

Appendix  
(T.)

24th June.

“ One of the Delaware Indians was convicted before me, at the last London District Assizes, of larceny, committed in a house owned by the Earl of Egremont, in the Township of Carradoc.”

“ So, as respects civil matters, I believe our Courts are considered open to enforce their contracts, or to afford redress for injuries to their persons or property, not only as between them and the white people, but in relation to each other, unless mental incapacity to contract, fraud, or some other valid defence, could be established, or some special ground be relied upon in peculiar cases. It is true civil suits, in which Indians were parties, have been very rare : but I am not aware that the jurisdiction of our civil tribunals, any more than the criminal, could be withheld, if required to be exercised. Then, as to political rights, the same principles seem to apply : and, if possessed of sufficient property to qualify them, their competency to vote at elections, or fill municipal offices if duly appointed thereto, could not be denied.”

(Signed) J. B. MACAULAY.

Montreal, 9th May, 1840.

Sir,

In obedience to the commands of His Excellency the Administrator of the Government, I have perused the following questions proposed by the Superintendent of Indian Affairs, viz. :—

1st.—Are the Indians minors at Law ?

2nd.—Are they incapable of making civil contracts ?

3rd.—Are they incapable of entering into law-suits as plaintiffs or defendants ?

And I have the honor of reporting my opinion on the points submitted to me as follows :—

On the first question :—I am of opinion that Indians under the age of 21 years are minors in the eye of the Law : beyond that age, they have the rights of other subjects.

On the second question :—The Indians are not incapable of making civil contracts.

On the third question :—The Indians have legal capacity, either as plaintiffs or defendants.

I have, &c.,

(Signed) C. R. OGDEN,  
Attorney General.

APPENDIX No. 99.

Extracts from the Minutes in Council of the 18th July, 1839.

On a letter from William Hepburn, Esquire, Acting Trustee Six Nations Indians, relative to his half year's salary, ending 30th June last.

The payment of salary to Mr. Hepburn was directed by Order in Council of the 4th June, 1835. The Council have been under the impression that it was Your Excellency's intention to discontinue the Trust at the end of the year ; it appears, however, that no official information has been given to the Acting Trustee, and that references have been made to him in his official capacity.

The Council therefore respectfully recommend that the Trustees be informed that it is His Excellency's pleasure that their functions cease from the 30th June last, and the papers of the Office be transferred to the Indian Department ; and that the salary of Mr. Hepburn be paid up to that period.

Truly extracted.

(Signed) T. G. HURD.

APPENDIX No. 100.

EXTRACTS

From the Laws of the Cherokee Nation of Indians of the United States of America ; passed by their National Committee and Council.

Resolved,—That the Cherokee Nation shall be laid off into eight Districts ; and that a Council House shall be established in each District, for the purpose of holding Councils to administer justice in all causes and complaints that may be brought before it for trial. There shall be one Judge and one Marshal for each District ; and one Circuit Judge, who shall have jurisdiction over two Districts, to associate with the District Judges in determining all causes agreeably to the laws of the Nation. The Marshals are to execute the decisions of the Judges in their respective Districts. The District Councils to be held in the Spring and Fall seasons, and one Company of Light Horse to accompany each Circuit Judge on his official duties in their respective duties ; and to inflict such punishment on thieves as the Judges and Councils decide agreeably to Law. It shall be the duty of the Marshals to collect all debts, and they shall be entitled to 8 per centum for the same. The Nation to defray the expenses of each District Council. In case of opposition to the Marshals in the execution of their duty, they shall be justifiable in protecting their persons in the same manner as is provided for the National Light Horse by Law.

Resolved,—That each head of a family shall pay a poll-tax of 50 cents ; and each single man under sixty years, shall also pay 50 cents per annum, to be collected by the Marshals in each District, and paid into the National Treasury ; to be applied for such purposes as the National Committee and Council shall deem proper.

Resolved,—That a Ranger shall be appointed in each District, whose duty it shall be to receive post, and advertise all stray horses that may be found in their respective Districts ; giving the age, height, colour, and marks, as plain as possible ; and should the proper owner not reclaim his horse or horses within two months after posting, such horse or horses shall be sold at public sale on six months credit ; the purchaser shall keep such horse or horses six months, and should the proper owner not reclaim his horse or horses within that time, such horse or horses shall be the rightful property of the purchaser.

The money arising from the sales, to be paid into the National Treasury. The Ranger shall be entitled to one dollar for every horse so posted, and it shall further be the duty of the Rangers to endeavour to place in good hands all work horses, to keep an account of their labor or otherwise. One dollar per week shall be allowed for keeping a horse on forage.

Resolved,—That a National Toll-gate shall be erected on the Federal Road, near Captain David McNavis ; and the rates of Toll shall be equal to that of the Turnpike on the Nicogack Road at Hicks' ; and that the rates of the Turnpike Toll at Coswatee, shall be reduced so as to make it also equal to the one on the Nicogack Road.

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