

tated by 38 Vic. chap. 52, section 1, which seems to be retroactive.

It seems to me clear that the Manitoba Act applies to Indians, half-breeds and white-men alike, and that if an Indian proves possession and title sufficient to come within section 32 of the Act and amendments, he is entitled to a patent, notwithstanding the purity of his aboriginal blood. See *Totten v. Watson*, 15 U.C.R., 292.

The treaty provides that if there are any settlers within the bounds of any lands reserved by any band, Her Majesty reserves the right to deal with such settlers as she shall deem just, so as not to diminish the extent of land allotted to the Indians. The question at once arises as to the meaning of the term settler. Does it mean a mere squatter who has come to this country and has settled on the land prior to surveys, but after the 15th of July, 1870, the date of the transfer, or does it refer to those having rights under the Manitoba Act, above referred to?

The mere setting aside of a tract of land for an Indian reserve by the treaty could not deprive any person of a statutory right to any lands which he then had on any portion of the reserve.

The various members of the band who are in possession of their separate parcels, and owners nearly all claiming titles through *Pégus* or *Prince*, were recognized in the locality as separate owners and had their rights marked out as separate lots, fronting on the river by Vaughan in his survey commenced in 1870, completed in 1874. And following the variable practice of the department of the Interior in the country, which is well known to me, if this parish of St. Peter's had not been made a part of the reserve, it seems to me that patents would have issued to the occupiers of this land as in other parishes.

It is argued, however, that because of provisions of the Indian Act, these people lost their rights. However startling it may be, there was no Indian Act in force in this province at, or for some years after the treaty. It is further argued that because the Indians made a treaty, which provides that a reserve be set aside, beginning at the south boundary of the parish, they each individually, agreed to abandon separate and private property to the government so as to establish a reserve. In other words, by the law of estoppel, these wards of the government were prevented from setting up their individual rights against their guardian.

The Indians claim, and there is a good deal of evidence to support it, that at the treaty they were told that each was to retain his private property, and holdings and were to get a reserve in addition thereto.

Another paragraph, the Chief Justice points out the following:

The Indians claim that each is entitled to a patent under the Manitoba Act of the land occupied at the transfer by themselves or their ancestors, and that, therefore, the reserve was not originally large enough to satisfy the terms of the treaty.

It will be seen that this report of Chief Justice Howell points out clearly to the Superintendent General of Indian Affairs

first, that the boundaries of St. Peter's parish should be a mile farther south than they are. This, he points out, would include the beautiful town of Selkirk and the magnificent lands lying east and west for two miles on each side of the river. He points out, secondly, that the St. Peter's Indians own every acre of the old parish of St. Peter's and are entitled to patents for the same, as this parish was included in the reserve by the government wrongfully in 1874, as it was the private property of this band under the Manitoba Act. Chief Justice Howell points out to the Superintendent General of Indian Affairs, that after depriving the Indians of their rights as settlers to this magnificent estate, he proceeds to make a bargain, not with the band, but with the chief and his four councillors for the surrender of the reserve, and in doing so placed the following clause in the agreement:

The surrender shall release lands in the present reserve from all claims of the band and from each individual thereof, from all or any claims, under the Manitoba Act, or the Indian Act, and each member of the band shall sign a release to this effect when he receives his patent.

This is a phase of the question which I have tried to emphasize, in the earlier part of my remarks, by pointing out that these Indians declared that they had never signed any receipt for their patents or any release of their rights under the Manitoba Act. The band also claim that the terms of surrender were never explained to them in their own language, and that they did not know what they were doing.

We have the affidavits of William Asham and other Indians which I have quoted to this House, and which state distinctly that when Mr. Pedley came to the reserve with the agreement of surrender all prepared, without any consultation with the band whatever, he arranged the matter with the chief and his councillors, who had been bribed to agree to the surrender—that he came there and read that surrender in English, and read it so fast that even those who understood English hardly followed it or grasped its meaning. This is a serious state of affairs, and something that this parliament ought to take cognizance of, and that in the interest of everything that is fair to the Indians, ought to be thoroughly investigated. I do not see how hon. gentlemen can contain for one moment that justice has been done or that any attempt has been made to do justice by the minister who is responsible for this outrage.

Now I wish to refer for a moment to a report made by the Rev. Dr. MacDougall. I want to say frankly that I hardly consider the report worthy of mentioning in this House, as I regard it as a fiasco. The hon. minister sent the Rev. Dr. MacDougall to make a report on what he found on the St.