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ORDERS IN COUNCIL.

[1182]

AT THE GOVERNMENT HOUSE AT OTTAWA.

Thursday, the 6th day of June, 1901.

PRESENT :

HIS EXCELLENCY THE GOVERNOR GENERAL
IN COUNCIL.

ON a Memorandum dated 31st May, 1901, from the Minister of the Interior, submitting a report, hereto attached, from Mr. J. A. J. McKenna, Half Breed Commissioner, in respect to the reserved claims in the North-west Territories.

The Minister concurring in the said report recommends its adoption.

The Committee submit the same for His Excellency's approval.

JOHN J. MCGEE,
Clerk of the Privy Council.

DEPARTMENT OF THE INTERIOR, CANADA,

OTTAWA, 31st May, 1901.

The Hon. CLIFFORD SIFTON,
Minister of the Interior.

SIR,—In accordance with the letters patent issued to me under the Order of His Excellency in Council of the 16th March last, I have dealt with the 826 reserved claims referred to in the report of the 11th of that month of the Commissioners who investigated Half Breed claims in Assinibola and Alberta. I have disallowed 388 of the claims; the others have been held for further evidence and consideration. Of the 388 claims disallowed, 248 were for money scrip and amounted to \$59,520.00, and 140 were for land scrip and covered 33,600 acres.

Thirty reserved claims have been sent to me by Messrs. Côté and Macleod, the Commissioners who dealt with Half Breed claims in the District of Saskatchewan. Of these I have allowed three on the recommendation of the Commissioners. I have disallowed nine, and have held the others for further evidence and consideration. The desire of the Half Breed as to the kind of scrip applied for has not been

indicated in all of these cases. The remainder of the Saskatchewan reserved claims are to be forwarded to me later on.

The usual grounds upon which Half Breed claims are disallowed are: Death before the transfer of the country from the Hudson's Bay Company; Birth outside of the Territories; Death while in receipt of Indian annuity; and non-residence in the Territories on the 15th July, 1870.

In addition to these grounds, I have disallowed on the following:—

1. As the claims of the Half Breeds of the Territories were recognized as existing up to 1885 when action was taken for their extinguishment, I have taken it that residence in the country up to that date was necessary to admission of a claim, for the reason that those who had left and taken up residence in other parts could properly be considered as having thereby surrendered or allowed to lapse any territorial rights which they might have possessed in the country.

2. It has been the custom to recognize Half Breed rights coming from the Mother as well as the Father, and consequently claims have been allowed of children who were the offspring of Mothers of part Indian blood, married to husbands of exclusively white blood. I have taken the position that the benefits of the custom should not be extended to foreigners, and that the children of a foreigner by a Half Breed woman who had received scrip and thereby had her aboriginal right extinguished should be regarded as taking the status of their father, and therefore not possessed of any aboriginal rights which the Government of Canada is called upon to extinguish.

3. After the issue of the Commission for the settlement of Half Breed claims in 1885, a great number of Indians who claimed to be of mixed blood were allowed to leave treaty and take scrip; a number of them have since been taken back into treaty. Certain of those who have gone back into treaty have claimed scrip on account of children who were born and died while they had the status of Half Breeds. I take it that by coming back into treaty the Half Breed not only changed his own status, but surrendered any claim he might have, even as heir of a Half Breed to compensation on account of the territorial rights of such Half Breed.

The discharges from treaty in 1885 and subsequent years have given rise to another question. It has been the practice to grant those Half Breeds scrip for children who died before the making of the Indian Treaty, into which the said Half Breeds had entered and only to disallow claims on account of those who actually died in receipt of annuity. I have taken the position that all those who entered into treaty with the Government extinguished for the consideration they were granted under the Treaty, all territorial rights which existed in them at that time and that consequently no claims could lie for children who died before the date of entry into the Treaty.

4. It is provided in the Indian Act that an Indian woman marrying a non-Indian, is entitled to commutation of her annuity. It has been the practice to pay, in addition to her annuity, scrip as a Half Breed, if she were proved to be of mixed blood. I have taken it that commutation of annuity is a final and complete settlement.

5. It has been the custom to recognize proof of part white blood and a discharge from Indian Treaty, as constituting a right to scrip. I have taken it that everyone, irrespective of the proportion of Indian blood which he may have, who enters treaty becomes an Indian in the eye of the law and should, therefore, be treated as an Indian both by the Department of the Interior and the Department of Indian Affairs; and that when he is discharged from treaty he becomes an ordinary citizen of the country, having no claims as an aborigine, all such claims having been extinguished by his accepting the benefits of an Indian Treaty up to the date at which he voluntarily surrendered them.

6. Inasmuch as those persons of mixed blood in Canada who participate in the benefits of Band life on Indian Reserves are excluded from receiving scrip, I have taken the position that Half Breeds who have left Canada and taken up their residence on Indian

Reservations in the United States and participate in the benefits of Indian life thereon, should as well as all Half Breed children admitted to United States Indian Schools, be likewise excluded.

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The Order of His Excellency in Council of the 13th March, 1900, provided for the delivery of scrip on powers of attorney or assignments, upon the Commission being satisfied that the agreement under which the assignment was made, or the power of attorney given, did not operate to the disadvantage of the Half Breed and had been duly fulfilled, and that in any case in which no agreement had been made the Half Breed who executed the assignment or made the power of attorney received the current price being paid for scrip. As land scrip is non-transferable this provision only applied to money scrip; but the point was taken at Edmonton that notwithstanding the printing of the words "Not transferable" on the land scrip certificate, such land scrip was assignable and that under the Order in Council land scrip could be delivered to an attorney or assignee.

In order to remove doubt and dispose of the question which was raised, I would suggest the desirability of making it clear that it is only in the case of money scrip that powers of attorney or assignments are to be accepted or acted upon; and that in cases in which a Half Breed asks for land scrip, the Commissioner has no authority to accept or act upon any assignment or power of attorney.

I have the honour to be,

Your obedient servant,

(Signed) J. A. J. McKENNA,
Half Breed Commissioner.