Q. How many years have you been in that service?—A. 33 years.

Q. Is there any other preliminary question that members of the committee would care to ask Mr. MacInnes? If not, would you proceed, then?

By Mr. Castleden:

Q. He is dealing with treaties?—A. Yes.

Q. Have you got actual copies of the treaties?—A. I have a synopsis here that I prepared some time ago and I had it brought up to date for this purpose. We also have the volume of Indian treaties and surrenders, which is quite a large volume; but Mr. St. Louis who is in charge of our records has that here, if it be wanted.

The CHAIRMAN: Are there any further questions? Very well.

The WITNESS: Shall I stand, Mr. Chairman?

The CHAIRMAN: No. In this committee we decided that we would sit.

The WITNESS: Mr. Chairman, gentlemen: I have been asked by you to speak on the question of Indian treaties. Our Indian treaties are rather a unique device, perhaps without any very close counterpart in the annals of political science. They represent the distinctive—and I might almost say—instinctive anglo-saxon approach to the Indian problem, which differs radically from the methods followed by the other great colonizing people in the Americas.

The Spanish crushed the Indians ruthlessly and gave them no consideration at all. I speak now of the early Spanish settlers. The French were kindly and even benevolent in their attitude towards the Indians, and they envisaged their assimilation among themselves by inter-marriage, by education, and a good deal of that occurred. But they never, as far as we can find from our records, recognized the Indians as having special racial, separate legal, rights to be dealt with by mutual bi-lateral agreement. They were simply subjects of the King of France, like anyone else in the territory.

Now, it remained for the British to recognize an Indian interest in the soil, to be extinguished only by bi-lateral agreement for a consideration. That practice arose very early in the contacts between the British settlers and the aborigines in North America, and it developed into the treaty system which has been the basis of Indian policy both in British North America and continuing on after the revolutionary war in the United States.

Now, the reason I say that is because it is something quite different from anything to be found elsewhere. You are dealing with a peculiar kind of title which, by legal definition and interpretation, is held not to be ownership of the land. That has been made quite clear in the talks that preceded the treaties; and it was never recognized that the Indians owned all the land because they were relatively a small group of people over a vast area. There were some 200,000 of them here, when the white man came, and that is very little more than the war-time population of the city of Ottawa, if as much. So, obviously, they did not occupy the land or settle it in any real sense of the term settlement. They did not cultivate it, except to the extent that some band might do a little agricultural work, but nothing to speak of. So, what has been recognized as Indian aboriginal interests in the soil is not ownership of the land in its entirely, but usufructuary and roving rights over it which, nevertheless, is a material consideration which forms the basis of legal rights which are only to be extinguished by compensation, as in the case of other kinds of expropriation.

Now I think that is important because that question has given rise to a good deal of misunderstanding. It has been said: well, we took the land from the Indians and we did not pay very much for it. The theory is that we took only a certain kind of right in the land from the Indians because they really had not themselves colonized the land. That point might be borne out by the instance of Cartier's second visit to Stadacona, which is now Quebec. You may recall in history that he came there first and found a community of Algonquin Indians;