

With regard to the first, the question of aboriginal title before Confederation, I simply say that in view of the Southern Nigeria case, it is not open to serious doubt. That is my submission.

Hon. Mr. STEVENS: May I ask you this question: In regard to that area which formerly was attached to British Columbia before Confederation, now included in the States of Washington and Oregon, down to the Columbia River, do the Indians south of the Boundary—some of whom belong to tribes I think on either side?

Mr. O'MEARA: Yes, that is right.

Hon. Mr. STEVENS: Do they claim as against the United States Government the title to that property?

Mr. O'MEARA: I know nothing of the details, but my general understanding is that they make the same claim, and also that treaties have been made with them. That is my understanding, that treaties have been made with them.

Hon. Mr. STEVENS: What treaties, and when?

Mr. O'MEARA: I do not profess to have the particulars. I just give my understanding. I know the fact to be, Mr. Chairman, as Mr. Stevens says, that they belong to the same tribe; but I cannot say from personal knowledge whether treaties have actually been made with them, but our understanding has been that they have been made.

Hon. Mr. STEVENS: I have never heard of it, and I would like to know where they are.

Mr. O'MEARA: I base my understanding principally upon this, that pretty well throughout the United States treaties have been made with the Indian tribes.

Hon. Mr. STEVENS: But the ownership of that area—I think it is rather important—was settled as between the United States Government and the British Government.

Hon. Mr. BARNARD: I should think that if this claim was well founded, that tribe would have a claim against the British Government for giving up that territory.

Hon. Mr. STEVENS: I have never heard of that question being brought up. It would be interesting to know how it was dealt with. That area was claimed by the British Crown and was ceded to the United States as a result of the award of 1846. Then there was the San Juan claim; taking San Juan Island. That is within the purview of your investigation, Mr. O'Meara, and if your investigations have been as thorough as they appear, you must know this: do the Indians claim the aboriginal title to San Juan Island?

Mr. KELLY: I do not think there are any Indians living on it.

Hon. Mr. STEVENS: Oh, yes. That is a very fine Island. That Island was ceded by the arbitration award of the Emperor of Germany in 1872. Do you know of any claim there?

Mr. O'MEARA: No, I do not. I have no knowledge of that matter at all. In fact, I do not know where the place is.

Mr. KELLY: It is south of Victoria.

Hon. Mr. STEVENS: It was a famous question at one time. But apparently your studies have been directed to bolster up your own opinions with extracts selected here and there from the documents.

Mr. O'MEARA: May I remark that my duty has been on the constitutional side, and I have relied upon others on the practical side. May I proceed, Mr. Chairman?

The CHAIRMAN: Yes.

Mr. O'MEARA: As to the second question: Whether Article 13 had the effect of destroying the title of the Indian tribes, I submit to the hon. gentlemen that that Article requires to be examined with very great care, and that it will be found that it does not carry the Province of British Columbia as far as the