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SUPREME COURT REPORTER,
VOLUME 20.

CASES ARGUED AND DETERMINED
IN THE
(UNITED STATES SUPREME COURT.
OCTOBER TERM, 1899.

PERMANENT EDITION.

NOVEMBER, 1899—JULY, 1900.

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JUSTICES
OF THE
UNITED STATES SUPREME COURT.

OCTOBER TERM, 1899.

CHIEF JUSTICE:

HON. MELVILLE W. FULLER.

ASSOCIATES:

HON. JOHN M. HARLAN.

HON. HORACE GRAY.

HON. DAVID J. BREWER.

HON. HENRY BILLINGS BROWN.

HON. GEORGE SHIRAS, JR.

HON. EDWARD D. WHITE.

HON. RUFUS W. PECKHAM.

HON. JOSEPH MCKENNA.

ATTORNEY GENERAL:

HON. JOHN W. GRIGGS.

SOLICITOR GENERAL:

HON. JOHN K. RICHARDS.

ALLOTMENT OF THE JUSTICES
OF THE
SUPREME COURT OF THE UNITED STATES.

FIRST CIRCUIT.

Comprising Maine, Massachusetts, New Hampshire, and Rhode Island.

JUSTICE HORACE GRAY, of Massachusetts. Appointed December 20, 1881, by President Arthur.

SECOND CIRCUIT.

Comprising Connecticut, New York, and Vermont.

JUSTICE RUFUS W. PECKHAM, of New York. Appointed December 9, 1895, by President Cleveland.

THIRD CIRCUIT.

Comprising Delaware, New Jersey, and Pennsylvania.

JUSTICE GEORGE SHIRAS, JR., of Pennsylvania. Appointed July 26, 1892, by President Harrison.

FOURTH CIRCUIT.

Comprising Maryland, North Carolina, South Carolina, Virginia, and West Virginia.

CHIEF JUSTICE MELVILLE W. FULLER, of Illinois. Appointed July 20, 1888, by President Cleveland.

FIFTH CIRCUIT.

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JUSTICE EDWARD D. WHITE, of Louisiana. Appointed February 19, 1894, by President Cleveland.

SIXTH CIRCUIT.

Comprising Kentucky, Michigan, Ohio, and Tennessee.

JUSTICE JOHN M. HARLAN, of Kentucky. Appointed November 29, 1877, by President Hayes.

SEVENTH CIRCUIT.

Comprising Illinois, Indiana, and Wisconsin.

JUSTICE HENRY BILLINGS BROWN, of Michigan. Appointed December 29, 1890, by President Harrison.

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Comprising Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wyoming.

JUSTICE DAVID J. BREWER, of Kansas. Appointed December 18, 1889, by President Harrison.

NINTH CIRCUIT.

Comprising California, Idaho, Montana, Nevada, Oregon, and Washington.

JUSTICE JOSEPH MCKENNA, of California. Appointed January 21, 1898, by President McKinley.

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CASES
ARGUED AND DETERMINED
IN THE
UNITED STATES SUPREME COURT.

OCTOBER TERM, 1899.

(175 U. S. 1)

RAY W. JONES, *Appt.*,

v.

PATRICK MEEHAN and James Meehan.

Suit to quiet title—lands derived from Indian chief—effect of treaty as grant.

1. A good title to parts of the lands of an Indian tribe may be granted to individuals by a treaty between the United States and the tribe, without any act of Congress or any patent from the executive authority of the United States, if such is the intention of the treaty.
2. A treaty with Indians must be construed, not according to the technical meaning of its words to learned lawyers, but in the sense in which they would naturally be understood by the Indians.
3. The omission of the words "any Indian" from the prohibition of purchases and leases "from any nation or tribe of Indians," as contained in the act of Congress of June 30, 1834, chap. 161, § 12, while the former statutes had extended the prohibition to purchases or leases from "any Indian," shows an intention of Congress to remove the general restriction upon the alienation by individual Indians of sections of land reserved to them respectively by a treaty with the United States.
4. A reservation to a chief or other member of a tribe of Indians, of a specified number of sections of land, whether already identified or to be surveyed and located in the future, when made by the United States in a treaty with the tribe and as part of the consideration for a cession by the tribe of a tract of country to the United States, converts the reserved sections into individual property, and, if unaccompanied by words limiting its effect, is equivalent to a present grant of a complete title in fee simple, which is alienable at the pleasure of the grantee, unless the United States, by provision of the treaty or of an act

of Congress, has expressly or impliedly prohibited or restricted its alienation.

5. A reservation of lands "set apart" by the treaty of October 2, 1863, art. 9, between the United States and the Chippewa Indians, made "upon the urgent request of the Indians," for their chief, constituted a present grant to the chief of an alienable title in fee, subject only to the selection of the land in due form and to the definition of its boundaries by survey and patent.
6. An amendment of the pleadings may be allowed even on appeal, if justice appears to require it.
7. The right of inheritance in land of a member of an Indian tribe whose tribal organization is still recognized by the government is controlled by the laws, usages, and customs of the tribe, and not by the law of the state in which the land is situated, nor by any action of the Secretary of the Interior.
8. An affidavit by an Indian, signed by mark, in which he states that others besides himself are heirs of his father and entitled to share with him in the estate, is not conclusive against his right to be the sole heir, when the affidavit was procured from him by the Indian agent, under direction of the Secretary of the Interior, to show who were entitled to the distribution of certain rents, and was evidently considered by him when he made it as a mere matter of form, with which he was obliged to comply in order to get any part of the rent.
9. The rights of lessees of the heir of an Indian to whom title to land was granted by an Indian treaty cannot be devested by any subsequent action of the lessor or of Congress or of the Executive Departments.

[No. 7.]

Argued April 27, 28, 1898. Decided October 30, 1899.

APPPEAL from a decree of the Circuit Court of the United States for the District of Minnesota in favor of the plaintiffs in a suit to quiet title to lands claimed under conflicting leases from an Indian chief.

Affirmed.

See same case below, 70 Fed. Rep. 453.

The facts are stated in the opinion.

Mr. James A. Kellogg for appellant.

Messrs. C. K. Davis, Frank B. Kellogg, and C. A. Severance for appellees.

Mr. Justice Gray delivered the opinion of the court:

*This was a bill in equity, filed in the circuit court of the United States for the district of Minnesota by Patrick Meehan and James Meehan, citizens of Wisconsin, against Ray W. Jones, a citizen of Minnesota, to quiet title in a strip of land 10 feet wide along the westerly shore of the Red Lake river, in the county of Polk and state of Minnesota, extending from the northeasterly intersection of the plat of the village of Thief River Falls with the shore at a point near the junction of the two rivers, and being a part of lot 1 in section 34, township 154, and range 43.

For convenience the parties will be designated, throughout this opinion, according to their position in the court below; the Meehans, now appellees, as the plaintiffs; and Jones, now appellant, as the defendant.

*Each party derived title under the "reservation of six hundred and forty acres near the mouth of the Thief river for the chief Moose Dung," in article 9 of the treaty made at the Old Crossing of Red Lake river in the state of Minnesota, on October 2, 1863, between the United States, by their commissioners, Alexander Ramsey, a senator of the United States for the state of Minnesota, and Ashley C. Morrill, agent for the Chippewa Indians, of the one part, and the Red Lake and Pembina bands of Chippewa Indians, by their chiefs, headmen, and warriors, of the other part, and afterwards ratified by the Senate, with amendments assented to by the Indians. 13 Stat. at L. 667-671. The material provisions of that treaty were as follows:

By article 2 those bands of Chippewas ceded to the United States all their right, title, and interest in a large tract of country to the west of Thief river in the state of Minnesota, including all the American valley of the Red River of the North.

By article 3: "In consideration of the foregoing cession, the United States agree to pay to the said Red Lake and Pembina bands of Chippewa Indians the following sums, to wit: Twenty thousand dollars per annum for twenty years; the said sum to be distributed among the Chippewa Indians of the said bands in equal amounts *per capita*."

By article 5: "To encourage and aid the chiefs of said bands in preserving order and inducing, by their example and advice, the members of their respective bands to adopt the habits and pursuits of civilized life,

there shall be paid to each of the said chiefs annually, out of the annuities of the said bands, a sum not exceeding one hundred and fifty dollars, to be determined by their agents according to their respective merits. And for the better promotion of the above objects, a further sum of five hundred dollars shall be paid at the first payment to each of the said chiefs to enable him to build for himself a house."

By article 8: "In further consideration of the foregoing cession, it is hereby agreed that the United States shall grant to each male adult half-breed or mixed blood who is related by blood to the said Chippewas of the said Red Lake or Pembina bands, who has adopted the habits and customs of civilized life, and who is a citizen of the United States, a homestead of one hundred and sixty acres of land, to be selected at his option, within the limits of the tract of country hereby ceded to the United States, on any land not previously occupied by actual settlers or covered by prior grants, the boundaries thereof to be adjusted in conformity with the lines of the official surveys when the same shall be made, and with the laws and regulations of the United States affecting the location and entry of the same."

By one of the amendments made by the Senate, with the assent of the Indians, there was inserted at the end of article 8 the following: "Provided, that no scrip shall be issued under the provisions of this article, and no assignments shall be made of any right, title, or interest at law or in equity until a patent shall issue, and no patent shall be issued until due proof of five years' actual residence and cultivation, as required by the act entitled 'An Act to Secure Homesteads on the Public Domain.'"

By article 9 of the treaty: "Upon the urgent request of the Indians, parties to this treaty, there shall be set apart from the tract hereby ceded a reservation of six hundred and forty acres near the mouth of Thief river for the chief Moose Dung, and a like reservation of six hundred and forty acres for the chief Red Bear on the north side of Pembina river."

Moose Dung or Monsimoh was one of the principal chiefs of the Red Lake band of Chippewa Indians, and his name was the first of the Indian signatures to the treaty, all of which were by marks only.

The plaintiffs, against the defendant's objection, introduced in evidence certified copies of extracts from the journal of the proceedings at the negotiation of the treaty, annexed to the report made by Mr. Ramsey to the Commissioner of Indian Affairs in October, 1863. That journal stated that "Moose Dung, who was really the most influential of all the chiefs, stood at the head of a party embracing the large majority of all the bands who were favorable to and even anxious for a treaty." It also showed that part of the discussion was as follows: Moose Dung said: "I have taken the mouth of Thieving river as my inheritance. I do