

Article 13 of the Terms of Union, and that it cannot safely and soundly be argued that the Imperial Government and the Government of Canada were intending to continue the sort of policy that there was from 1864 to 1871. It is quite as reasonable to suppose that those Governments had in view the policy that was in force up to the year 1864; and that remark, as I submit, applies with special force to the Imperial Government, because naturally the Imperial Government would consider that those early despatches had been carried into effect.

The other important matter of fact to which I need to refer is that the practice of the two Governments since Confederation has been on the principle of sitting down and making an agreement; coming in some way to an agreement as to the quantity of land to be set aside for Indians in British Columbia, to be conveyed by the province to the Dominion. That principle was acted upon in the early days, and that principle has been acted upon under the McKenna-McBride agreement, and after all the work of the Royal Commission. It is all completed and before the two Governments; and what is done as a matter of principle is that the two Governments sit down at a table and agree that those findings shall be the end of everything, and say, "Those are the lands for the Indians." Now I point out and submit very strongly, Mr. Chairman and hon. gentlemen, that in carrying that out a wrong principle has been acted upon, and that the Dominion of Canada and the province of British Columbia have no constitutional power or authority for settling the matter of lands by that means. I submit—at the moment without referring to the authorities on the subject—as a matter of principle that there being the trusteeship of Canada for the Indians, for the whole of that province, there being the power of Canada to demand adequate lands for the Indians of British Columbia—

Hon. Mr. STEVENS: Where do you get that from?

Mr. O'MEARA: From Article 13.

Hon. Mr. STEVENS: Well, it is not there.

Mr. O'MEARA: I am humbly presenting my submission as to the effect of that article.

Hon. Mr. MURPHY: This is his argument upon that Article.

Hon. Mr. STEVENS: It is not there.

Mr. O'MEARA: I submit that that is the effect of it, the right to demand lands from British Columbia, and that there is a power conferred upon the Secretary of State for the Colonies to deal with that matter. And, on principle only for the moment, I submit that the Dominion of Canada as trustee was under obligation to exercise that power, because at the very bottom of trusteeship, you will find obligation, and that is the principle upon which trusteeship is based, that there is an obligation on the part of the Dominion of Canada for carrying out that, and for demanding the lands from British Columbia. That is what I submit. And therefore on behalf of the tribes of British Columbia, I humbly submit that those powers, or that power, possessed by the Dominion of Canada for demanding lands, and the power of the Secretary of State for the Colonies settling the matter, are continuing powers, and that what has been done by the McKenna-McBride Agreement has not destroyed those powers, but they are continuing to-day.

Hon. Mr. STEWART: In the first place you say that the Dominion of Canada has the power to get the land, and then you say, if they do not get the land, the Secretary of State steps in?

Mr. O'MEARA: I am saying the Dominion of Canada is trustee under Article 13, and that, as trustee, there is conferred upon Canada the power to demand adequate lands from the province of British Columbia.

Hon. Mr. STEWART: Quite right.