

Q. To whom?—A. It was an opinion given on the McKenna-McBride Agreement, for the benefit of his government. Is that not right, Mr. O'Meara?

Mr. O'MEARA: And handed out to us.

*By Hon. Mr. Murphy:*

Q. It was not a letter then?—A. It was not a letter, no.

Mr. O'MEARA: It was an opinion. A memorandum of an opinion handed to us.

Hon. Mr. STEVENS: Where is the original?

Mr. O'MEARA: It is no doubt on file in the Department.

*By the Chairman:*

Q. Have you the original of that opinion, Mr. Kelly?—A. We will have the original placed on record. Mr. O'Meara will get the original, if that will satisfy the Committee.

*By Hon. Mr. Stewart:*

Q. Mr. Kelly, Mr. Stevens quoted from an extract or from a subsequent statement by Mr. Doherty with respect to going direct to the Privy Council?—A. That bears simply on the matter of procedure, does it not? It was because of that that we stress the matter of independent proceeding to the Privy Council.

Hon. Mr. MURPHY: You had previously over the signature of the Minister of Justice the assurance of the Government of Canada to this effect:—

I should think it unlikely that the Indians would concern themselves with procedure. They have, I imagine, sufficient discernment to proceed, if their deliberations be not influenced to the contrary. The question of procedure is at present quite irrelevant. No point of procedure will be permitted to prejudice the decision on the merits of the case, and the Government will see to it that the proceedings are brought and conducted in such a manner as to provide for the admission of all the parties and arguments which are material.

That is an assurance given over the signature of the Minister of Justice, on behalf of the Government of Canada. Now, surely it is a waste of time to be discussing procedure twelve years after that letter was written.

The CHAIRMAN: Before that extract is proved it can hardly be allowed to go into the record as evidence.

Hon. Mr. STEVENS: I would like to draw attention to this extract, which Mr. O'Meara has put into this memorandum.

Hon. Mr. MURPHY: That Mr. Kelly has just read?

Hon. Mr. STEVENS: Yes. It deals with a somewhat different subject. The point then was that this McKenna Commission dealt with—and the Minister of Justice of the day, according to this, says that—this reference to the Royal Commission was the lands, and then he goes on to say—apropos of what, I do not know, because we have not the context—that the question of the aboriginal title was not relevant, which Mr. O'Meara injects into this; and then what I objected to the other day is that this is stated as if it was a positive finding of the Minister of Justice that there was an aboriginal title. That is what I object to, that he is putting this in as evidence when it is not evidence at all. That is the type of procedure I object to before the Committee.

The CHAIRMAN: Mr. Stevens, then you agree that this should not go into the record at all?