

*Report approved.
Note that there is a
difference between
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*we can do
anything for
Borden*
Haley
Ottawa, 22nd February, 1902.
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Ottawa
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The Honorable
Clifford Sifton K. S.,
Superintendent General of Indian Affairs.

In accordance with your directions there has been referred to me the papers respecting the suggested extinguishment of the Indian title in the territory lying north and north-east of the territory in Ontario covered by the Robinson Huron Treaty.

I note that the communication from the Indians describes the territory as being in Ontario and Keewatin, while the maps submitted show the territory as being in Ontario and Quebec, the main portion being in the former Province.

I mention this because in extinguishing the aboriginal title in the territory covered by Treaty Three there has been an apparent inconsistency. The territory is partly in Ontario and partly in Keewatin and a portion extends into Manitoba. The Halfbreed Claims Commissions of 1885 et seq. and the Department of the Interior recognized the Halfbreeds of the ceded portion of Keewatin as North West Halfbreeds. There was therefore no course open to me but to do likewise. The consequence is that Halfbreeds living on the Keewatin side of the English River are recognized as having territorial rights and get scrip, scrip which they may locate in Manitoba or any part of the North West

Indian Affairs. (RG 10, Volume 3033, File 235,225 Pt. 1)

Territories; while the Halfbreed on the Ontario side who naturally comes and makes claim has to be told that he has no territorial rights. We must take care to avoid the perpetuation of this.

Therefore I would at once say that the suggested extinguishment of Indian title should stand until the settlement of Halfbreed claims is completed, so that we may start with a clean slate in that respect. Then to avoid as far as possible the appearance of inconsistency, I would suggest that the extinguishment be confined to Ontario and Quebec and be made in the form of an adhesion to the Robinson Huron Treaty, with any alterations which difference in conditions may make desirable. If the treaty extended to Keewatin influences would at once be put in operation to lead many of the people classed as natives to set up claims to white blood, to declare that their habitat was in Keewatin and to demand scrip instead of treaty. On the other hand if we keep out of Keewatin, all of the people who are really living the life of aborigines will come into Treaty.

Now as to the question as to the rights and responsibilities of the Provinces in the matter of extinguishing Indian title within their boundaries, I think a most important fact to be borne in mind is that the Confederation Act puts Indians and Indian Affairs under the central power and that the practice is that all Governmental dealings with the Indians are confined to that power. To depart in any way from that practice would lead to confusion, and no thought of doing so should I think be entertained. Certainly no suggestion in that direction should come from us.

I admit that the bearings of judicial decisions should

lead us to have an understanding with a Province before extinguishing Indian title to territory within its boundaries; but our aim should be to have such an understanding as would not run counter to our general Indian policy.

The suggested cession will cover the whole of the unceded portion of Ontario, and as to it, I would suggest that it should stand for discussion and consideration with the Indian matters now subjects of difference with that Province, which, I understand, you purpose taking an early opportunity of having disposed of. I may add that, in my opinion, all we should insist on is that Ontario should stand, *caeteris paribus*, in the same position to the suggested treaty as she will stand, when a settlement is affected, to the Robinson Huron Treaties.

In consideration of the trend of a remark on this file, it may not be amiss for me to recall to your mind that the view that a Province which benefitted from an Indian cession was to bear the burdens thereof has its origin in a remark of Lord Watson in the St Catherine's Milling case. But that his dictum cannot be regarded as part of the judgment would seem to be established by the judgment in the appeal of Quebec in the Robinson Huron case which makes her jointly responsible with Ontario under a treaty made by the Old Province of Canada, although all the benefits accrued to Ontario. This is discussed in the joint report of Mr Rimmer and myself on the matters in dispute with Ontario.

My opinion is that good policy, both from the Federal and local standpoints, demands that the extinguishment of Indian title should be completed on the lines already followed, and

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that the development of Northern Ontario will make it desirable to complete the extinguishment in the Province before very long.

As to the suggestion of sending a special officer to the country to make enquiries and report preliminary to making a treaty, I cannot see that this is necessary. I would propose that the officers who pay the Robinson Huron annuities this year be informed of the representations made by the Indians and instructed to ascertain, as far as their line of travel will make possible, the number of Indians in the territory and their habitat, described by natural boundaries, and told to ~~advise~~ ^{advise} any enquirers that the Government has the request for a treaty under consideration and that they will be advised later on of the decision.

J. A. Munn