

Supply—Citizenship and Immigration

confederation recognized the dominion's responsibility for Indians and Indian lands, and British Columbia undertook to convey to the dominion tracts of lands for the use and benefit of the Indians. Differences soon arose between the two governments as to the fair per capita acreage of reserves and in 1876 the two governments set up a joint commission to allot reserves.

The agreement constituting the joint commission and subsequent provincial legislation created legal and administrative difficulties with respect to dominion management of reserve lands. With a view to achieving a settlement of the difficulties, negotiations continued with the province which resulted in the McKenna-McBride agreement of September 24, 1912. The agreement provided for the appointment of a royal commission empowered to bring about "a final adjustment of all matters relating to Indian affairs in the province of British Columbia". The royal commission's terms of reference extended to the adjustment of the area of reserves with power to add to, and subtract from, the area of existing reserves and to allot new reserves, it being provided that reductions in area would be "with the consent of the Indians, as required by the Indian Act". The agreement also provided that 50 per cent of the proceeds from the disposal of any cut-off lands would be paid in trust for the benefit of the Indians.

The royal commission completed its work in 1916 and in brief confirmed existing reserves, added to reserves, reduced reserves and created new reserves. The commission's report with schedules of reserves confirmed by the commission was accepted by orders in council of both governments, by British Columbia in 1923 and the dominion in 1924.

The hon. member asked as to what reserves were affected and so on. The schedule attached to that commission's report will give that information.

Legislative authority for acceptance of the royal commission report by the dominion was provided by the British Columbia Indian Lands Settlement Act, chapter 51, statutes of Canada, 1920.

I must say here that the hon. member has been talking about so many things being done by order in council, and I draw his attention to the fact that this was an act of parliament.

Mr. Winch: In 1920, was it?

Mrs. Fairclough: Yes.

Mr. Winch: This was agreed to in 1912.

Mrs. Fairclough: The actual legislative authority was in 1920.

Mr. Winch: I have the orders here, and I should like to know how the governor general in council and the lieutenant governor in council in British Columbia could pass such an order in council when they did not have authority until 1920.

Mrs. Fairclough: I do not know which orders in council the hon. member is referring to, but the orders in council to which my attention was drawn were those passed in 1923 and 1924.

Mr. Winch: There was one passed in November, 1912, in Ottawa and also one passed in British Columbia.

[Mrs. Fairclough.]

Mrs. Fairclough: I believe that established the commission. Perhaps I might be permitted to go on and finish.

Section 1 of the act empowered the governor in council to give effect to the report of the royal commission "in whole or in part". Section 3 of the act dispensed with the necessity of securing Indian consent to the reduction of area of reserves by providing:

"For the purpose of adjusting, readjusting, or confirming the reductions or cut-offs from reserves in accordance with the recommendations of the royal commission, the governor in council may order such reductions or cut-offs to be effected without surrenders of the same by the Indians, notwithstanding any provisions of the Indian Act to the contrary."

There was considerable discussion in the House of Commons in 1920 when the bill was debated and the then minister outlined the problems relating to Indian lands in British Columbia and the reasons for the legislation.

As far as Capilano Indian reserve No. 5 is concerned, it was confirmed by the 1876 joint commission on June 15, 1877. The joint commission confirmed the original reserve together with an additional parcel of land. In 1892 it came to light that the province had made a grant of part of the land added to the reserve in 1877. The reserve was then re-surveyed and the commission on April 24, 1893, reconfirmed the reserve with an area of 444 acres.

The royal commission appointed pursuant to the McKenna-McBride agreement reduced the area of Capilano reserve by cutting off 130 acres. However, commission minute of decision gives no reason for the reduction. It is assumed the commissioners were of the opinion the remaining land was adequate for the needs of the band at the time. The Squamish band, for whom the reserve was set apart, as far as we know without going into extended research, never consented to the reduction. It is unlikely that consent was sought in view of the provisions of the British Columbia Lands Settlement Act and the fact that the report of the royal commission which recommended the reduction was accepted.

In other words, by reason of the law of 1920 consent by the band was not required.

In accordance with the agreement arrived at the band is entitled to 50 per cent of the proceeds from either the rental or sale of the cut-off land.

As I have said, this information is in the mail to the hon. member. No doubt he will want to study it further, and if there is any further information we can give we will be very happy to do so.

Mr. Winch: I appreciate very much the length to which the minister has gone in dealing with the problem I have raised. However, I presume that the administration item will go through today; therefore this is the last opportunity I will have to speak on this matter. I should like to ask the minister two questions. I understood her to say that from the records it is shown right in the order in council to which I made previous reference that the Squamish band never did give permission for the sale of this land.

Mrs. Fairclough: Not so far as we can tell. Without a great deal more research we could