonging on said Red Lake Reservation.

"Of the amount realized from the sale of said lands the sum of three hundred thousand dollars shall be paid in cash, per capita, share and share alike, to each man, woman, and child belonging on said Red Lake Indian Reservation within ninety days after the sale herein provided for and the receipt by the United States of said sum from said sales, and the remainder of the proceeds of the sale of said lands shall be paid in cash, per capita in fifteen annual installments, the

first installment to be paid in the month of October of the year following that in which the payment of the three hundred thousand dollars is made.

"In consideration of the Indians hereinafter referred to ratifying this Act, the said Indians shall possess their diminished reservation independent of all other bands of Chippewa Indians, and shall be entitled to allotments thereon of one hundred and sixty acres each of either agriculture or pine land, the different classes of land to be appropriated as equitably as possible among the allottees. And nothing in this Act or its acceptance by said Indians shall be construed to deprive the said Indians of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this Act.

"The Secretary of the Interior is hereby vested with full power and authority to make such rules and regulations as to the time of notice, manner of sale, and other matters incident to the carrying out of the provisions of this Act as he may deem necessary, and with authority to continue making sales of said land until all of said land shall have been sold. The register and receiver shall receive the usual fees for making final proof under this Act.

Provided, That nothing in this section contained shall in any manner bind the United States to purchase any portion of the land herein described, or to dispose of said land except as provided herein; or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this Act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over the proceeds received from the sale thereof only as received, as herein provided.

"This Act shall take effect and be in force from and after its ratification by the Red Lake and Pembina Bands of Chippewa Indians belonging on the Red Lake Indian Reservation, in the State of Minnesota, a majority of the male adults of said Indians assenting thereto, and the evidence thereof to be made by the proclamation of the President to the effect that this act has been duly ratified. And the Secretary of the Interior is hereby directed to submit this Act to said Indians for ratification as early as is practicable.

## DON'T TOUCH THE PEN.

On this page will be found a full text of the Clapp amendments to the Indian appropriation act, which provides for the opening of the western portion of the Red Lake reservation. Under the provisions of those amendments the assent of the Red Lake Chippewas is necessary before the law can become operative.

In this connection the Indian cannot be too careful in having as full and complete an interpretation of the amendments made to them as can be obtained. They must not rely wholly, as they have in the past, upon such an interpretation of the law as may be given by the representatives of the government who will negotiate with them for their assent to the amendments, but they should call upon their agent, the educated members of their band, the missionaries that are amongst them and their attorneys for information and advice before they accept or reject them.

If these persons view the matter as we do they will advise the Indian against their acceptance of the amendments.

The most objectionable features of the amendments are contained in the clauses which provide for deferred payments and the proposition to donate to the State of Minnesota sections sixteen and thirty six of each township.

The Indians have gained experience under the act of 1889, commonly called the Nelson Act, and from that experience they should know whether the amendments would be beneficial to them or not.

Under the Nelson act the same provision are made relative to the

installment payments for agricultural lands as are contained in the Clapp amendments; and, although it is over eight years since this class of land on the former Red Lake reservation was opened to settlement and entered by settlers, the amount due for the land remains unpaid; and thus the Chippewas are losing, annually, at least fifty thousand dollars as interest on a fund which should be drawing interest at the rate of five per cent per annuus provided by the act.

Within a year after the agricultural land of the former Red Lake reservation had been entered by settlers, efforts were made to have the time of payments extended beyond the period fixed by law, and in this the settlers were successful, for this extension was granted regardless of the law which fixes, definitely, the dates of the payment. In the light of their past experience what guarantee, therefore, have the Red Lake Indians that the same conditions will not arise under the Clapp amendments that now exist in relation to the agricultural lands under the Nelson Act, if they should assent to the amendments, since the provisions in regard to the payments for agricultural lands provided by the latter law are not any more definitely fixed than those of the Nelson Act. Besides this politics may intervene and cause the commutation of the payments which the amendments propose, and result in an entire repudiation of the rights of the Indians.

Another important objection to the amendment is the proposition which provides that the Indians shall donate to the state sections sixteen and thirty-six of each township that may be ceded, or in other words, give to Minnesota lands valued at between sixty and seventy five thousand dollars. Inasmuch as the state failed, in the courts of the United States, to establish its claim to those lands it seems rather presumptuous to ask the Indians to donate them to the state now, especially as they would not receive any benefits therefrom.

We do not believe, judging from the reports that come from Red Lake, that it is necessary for us to say to our brethren at Red Lake "Don't touch the pen."

## A FEARLESS INDIAN AGENT.

According to recent dispatches, from Washington to the Twin City daily newspapers, a strong effort is being made to secure the removal of Major Scott, acting Indian agent at Leech Lake, and to again place Capt. Mercer in charge there. We do not claim any acquaintance with Major Scott or his manner of conducting his agency, but from information obtained from Indian sources we are satisfied that he is strictly honest, and is doing all in his power to advance the interests of the Indians under his charge.

On the other hand we claim to be somewhat familiar with Capt. Mercer's methods of conducting Indian agencies, and we do not hesitate to say that his administration of such agencies, both in Minnesota and Wisconsin, especially in relation to pine timber deals, was outrageous. The Chippewas have had enough of him, but if the government cannot dispense with his service in the Indian country we would suggest that he be sent to some reservation where there is no pine timber.

If the Chippewas were permitted to have a voice in the matter Major Scott would continue in charge of the Leech Lake Agency indefinitely.