# BRINGING THE PAST INTO THE PRESENT


The University of Denver invited me to be on a panel for their Native Heritage week in April of 1999. The student who initially asked me had told me that as an educated contemporary American Indian woman who embraced new technology, they would like me to talk about my job and my journey in life. Then, a last minute personnel change switched the topic of the panel discussion to Tribal Sovereignty. With barely a week to prepare, I had to decide how on earth I could approach this topic within the context of the theme of their heritage week, which was "Bringing the Past into the Present".

Then I hit on it. The Supreme Court had decided, only three weeks before, to uphold the Mille Lacs band of Chippewa's Treaty rights to hunting and fishing off-reservation. Here was a recent decision on something which was over 150 years old, and it involved the Minnesota Chippewa Tribe, of which I am a member, so it was relevant to me personally. I had no idea how personally until later.

I found the website where the full decision by the Court was posted, downloaded it and proceeded to read through it, looking for the particular points that the state of Minnesota was basing its case on, as well as the rebuttals, and how the decisions were made on each issue. The State was asserting that the original treaty signed in 1837 was no longer applicable primarily based on three things. One, that a later treaty's provisions in 1855 overrode it; two, that the Executive Order issued by President Taylor in 1850, requiring the removal of the Chippewa to an area further west into Minnesota, had abrogated those rights; and three, that by virtue of initiation of statehood in 1858, that Minnesota had sovereignty which obliterated any such rights. (The Court ruled against the State on all counts.)

At the beginning of the decision, I found an historical summary, which was a background on the interrelated elements of the case. In discussing the Removal Order, and a particularly nasty incident subsequent to it, they referred to a letter, referenced only by the notation: (letter from Warren to Ramsey, Jan. 21, 1851). I knew instinctively that the "Warren" mentioned was my great-great-great grandfather, William Whipple Warren, who was a Territorial Representative at that time. Since his father was of Mayflower stock and mother was Chippewa (also known as Ojibwe, or Anishinabe), William was quite fluent in both the English and Ojibwe languages, which caused him to be in demand from a very young age as an interpreter at treaty signings and other meetings. He was also immersed in the Indian/non-Indian politics of the times. The "Ramsey" they referred to was Alexander Ramsey, the Minnesota Territorial Governor. It made perfect sense that my grandpa would be writing to him about this issue. My next step, then, was to try to find the text of that letter!

I tried to decipher the code used by the Court in reference to the research materials and surmised it

must be part of a collection of letters and papers, either that of Warren or of Ramsey. The latter was more likely since he held a higher rank, and his professional papers were more likely to have been preserved in a public facility to which the Supreme Court researchers would have access. I started with the Minnesota Historical Society Library Research Department on the internet, and searched likely aspects, to no avail. Finally, I contacted their research and records department. I was eventually referred to a very helpful Reference Assistant (Steve Neilson) who could not find anything within their library, but somehow knew someone who was able to locate the original letter.

A few weeks after my little talk at the University of Denver, I came home to a package in the mail. In it I found legal-sized copies of a microfiche of the original William W. Warren letter. It was nine pages long and was prefaced by an introduction written by Governor Ramsey to an L. Lea, who was the Commissioner of Indian Affairs in Washington, D.C. As I worked my way through the dark copy and the ornate penmanship complete with scratched out words and ink blots from 1851, the eloquence and passion of my ancestor were so moving that I sat transfixed, with tears streaming down my face. The difficulty of the archaic terminology and abbreviations made it even harder to understand, but word by word, sentence by sentence, I made my way through. The topic of the letter was the incident which had happened after the Removal Order issued by President Taylor.

To quote the decision:

"The historical record provides some clues into the impetus behind this push to remove the Chippewa. In his statement to the Territorial Legislature, Governor Ramsey asserted that the Chippewa needed to be removed because the white settlers in the Sauk Rapids and Swan River area were complaining about the privileges given to the Chippewa Indians...

The Government hoped to entice the Chippewa to remove to Minnesota by changing the location where the annuity payments - the payments for the land cessions - would be made. The Chippewa were to be told that their annuity payments would no longer be made at La Pointe, Wisconsin (within the Chippewa's ceded lands), but, rather, would be made at Sandy Lake, on unceded lands, in the Minnesota Territory.

The Government's first annuity payment under this plan, however, ended in disaster. The Chippewa were told they had to be at Sandy Lake by October 25 to receive their 1850 annuity payment. By November 10, almost 4,000 Chippewa had assembled at Sandy Lake to receive the payment, but the annuity goods were not completely distributed until December 2. In the meantime, around 150 Chippewa died in an outbreak of measles and dysentery; another 230 Chippewas died on the winter trip home to Wisconsin.

The Sandy Lake annuity experience intensified opposition to the removal order among the Chippewa as well as among non-Indian residents of the area. (letter from Warren to Ramsey, Jan. 21, 1851) (letter from Lea to Stuart, June 3, 1851) (describing opposition to the order)(Michigan and Wisconsin citizens voice their objections to the order to the President).

In the face of this opposition, Commissioner of Indian Affairs Luke Lea wrote to the Secretary of the Interior recommending that the President's 1850 order be modified to allow the Chippewa "to remain

for the present in the country they now occupy." (letter from Lea to Stuart, June 3, 1851). According to Commissioner Lea, removal of the Wisconsin Bands "is not required by the interests of the citizens or Government of the United States and would in its consequences in all probability be disastrous to the Indians."

Three months later, the Acting Commissioner of Indian Affairs wrote to the Secretary to inform him that 1,000 Chippewa were assembled at La Pointe, but that they could not be removed from the area without the use of force. He sought the Secretary's approval "to suspend the removal of these Indians until the determination of the President upon the recommendation of the commissioner is made known to this office." Two days later, the Secretary of the Interior issued the requested authorization, instructing the Commissioner "to suspend the removal of the Chippeway [sic] Indians until the final determination of the President." (letter from Abraham to Lea, Aug. 25, 1851). Commissioner Lea immediately telegraphed the local officials with instructions to "[s]uspend action with reference to the removal of Lake Superior Chippewas for further orders." As the State's own expert historian testified, "[f]ederal efforts to remove the Lake Superior Chippewa to the Mississippi River effectively ended in the summer of 1851."

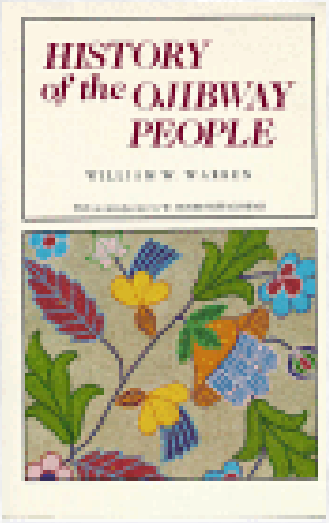
Grandpa Warren's letter was entreating the Commissioner and the Governor to give approval to "A delegation of these principal Chiefs, speakers and warriors and four of their most influential half breeds," one of whom no doubt was himself, to travel to Washington, D.C. He said, "After the order for their removal had been signed by the President, and promulgated among the different bands this past summer, I received pressing invitations from certain of their chiefs in Wisconsin, in which they intimated that they had determined not to obey the order of removal till they had seen the Great Father face to face and he had explained the promise he made to them through his commissioners at the Treaty of La Pointe in 1842." Further on in the letter he said, " I found to prevail great dissatisfaction at the prospects of removal, and the change of their payground from La Pointe to Sandy Lake. Not only in their councils, but throughout the whole length of my journey, I heard in every lodge and from the mouth of every man and woman a determination expressed not to remove. "

This aspect of his letter served as a verification of one of the principle canons of construction used by the Supreme Court to come to their overall decision on the Mille Lacs case. That is, that under Federal Indian Law, Treaties, (which are called in the U.S. Constitution the Supreme law of the land) must be interpreted the way that the Indians understood them at the time. Grandpa Warren's letter was quite clear that the Chippewa understood the Treaty of La Pointe in 1842 to mean that they would not be removed from their homeland. They would not accept otherwise unless and until they had a personal audience with the President himself and he was made to explain himself. I still do not know if this delegation ever took place, but in my personal understanding of how Washington works, I seriously doubt it. The recent Supreme Court ruling held that the President did not have the authority to order removal, that only Congress had that authority.

Another major point on which the Court based their ruling is a precept of Federal Indian Law which is known as the Reserved Rights Doctrine. That holds that anything which is not expressly removed in a Treaty is held in reserve. In other words, a treaty is not something which "grants" rights. Rights as understood in our democracy, cannot be granted, but are inherent. (All are created equal.) Treaties, therefore, were designed to remove rights which were ceded in return for other types of things the government promised to provide, such as services and education, etc. Since no subsequent treaty had

specifically removed the Mille Lacs off-reservation hunting and fishing rights, they remained intact.

I cannot adequately express my gratification in knowing that my illustrious ancestor, with his deep desire to keep the peace and maintain justice for his Chippewa relatives, had an effect on upholding and maintaining the rights of those same people today. In my humble station in life, I am but an echo of his passion, but pray that my efforts would find favor in his eyes. Mii gwetch Grandpa Warren, I honor you for all you did and stood for in your short life.




If you would like to read more about William W. Warren, or the Minnesota Chippewa, you may find his book, History of the Ojibway People (or Nation), at www.amazon.com published by the Minnesota Historical Society.

Here is a link with information about Wm. W. Warren from the Native American Authors Project: http://www.ipl.org/div/natam/bin/browse.pl/A202

If you would like to read more about the Mille Lacs Chippewa Band Supreme Court decision dated March 24, 1999, here are some websites to visit:

Associated Press Article with synopsis: http://www.alphacdc.com/treaty/mil-court.html#supreme

Text of Supreme Court decision: http://supct.law.cornell.edu/supct/html/97-1337.ZO.html

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