

them is accepted, would arrange all minor details connected with their removal, respecting which Mr. Borland makes enquiry, as he might find it best in their interest.

I am, Sir, Your Obedient Servant,
(Signed), E. A. MEREDITH,
Deputy Minister of Finance.

John McGirr, Esq., Indian Agent, Oka, P.Q.

ANSWER OF THE CIVIL RIGHTS ALLIANCE TO THE GOVERNMENT.

MONTREAL, 23rd April, 1878.

DEAR SIR,—As the legal defence of the Oka Indians, and the settlement of the questions between them and the Seminary of St. Sulpice have been transferred from the Methodist Church to the Civil Rights Alliance, the letter from the Department of the Interior of the 23rd ult., respecting certain proposals made by the Seminary of St. Sulpice had to be submitted to the council. The Civil Rights Alliance is composed of all political and religious creeds, organized to secure the civil and religious rights of any creed or class, and is not a body to "interfere between the Government and the Indians."

The Council of the Alliance regrets that the letter of the Minister of the Interior is a plea in defence of the Seminary, containing not only an undignified threat as to the removal of the agent placed in Oka, but a further retraction of concessions proffered by the Government. The Alliance has no political or religious *animus*. It simply seeks to secure certain rights for a people to whom these rights were given, and which rights were recognized for over a century by the very corporation which now aims to reject them. The questions between the Oka Indians and the Seminary of St. Sulpice are not mere questions of sentiment, but of momentous fact and inalienable legal claims. It may have happened, that in the multitude of advisers, voluntary and even official, who have persistently urged the Government to do justice between these claimants, that some conflicting opinions have obtained, as to the real claims and demands of the Indians.

It does not appear that "the best possible legal advice" taken by Government, has been directed to the real question at issue, inasmuch as the letter of the Minister of the Interior declares that this legal advice "has uniformly been that the Indians have no legal title to the soil, that the Gentlemen of the Seminary are not trustees for the Indians, but absolute proprietors of the land, and that no suit against the Seminary to obtain possession of the property for the Indians could be successful." Eminent legal gentlemen have given the opinion that the titles under which the Seminary claim an absolute ownership of the Seignories, destroy instead of establishing their claim; that the ordinance of the Special Council of 1840, merely confirmed the original grants with the same obligations; that the Act abolishing the Seigniorial Tenure put the Seignories under the common law, as it did the Seignory of Sault St. Louis, the abolition being for the Indians respectively, who should receive the constituted rent in lieu of *cens et rentes*, and the indemnity for the abolition of *lods et ventes*, or the interest of the capital set apart for such indemnity. The 16th section of the ordinance in question (3 and 4 Vict., cap. 70, now cap. 42 of the Consolidated Statutes of Lower Canada), preserves the rights of the Indians. "Nothing in this Act or in the ordinance aforesaid contained, shall extend to destroy, diminish, or in any manner to affect, the rights and privileges of the Crown, or of any person or persons, society, or corporate body, excepting such only as this Act and the said ordinance expressly and specially destroys, diminishes or affects."

Yet this is not the present question between the Okas and the Seminary, and no such desire has been officially expressed to the Government by this Alliance, as the dispossession of the gentleman of the Seminary, and the installation of the Indians as absolute proprietors. It seems evident that the legal advice taken by Government has been directed to an issue not now in question, and one likely to prejudice public opinion against the interests and real claims of the Okas.

The simple questions are these: 1st. Has the Seminary of St. Sulpice obligations to fulfil towards the Indians? 2nd. What are these obligations? 3rd. Will the Government or the courts compel the Seminary to fulfil them?

The Minister of the Interior will perceive that the legal advice received by his Department, as expressed in his letter of the 23rd ult., has no bearing at all upon these questions, and that much of the argument contained in his letter, therefore, fails to meet the real issue.

The Alliance recognizes the fact that the Act of 1840 confirmed certain claims of the Seminary. It does not, however, recognize any revocation of the obligations imposed upon the Seminary by the concessions of the King of France. It rather sees therein an explicit confirmation of those obligations. To satisfy the Minister of the Interior that this position is tenable and just, it would fix his attention upon a few undeniable facts. 1st. The Act of 1837-38, which sought to confirm the Seminary as absolute owners with no obligations to the Indians, was disallowed by the Crown. 2nd. The Act of 1840 was only allowed by the Crown because it contained the very obligations towards the Indians and others which the disallowed Act was made to evade. 3rd. Until Indians and others which the disallowed Act was made to evade. 3rd. Until fully fulfilled the obligations this Alliance now seeks to have continued, to wit: Erecting house and home for the people, or at least permitting them to erect house and home for themselves with timber from the seignories; prosecuting in the name of and as the guardians of the Indians, trespassers who cut wood on the lands; permitting the people to cut what wood they require for fuel or the building purposes, as well as for the small industries upon which much of their existence depends; providing means for moral and religious instruction, and acting in every sense as Trustees.

Attention is requested to the admissions of the Rev. T. A. Baile, Superior of the Seminary, in his letter of the 12th October, 1868 (Parliamentary Return, Third Session, First Parliament, 33 Vict., 1870, page 13), in which he says, "We allow them to take what wood they require for building purposes or for firewood, but we do not allow them to sell it." Also to his reiteration of this statement on page 23, same Return. "If they want any firewood or timber for building purposes, we allow them to have it." "We have but a few pines

capable of being converted into canoes: when the Indians require any, we allow them to take them, but on the condition that they will not sell them." In general we cut wood on the lands reserved for the Indians *at their demand only*, either to enlarge their fields or to make new ones; and *if sometimes we have cut some without consulting them*, it was on unoccupied or deserted lands." Again on page 36, in a letter dated 26th February, 1870, he repeats, "The Seminary has always allowed the Indians of the Lake to take firewood in the forest for their own use. They have also been allowed, when asked for, to take timber for building purposes." Again in the "Historical Notice" of the question published in 1876 under the names of the present Curé of Oka and the advocate of the Seminary, pages 17 and 26, the admissions are made: "Each head of a family of these tribes of Indians has had permission to take in the Domaine of the Seminary all the wood necessary for building and heating purposes."

If these statements were at all correct, one of the most serious grievances of the Indians could or would have had no existence. But they are directly contradicted by the plain facts that in every instance where the Indians have attempted to cut wood for these purposes, the Seminary has invariably caused their arrest and prosecution since they have seen fit to change their creed. It has also been stated that permission had to be asked from the forest-keepers; but it is a fact, known to residents of the Seignories, that these forest-keepers were solely appointed for the purpose of keeping the French population at the rear of the domaine from cutting wood. They never interfered with the Indians until within the last eight or ten years, but frequently arrested French residents for trespass and cutting wood. It is also wholly incorrect that since the Indians have changed their creed they have been allowed to cut wood. The residence of the Methodist Missionary, owned by an Indian, had to be repaired with lumber bought by private gentlemen; many houses are badly in want of repair, and the Seminary will not let the people cut wood for this purpose; houses have fallen into decay from age, and hundreds of the Indians and their families have been obliged to leave Oka for want of house and home, and are now residents in various parts of Quebec and Ontario. Several families are crowded into small dwellings for want of sufficient houses. The necessary firewood has only been obtained by purchase, and by using decayed stumps found on the lands or canoed from across the Lake. These matters are here enlarged upon to show the Department of the Interior, that the statements made by the Rev. Mr. Baile are utterly disproved by facts; and that in no instance have the Protestant Indians of Oka enjoyed the ancient privileges, which have been continued uninterruptedly to the few Indians on the Seignory who are Roman Catholics.

The Alliance and its advocates do not consider that the Government has any such relations with the Okas as with other Indian bands. The Seminary of St. Sulpice voluntarily assumed the same direct Trusteeship of these Indians and the lands, which the Government now occupy towards other Indian bands. Proof of this is apparent from the statements in the letter of the Minister of the Interior, that "there is no fund in the possession of the Government belonging to the Oka Indians," and that "the Department have no means of purchasing these or any other lands for the Oka band, other than such as the amount given by the Seminary."

The Okas occupy a peculiar legal position by no fault of their own. The Seminary petitioned the King of France in 1717 for the Seignory of the Lake "as a Mission to these Indians," plainly expressing the desire to secure it for "the advantage of the Indian Mission, not only because of the conversion of the Indians, who being further from the city would also be beyond the danger of becoming drunkards, but also to the colony, which in this way would be protected from the incursions of the Iroquois in time of war." It must be remembered that when England took possession of this country, this band of Indians were then under the guardianship and special care of the Seminary of St. Sulpice, on the very seignory where they still remain; and that from that period till the confirmation of the Seminary Title in 1840, the highest legal opinions held that the estates of the Seminary were being held illegally, having become by the capitulation the property of the Crown. It was no fault of the Indians if they were placed by old legislation in this peculiar position, and left by the ordinance of 1840 under the Seminary trusteeship instead of exclusively Government control. In fact, the Crown is directly responsible for this peculiar relationship, as it disallowed the Act of 1837-38, by which the Seminary tried to get rid of their obligations to the Indians, and put their care upon the Crown.

The plain reason therefore why the Government has no fund belonging to the Okas is that the Seminary of St. Sulpice hold and have always held this fund in trust; have held the position towards the Indians for over two hundred years, one hundred and sixty of which have been in Oka. The Government occupy a certain relation towards the Caughnawaga, St. Regis and other Indian bands, which gives it the exclusive control of these Indian funds. The Seminary of St. Sulpice, by the original deeds of concession and the ordinance of 1840, occupy a similar relation towards these Okas, which has given it the exclusive control of the funds belonging to the Okas.

The Seminary maintain that the Okas have no legal rights in Oka; that they are a tolerated people. Government seems to confirm this view. Now if the Okas have no legal rights in the Seignory there, clearly they have no rights anywhere else. Thus they are placed in an inferior and anomalous position, which no other band of Indians occupy. If the ordinance of 1840 was meant to alienate the Indians rights, it was a wrong and an injustice which no Government had or has a legal power to perpetrate, and for which Government must be held responsible. Nothing is clearer, however, from the original deeds of concession, as well as from the petitions presented to the French King by the Seminary, than that these Indians were specially chosen for special instruction and care, as well as a special defence of the Island of Montreal from Iroquois invasions. The letter of the Minister of the Interior declares that the Government "has no funds belonging to the Oka Indians," and has no means of purchasing land for them. Supposing now, as the letter of the Department intimates, that in the event of the refusal of the Okas to accept a money inducement from the Seminary to leave the Seignory, and they are ultimately forced to do so by the same circumstances of annoyance and restriction which have forced hundreds of others to leave, and then there is "no fund forthcoming," does the Department