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The British Columbia Indian Land Situation.

A GREAT QUESTION
TO BE SETTLED.



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MEMORANDUM OF CHAIRMAN OF CONFERENCES



IT has recently been recognized that the issue brought to the front by the Indian Movement in British Columbia involves not only the interests of the Indians, but also those of Christian Missions in this Province and of the community in general.

The result was the holding at Victoria, on the 4th of January last, of a preliminary conference for the purpose of considering the situation and devising means for dealing with it.

It was reported that among those actively interested were: Rev. Principal Mackay, D.D.; Rev. J. A. McGillivray and Archdeacon Pentreath of Vancouver; Rev. Dr. White of New Westminster, Superintendent of Methodist Missions in British Columbia; Bishop Perrin, Rev. Dr. Campbell, Mr. D. W. Higgins, Father Brabant and Rev. A. E. Roberts of Victoria, and Rev. A. E. O'Meara of the Yukon.

Those present at the meeting were: Bishop Perrin, Rev. Dr. Campbell, Rev. J. A. McGillivray, Mr. D. W. Higgins, Rev. A. E. O'Meara and Rev. A. E. Roberts.

Communications expressing willingness to co-operate were received from Rev. Principal Mackay, and Rev. Dr. White, who were prevented from being present.

After hearing Mr. O'Meara's statement regarding the Indian land situation in British Columbia and the Yukon, and progress that had been made in dealing with that situation, it was the unanimous opinion of those present that a great question requires to be settled and that, with a view to settling that question speedily and satisfactorily, it was very desirable that there be made an

arrangement by which Mr. O'Meara should continue for a time the work he has been doing, which was considered by those present very valuable.

Mr. O'Meara was therefore requested to undertake this work, and the Rev. A. E. Roberts, Secretary of the meeting, was instructed to write requesting the Bishop of Yukon to approve his doing so upon such terms as might be mutually satisfactory.

At the same meeting it was also resolved to hold a further conference, with a view to decide upon plans of action for seeking, independently of the Indian organization, to effect a solution of the problem, and that if Mr. O'Meara can undertake the work, such conference be held soon after his return from the Yukon.

Subsequently, for reasons which he explained to the second conference, Mr. O'Meara resigned his position as a Missionary and Financial Secretary of the Diocese of Yukon and returned to Victoria on the 3rd of March, being thus free to undertake the contemplated work.

The second conference was held at Victoria on the 28th of March. Attached is a copy of the Minutes prepared by the Rev. A. E. Roberts, Secretary. This will show the written resolutions then adopted. Some additional matters were orally dealt with.

With regard to organization it was thought desirable for the present to continue the informal conference.

It being, after full consideration, unanimously thought that the work should be continued, Mr. O'Meara, at the request of the meeting, stated the financial arrangements which would be necessary. These were approved by all present, but it was decided that this matter should be dealt with by the committee.

The matter of the money advanced by Mr. O'Meara was also referred to the committee with power to act.

Having acted as Chairman of both these conferences I have thought well that this Memorandum should be available for the

information of those who may be asked to act as members of the committee.

W. W. COLUMBIA,
Chairman of Conferences.

Victoria, B. C., April 2nd, 1910.

INFORMAL CONFERENCE OF FRIENDS OF THE
INDIANS

Minutes of the Second Meeting Held March 28th, 1910.
Y. M. C. A. Rooms, Victoria, B. C.

Present: Bishop Perrin, Archdeacon Pentreath, Rev. Dr. White, F. C. Wade, K.C., D. W. Higgins, Rev. A. E. O'Meara, and Rev. A. E. Roberts.

Minutes of first meeting read and approved.

Letters were read from Bishop Stringer, Rev. C. M. Tate and Rev. Dr. Campbell.

Mr. O'Meara read a supplementary statement, and also part of a letter from J. M. Clark, Esq., Toronto, and reported interview with Tom James, Indian, of Victoria.

A general discussion took place following this statement. Then F. C. Wade, Esq., made a concise statement of the condition of affairs regarding the Indian lands in British Columbia.

The following resolution was unanimously agreed to:

“Resolved, That this informal meeting of friends of the Indians of British Columbia, having heard that the Deputy Attorney General of this Province is at present in consultation with the Minister of Justice for Canada for the purpose of preparing a series of questions to be submitted to the Supreme Court of Canada with reference to the Indian title to lands in this Province and also the respective rights, duties, liabilities, and trusts of the Dominion of

Canada and the Province with respect to the same, is of the opinion that the Indian tribes of the Province, as the wards of the nation, should be separately represented upon any such reference to the very fullest extent, and that they should be supplied with every possible assistance and advice, and with independent counsel, by the Government and Parliament of Canada."

Also the following resolution:

"Resolved further, That if an amendment of the Supreme Court Act or any other legislation is necessary for the purpose of carrying out such a reference of the various questions at issue between the Indians and the Crown, as represented by the Dominion and the Province, the Governor-General in Council is hereby requested to secure the immediate passage of such enabling legislation."

The following was also agreed to:

"Resolved, That this meeting is in sympathy with the work which is being carried on by Mr. O'Meara for the purpose of ascertaining the nature and extent of the title of the Indians to lands in this Province, and that the following committee be appointed for the purpose of ascertaining what financial arrangements can be made to continue Mr. O'Meara's services, and to secure the necessary funds. The committee to be Bishop Perrin, Principal Mackay, Rev. A. E. O'Meara, with power to add to their number."

Meeting adjourned at 11.10 p.m.

EXTRACTS FROM MR. O'MEARA'S STATEMENT

The expression "Indian Title" is not used as meaning that the Indians own the lands in question in the full sense, but means only that each tribe of Indians has the right to possess, occupy and use, for hunting, trapping, fishing and other accustomed purposes a certain territory. Throughout the whole of Canada lying to the east of the Rocky Mountains, with some exceptions, specially accounted for, the British Crown and the various Governments have recognized that the Indian tribes hold such title, and through-

out a large proportion of Canada their title has been extinguished by treaty.

Before the founding of the United Colony of British Columbia in 1866 it had been completely recognized that the Indian tribes of that territory held the same title.

By proclamation of King George III. issued in 1763, the whole of Far-Western Canada was expressly reserved for the use and benefit of the Indian tribes. By statutes passed in the years 1803, 1821, and 1849, the Parliament of Great Britain expressly recognized all these lands as being "Indian Territories." During the years 1850 and 1851 fourteen treaties were made between Sir James Douglas, agent of the Hudson's Bay Company, lessee from the Crown of Vancouver Island, and various tribes of Indians, whereby in consideration of certain payments of money and other benefits these tribes surrendered their respective titles to certain tracts of land situate on Vancouver Island and described in the treaties. In 1861 the Legislative Assembly of Vancouver Island applied to the Imperial Government to provide funds for extinguishing "the Indian title" to all remaining lands on the Island. In replying to that petition the Secretary of State for the Colonies said: "I am fully sensible of the great importance of purchasing without loss of time the native title to the soil of Vancouver Island." The Imperial Government having declined to furnish the money asked, Sir James Douglas was unable, as first Governor of the Colony, to carry out the policy, which, as agent of the Company, he had initiated.

By Clause 13 of the Terms of Union it was stipulated that tracts of land should be conveyed by the Government of British Columbia to the Dominion Government for the benefit of the Indians. As the Indians were not parties to this arrangement, the provisions made by it could not, of course, affect their title. That it was not even intended to affect it, and that Confederation left the title of the Indians untouched, clearly appears from the address made by Lord Dufferin, Governor-General of Canada, at Victoria on 20th September, 1876, from which I make a short quotation: "Now we must all admit that the condition of the Indian question

" in British Columbia is not satisfactory. Most unfortunately as I
" think there has been an initial error, ever since Sir James Douglas
" quitted office, in the Government of British Columbia neglecting
" to recognize what is known as the Indian title. In Canada this
" has always been done; no Government, whether provincial or cen-
" tral has failed to acknowledge that the original title to the land
" existed in the Indian tribes and communities that hunted or wan-
" dered over them."

It is important to state accurately the exact position regarding so-called " reserves." From time to time before Confederation the Government of the Colony of British Columbia, and from time to time after Confederation the Government of the Province of British Columbia, without treaty or negotiation with the tribes of Indians, surveyed certain village sites and other parcels of land, portions of the lands possessed, occupied and used by the tribes, and reserved these from settlement. But no conveyance or declaration of trust was executed in favor of the tribes, and on the other hand the tribes did not surrender their title to the remainder of the lands, but, on the contrary, continued to possess, occupy and use a large proportion of such lands. It is also to be noted that the arrangement made at Confederation has never been fully carried out. For example, no lands have been conveyed to the Dominion Government.

The Indians retain a keen sense of what they consider their rights, and regard the proclamation of 1763 as the charter of those rights. The attitude of the Indians is illustrated by the communication which, in September last, came from those of the Naas River, from which I quote: " We had no idea of what was meant or in-
" tended by these reserves until now, when we see other people,
" principally Americans, crowding into the country, and taking
" possession of our lands which have been handed down to us from
" our forefathers. We have always been loyal to the Crown, believ-
" ing that our rights would not be interfered with, but when we see
" those who are not subjects of King Edward, coming to seize our
" possessions and allowed to do so, we begin to fear that our loyalty

"has been a mistake. Some of us say it would have been better to have gone to Alaska also, but we believe yet that the King will not allow us to be stripped and spoiled."

Archdeacon Collison, a Missionary of long experience working among the Indians of the Naas River, in May last wrote as follows: "We have had considerable unrest and dissatisfaction amongst our Indians here in connection with the land question. They have never been satisfied with the reserve arrangement, and indeed, when the reserves were first set apart, they cried out loudly against the movement. It was my old fellow laborer, Mr. Duncan, who first moved Sir John MacDonal's Government in 1875 to set apart reserves for the Indians, as he feared the opening of the First Transcontinental Railroad would have flooded the country with settlers. But we never looked upon the reserves as a permanent arrangement, but only as a temporary protection. Now, however, the Indians look upon them as confined limits, in which they are supposed to remain passive whilst the whites appropriate all the best lands around. In the meantime no attempt has been made to sub-divide the reserves so that our Indians, though civilized and evangelized, have not a foot of land which they can call their own."

The attitude of the Government of British Columbia is shown in several ways. The questions recently submitted to the Supreme Court of the Province were so framed as to amount to a repudiation of the title of the Indians. Upon the argument counsel for the Attorney-General expressly repudiated such title. Premier McBride, in the course of an address or interview given in August last, was reported to have said: "When the interested Indians accepted the white man's machinery for the policing and general direction of the country they tacitly confessed themselves conquered. Surely we do not have to go to war and injure a helpless people to technically perfect a title to any part of Canada."

* * * * *

We have been to the present time dealing with the situation as an Imperial matter. Definite progress has been made. The Colonial

Office has recognized that some steps should be taken and has asked for a report from the Dominion Government. The Prime Minister of Canada has expressed willingness to facilitate the taking of such steps. A very encouraging commencement has also been made in the extensive investigations necessary for the purpose of adequately preparing the case of the Indians for submission to the Judicial Committee.

In April last while in London, England, I came into touch with the Aborigines Protection Society, the committee of which was willing to help the Indians when occasion might require. The opinion was then expressed that it would be very desirable to form in Far-Western Canada a committee for co-operation with that Society, the scope of whose work is Imperial.

In the United States the Mohonk Lake Conference of Friends of the Indians and other dependent peoples, a meeting of which I attended in October, has for twenty-five years by unanimous recommendations exercised a powerful influence at Washington. The Indians Rights Association of the United States have also done admirable work. A branch of that society has been formed in the State of California, in which Indian conditions are strikingly similar to those of British Columbia.

The results of organization in the United States have been twofold. The rights of the Indians have been protected and their welfare advanced. There has also resulted a marked improvement of public opinion. The general testimony given at Mohonk Lake was that the opinion of the best people of the United States is increasingly in favor of giving the Indians their rights. With regard to California it was stated that before these efforts were made, there was in that State almost universally a public sentiment denying absolutely all Indian rights, but that by recent organization and efforts to protect the rights of the Indians, that sentiment has been and is being improved.

* * * * *

In my judgment and that of Mr. J. M. Clark, K.C., of Toronto. counsel for the Indians, the taking of steps towards organizing the Friends of the Indians, at the present stage, is of vital consequence to the success of the movement. With the rushing in of settlers, the building of roads, and the construction of new railways, the problem will rapidly become more serious and will increasingly press for settlement. In our opinion, if a thoroughly satisfactory settlement is to be brought about, the Indians must have the advice and help of their friends throughout the Province. It is in this connection, it seems to me, of great importance to point out that the interests of the Indians are not alone to be taken into account. The Indian movement, in which now upwards of twenty tribes have joined, has brought the issue to the front. That issue, once brought to the front, is one involving the interests of the Christian Bodies doing missionary work amongst the Indians, and the public interests of the Province, of Canada, and of the Empire. Those joining in an organization of the Friends of the Indians should, it seems to me, not become partizans of the Indians, but taking the broadest view of the problem seek to secure its solution in the best and speediest way possible.

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A. E. O'M.

Victoria, B. C., 4th January, 1910.

**EXTRACTS FROM MR. O'MEARA'S SUPPLEMENTARY
STATEMENT**

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Passing now to a summary of the problem to be solved. I have no hesitation in saying that the main elements of that problem are certainties. These I propose to state.

1. The Judicial Committee of the Privy Council has already decided that the Indians of the greater part of Canada have in

respect of all unsurrendered lands, not a mere moral claim to consideration, but a right, which their Lordships describe as "the Indian Title," and which, they say, forms a burden upon lands held by a Province.

2. Before the founding of the United Colony of British Columbia in 1866, it was universally recognized that the Indians of British Columbia held such title.

3. Soon after that date the Government of the Colony decided to adopt the policy of refusing to recognize the title claimed by the Indians, which has since been the policy of successive Colonial and Provincial Governments. The adoption of this policy is for the first time officially shown in a report of the Commissioner of Lands and Works made in January, 1870.

4. In January, 1875, the Department of Justice of Canada reported that the view advanced by the Government of British Columbia was erroneous, and stated the opinion that "the Indian title must of necessity consist of some species of interest in the lands of British Columbia." That report was approved by order-in-council, and was thus adopted as the view of the Government of Canada.

5. This opinion of the Department of Justice no doubt formed the basis of the speech made at Victoria by Lord Dufferin, Governor-General of Canada, in September, 1876, from which I quoted in the former statement.

6. The Indians of the Province, with practical unanimity, have always claimed and continue to claim that they hold such title.

7. The Indians of the Skeena River and those of the Naas River have carried this claim to the extent of contending that they are entitled to exclude white settlers from these valleys. Those of the Skeena River have recently been very aggressive in asserting this view.

I go on to indicate some of the lines of effort by which it may be possible to solve this problem.

1. For upwards of a year we have been endeavoring to secure that the question of the title of the Indian tribes shall be submitted to the Judicial Committee of the Privy Council, either directly or through the Supreme Court of Canada. Encouraging progress has been made, but much effort may still be required in order to accomplish this.

2. In order that the case for the Indians may be satisfactorily prepared, it will be necessary to investigate fully the two subjects of Indian title and British sovereignty on the Pacific Coast. This will involve a very large amount of work.

3. It will be of much importance, if possible, to secure an agreement between the Government of British Columbia and the Indians regarding material facts and the admission of historical evidence, so that the issue may be simplified and rapidly decided.

4. Passing from the reference to more general matters, let me point out the importance of a most thorough investigation of existing conditions affecting the welfare of the various tribes.

5. It will, no doubt, be agreed that efforts should be made through the Press, and otherwise, to secure an improved state of public opinion in the Province on this subject.

6. Equally important it seems to me will be efforts to secure an improved attitude on the part of some of the Indian tribes. I have before me letters recently received from chiefs of the Skeena River, which afford ground for hoping that these Indians may be induced to abandon their extreme claims.

7. When, by carrying forward these lines of effort, the rights of the Indians are determined, the actual conditions are fully known, public opinion recognizes the just claims of the Indians, and the Indians recognize that they cannot exclude the white settlers and hold back development of the Province, we may hope for adjustment of all claims and final solution of the problem.

A. E. O'M.

Victoria, B. C., 28th March, 1910.