

Ex 75
Date 01/26/60
EXAM OF TIMOTHY SHAWES
DANNY HACKING
COURT REPORTER

479208

No.
Do not write about more than one lot or subject in the same letter.
Write legibly your full name and address.
Address your reply to The Deputy Minister of Lands and Forests, Toronto, and QUOTE ABOVE NUMBER.



Toronto, December 15th, 1914.

Dear Mr. Scott:

I have been looking into the matter of the Indian Reserves under Treaty No. 3. I have been studying their situation and everything connected with them, as we are required to do under section 2 of the agreement signed by Mr. Daly and Mr. Gibson on the 16th of April, 1894, to see if there is any good reason why we should not now acquiesce in the selections made and the surveys on the ground.

X When I came to read clause 4 it struck me that that clause left the door open for all kinds of disputes and misunderstandings hereafter, and I thought it would be well to put our views before you so that, if possible, some agreement might be arrived at which would close the door to the entry of future disputes.

You will see that clause 4 provides, - "That in case of all Indian Reserves so to be confirmed or hereafter selected, the waters within the lands laid out or to be laid out as Indian reserves in the said territory, including the land covered with water lying between the projecting headlands of any lake or sheets of water, not wholly surrounded by an Indian reserve or reserves, shall be deemed to form part of such reserve, including islands wholly within such headlands, and shall not be subject to the public common right of fishery by others than Indians of the band to which the reserve belongs."

This provision is very far-reaching and might seriously cripple our action with respect to the application of Winnipeg for leave to take its water supply from Shoal Lake, and I think you will agree with me that there is much room otherwise for future trouble under the clause as it reads, because in some of the reserves I find there are rivers of considerable size running through them and it surely never was intended that lands under a river should belong to the

Indian Affairs. (RG 10, Volume 2314, File 62,508
5 pt 1)

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Indians.

I find, also, that there are some water powers lying within the boundaries of reserves, and I also find that some reserves, - notably on Shoul Lake, - border on the lake in such a way that, under the language with respect to headlands, a large number of islands would become the property of the Indians, the possession of which islands would give them large additional areas beyond that surveyed and covered by us in our estimate of the total areas taken for reserves. And this would not be an isolated case for I have noticed several other cases, without examining all the plans, in which the same thing might occur.

What my Minister had in mind when discussing this question was the approval of the Indian reserves as actually surveyed, leaving nothing open to argument hereafter.

Will you please look at the draft agreement I have referred to. It is to be found with 54 Victoria, Chapter 3, Statutes of Ontario, but I think there was a Dominion Statute passed about the same time dealing with the same matter. *

The agreement was signed on the 16th of April, 1894, by Mr. Daly for the Dominion Government, and Mr. Gibson for the Ontario Government. No doubt this agreement will be of record in the Department of State at Ottawa, and you will see how it read when it was signed. There may have been some changes in it.

After you have considered this matter I will be very pleased

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to hear from you as to what adjustment can be made.

Yours truly,

Anthony D. White
Deputy Minister.

MUNRO C. SCOTT, Esq.,

Deputy Superintendent General of Indian Affairs,

Ottawa,

Can.

Indian Affairs. (RG 10, Volume 2314, File 62,503
5 pt 1)