

Province is claiming that it is carried. First of all, as to the effect of the British North America Act, my submission is that not Article 13, but the provisions of the whole British North America Act govern the situation, and if the hon. gentlemen will look at the provisions of that Act, they will find Section 109, which expressly, as we submit, preserves the title of the Indian tribes. It was under Section 146 that British Columbia entered Confederation. Article 13 was a term of the Agreement between British Columbia and Canada, and approved as one of the terms of the Union, but under the exclusive language of Section 146 that Article is subject to Section 109. That possibly, is the outstanding point to bring before the Committee with regard to Article 13; but if we look at the Article itself, even if it should be regarded as an out and out enactment and not subject in any way to the provisions of Section 109, I submit that it does not support the position that has been taken by the Province of British Columbia. The charge of the Indians is given to the Government of Canada. As I submit, that means the administration of Indian Affairs in British Columbia. Then, the trusteeship of lands for the use and benefit of Indians is given to Canada, and that is a very important fact. Then the Article proceeds to provide for the setting aside of lands which shall be conveyed by the Province to the Dominion for the benefit of the Indians. Now, what I submit there is that there is nothing going beyond machinery set up for dealing with this matter of lands; machinery set up to be used by the two governments. I submit that there is not from beginning to end of that Article one word which purports to take away the rights of the Indian tribes.

Then in addition, I have to bring before the Committee a matter of somewhat statutory importance. Before I refer to a case decided by the House of Lords on the point involved, I point out what has been done by that article. The Dominion of Canada becomes a trustee, hon. gentlemen, and I suppose no one will dispute that.

Hon. Mr. STEVENS: A trustee of what?

Mr. O'MEARA: Trustee for the Indian tribes. The trusteeship of the lands reserved for their use and benefit.

The CHAIRMAN: What are you reading from, Mr. O'Meara?

Mr. O'MEARA: I read from Article 13 of the terms of the Union at page 5 on "Trusteeship."

Hon. Mr. STEVENS: Please read correctly what you do read?

Mr. O'MEARA: I will read it.

The charge of the Indians and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government.

Then I point out that the Article goes on to provide for the conveying of lands to be held by Canada in trust to the Indian tribes.

Hon. Mr. BARNARD: Do you contend that that extends to lands other than reserves?

Mr. O'MEARA: No, my submission is, sir, that Canada becomes a trustee in respect of lands.

Hon. Mr. BARNARD: All lands?

Mr. O'MEARA: All lands that are to be held for the Indians; that Canada takes the position of trustee.

Hon. Mr. STEVENS: Let us be clear on that. Let us read it again, and then let us once for all accept the reading of the words:—

The charge of the Indians and the trusteeship and management of the lands reserved for their use and benefit.

It is so clear that I cannot see the sense—it is annoying to me to hear you go on arguing that that extends to all of the lands.

[Mr. O'Meara.]