
REPORTS AND NOTES OF CASES.

Dominion of Canada.

EXCHEQUER COURT.

Burbidge, J.]

[March 18.

DOMINION OF CANADA v. PROVINCE OF ONTARIO.

Disputed territory—Indian title—Moneys paid by Dominion for surrender of—Contribution by Ontario.

1. The jurisdiction that the Court has of controversies between the Dominion of Canada and a Province of Canada, or between two Provinces, does not authorize the court to decide the issue in accordance only with what may to it seem fair, and without regard to the principle of law applicable to the case.

2. At the time when the North West Angle Treaty No. 3, between Her late Majesty the Queen and the Salteaux Tribe of the Ojibeway Indians was entered into, the boundaries of the Province of Ontario were unsettled and uncertain. The lands described in the treaty formed part of the territory that the Hudson's Bay Company had claimed and had surrendered to the Crown. The surrender embraced all lands belonging to the company or claimed by it. That of course did not affect Ontario's title to such part of the lands claimed by the company as were actually within the Province. But on the admission of Rupert's Land and the North Western Territory into the Union, the Government of Canada acquired the right to administer all the lands that the company had a right to administer. And with respect to that portion of the territory which the company had claimed, but which was in fact within the Province of Ontario, the Dominion Government occupied a position analogous to that of a bonâ fide possessor or purchaser of lands of which the actual title was in another person. The question of the extinguishment of the Indian title in those lands could not with prudence be deferred until such boundaries were determined. It was necessary for the peace, order and good government of the country, that the question should be settled at the earliest possible time. The Dominion authorities held the view that the lands belonged to the Dominion, and that they had a right to administer the same. In this they were in a large