

*Indian Act*

times one hundred acres, sometimes enough for a right of way, and sometimes the whole reserve. With the assent of the Indians provision is made for handing over these lands, but the Indians that are vitally affected by this legislation are those whose lands have not been handed over, who still have them, and who are known as treaty Indians. The minister is no doubt familiar with these treaties. Can he tell us what they are?

Mr. MURPHY: I do not know of the existence of any such treaties as my hon. friend refers to. I thought at the beginning of his remarks, when he spoke of surrenders, that he referred to certain surrenders that are made now and that have been made during the past number of years from time to time of certain lands for sale or lease. Apparently however he has in mind some treaties of which he has knowledge under which the Indians possibly claim that they hold their lands, and that their rights are violated by this amendment. I know of no such treaties myself, unless the hon. member can give me some further light on the subject in regard to which he wishes to have information.

Mr. ELLIOTT: May I point out to my hon. friend that the proviso here means nothing if there are no such treaties:

Provided, that no enfranchisement of any Indian or Indians shall be made under this subsection in violation of the terms of any treaty that may have been entered into between the crown and the Indians of the band in question.

If my hon. friend will direct his attention to this proviso he will very readily see that it means nothing unless there is in existence some treaty to which it may apply. The treaties to which I refer are treaties referred to by the minister. They are certain treaties providing for surrender of certain lands, and there are a couple of volumes of them; and every band has from time to time surrendered certain lands. As I said before, some bands have surrendered all that they had and taken money, annuities in some cases and in other instances a lump sum. I assume that when the department draws up an amendment of this kind containing the proviso I have quoted it must refer to some treaty or treaties. If there is no such treaty then this proviso means nothing. Can the minister tell me whether there is such a treaty?

Mr. GUTHRIE: The last time the bill was under discussion it was stated by a good many hon. members that there were certain treaty rights and that they should be sacredly protected, and the clause has been drawn with the idea of protecting any rights which the

[Mr. Elliott.]

Indians may have under any treaties. Hon. members opposite spoke of this and referred to treaty rights. No one wishes to violate any rights and if there be such rights they are protected by this clause. It was to meet the objection advanced in this respect that the clause was drawn.

Mr. ELLIOTT: Does the Minister of Justice mean to suggest that neither the Department of Justice nor the Department of Indian Affairs is able to tell us what treaties exist between the Indians and the government to which this amendment, so carefully drafted, may refer?

Mr. GUTHRIE: If there are any treaties the rights thereunder are all protected; the provision has been made broad enough to protect every right that arises under any treaty.

Mr. ELLIOTT: Do I take it that the minister knows of no such treaties?

Mr. GUTHRIE: I know of none, apart from those mentioned to-night.

Mr. ELLIOTT: Does my hon. friend know of none?

Mr. MURPHY: When the bill was last before the house my hon. friend claimed, if I am not in error, that the previous amendment did violate certain treaty rights and I asked him to name the treaties and give particulars as to what rights were being violated. That question was not answered.

Mr. ELLIOTT: When did the hon. gentleman do that?

Mr. MURPHY: The last time the bill was before the house. As I said a few moments ago, there are certain treaties entered into between the Dominion government and the Indians of Canada, and there are certain other treaties in which the Indians are mentioned. In my reading I have been unable to find any place where this enfranchisement clause conflicts with or violates any of the rights of the Indian under their treaties. Hon. members opposite claimed that certain rights were violated and this amendment has been drafted to meet that contention. My personal opinion is that no treaty rights are being violated, but that question can be decided by the law officers of the crown. If the hon. member so desires, I can read one of the treaties entered into with the Indians. Treaty No. 1 entered into by the Dominion government with the Chippewa and Swampy Cree tribes of Indians, reads as follows:

The Chippewa and Swampy Cree tribes of Indians, and all other the Indians inhabiting