

paid and payable under the treaty.

"Held, affirming the judgment of the Supreme Court, that, having regard to the jurisdiction conferred upon the Exchequer Court, the action must be dismissed as unsustainable on any principle of law. In making the treaty, although it resulted in direct advantage to the province, the Dominion Government did not act as agent or trustee for the province or with its consent, or for the benefit of the lands, but with a view to great national interests--- that is, for distinct and important interests of their own---in pursuance of powers derived from the British North America Act, 1867.

"St. Catharines Milling and Lumber Company v. the Queen (1888), 14 Appeal Cases 46, considered."

THE CHAIRMAN: Then it means this, does it not, that if in 1870, when this province of Manitoba was created, it had been given its natural resources, the Dominion Government would have had to go on expending from time to time, liberating <sup>from</sup> the Indian title at its own expense, because, as the judgment says, it is a matter of national concern. You see, as I pointed out the other day, the Indian title is not like the titles we are usually concerned with; ~~that is, it is not under the Crown, it is not through the Crown, it is not from the Crown.~~ It is a claim set up against the Crown, a claim <sup>from</sup> which it is the Dominion's affair and duty to free the whole country, ~~from~~, and whether the land in question happens to be within one province or another province, it seems to me that according to that decision it would make no difference.

MR. McMASTER: That decision imposed such obligations upon the Dominion that a practice has grown up and is actually in existence at present, whereby the Dominion now

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