

simply refer to the outstanding points of it. First of all let me remind the Committee that in the St. Catherine's Milling case, their lordships were urged to decide what was the exact nature of Indian title, and they declined to do so. It is important to note, that they declined to do so. That which the St. Catherine's milling case did not do is done by the judgment of their lordships in the Southern Nigeria case. They say that it is necessary to define what is the nature of the native title, and they proceeded to do so. The hon. gentlemen will also find that they, in so many words, refer to title in British Dominions, and not merely in Southern Nigeria, and they make special reference to the matter of Indian title in Canada as included within the scope of the principles which they lay down in this judgment. And, the remaining point is that clearly and explicitly, as I submit, they lay down the principle that in British Dominions, native title to land is of the nature of communal ownership. Their lordships do not use the term "tribal", but use the term "communal." And, they lay down the principle that native title to land in all British Dominions is of the nature of communal ownership. I submit that there is no difference in principle between the word "communal" and the word "tribal." I just leave it at that, Mr. Chairman, but asking that most serious and very special attention be given to the judgment of their lordships in this Southern Nigeria case.

What remains is that I should present some matters connected with the issues existing between the Indian tribes of British Columbia, and the two governments, and I will state just what those issues are, putting each in a very few words.

The first issue is:

(1) Did the Indian tribes of British Columbia have the title that they are claiming before British Columbia entered Confederation.

(2) Whether Article 13 of the terms of Union had the effect of destroying the native title.

(3) Whether the McKenna-McBride Agreement had the effect of destroying the title of the Indian tribes.

(4) Whether the Indian tribes of British Columbia have ownership of the fore-shores in front of the reserves held for their use and benefit. And in that issue there are two sections: One relates to the fore-shores in front of Indian reserves, situated upon public harbours, as to which the issue is between the Indian tribes and the Government of the Dominion of Canada. And, the second section consists of a large number of fore-shores in front of Indian reserves all along the coast, as to which the issue is between the Indian tribes and the Province of British Columbia.

(5) Have the Indian tribes of British Columbia aboriginal fishing rights in respect of their territories.

(6) Have the Indian tribes of the Province aboriginal hunting rights in respect of their territories.

(7) Whether the Indian tribes have aboriginal water rights in respect of their territories.

(8) Whether the Parliament of Canada has authority for putting an end to the rights of the Indian tribes of British Columbia by means of the enactment that was passed in the year 1920.

(9) Whether, if the power be granted, the Parliament of Canada intended to take away these rights by the passing of that Bill, the enacting of that law.

And another issue, which is connected with what I have just spoken of, relates to the validity of the Orders in Council which have been passed under the Statute or Act of the Dominion of Canada passed in the year 1920, and the similar statute passed by the Legislature of the Province of British Columbia.

Hon. Mr. STEVENS: Is that all.

Mr. O'MEARA: No, not quite all. I have a few remarks to make with regard to some of the issues.

[Mr. O'Meara.]