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1915

The  
Nishga Petition to His  
Majesty's Privy  
Council

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A RECORD OF INTERVIEWS  
— WITH THE —  
GOVERNMENT OF CANADA  
TOGETHER WITH RELATED  
DOCUMENTS

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PUBLISHED BY  
THE CONFERENCE OF FRIENDS OF THE  
INDIANS OF BRITISH COLUMBIA

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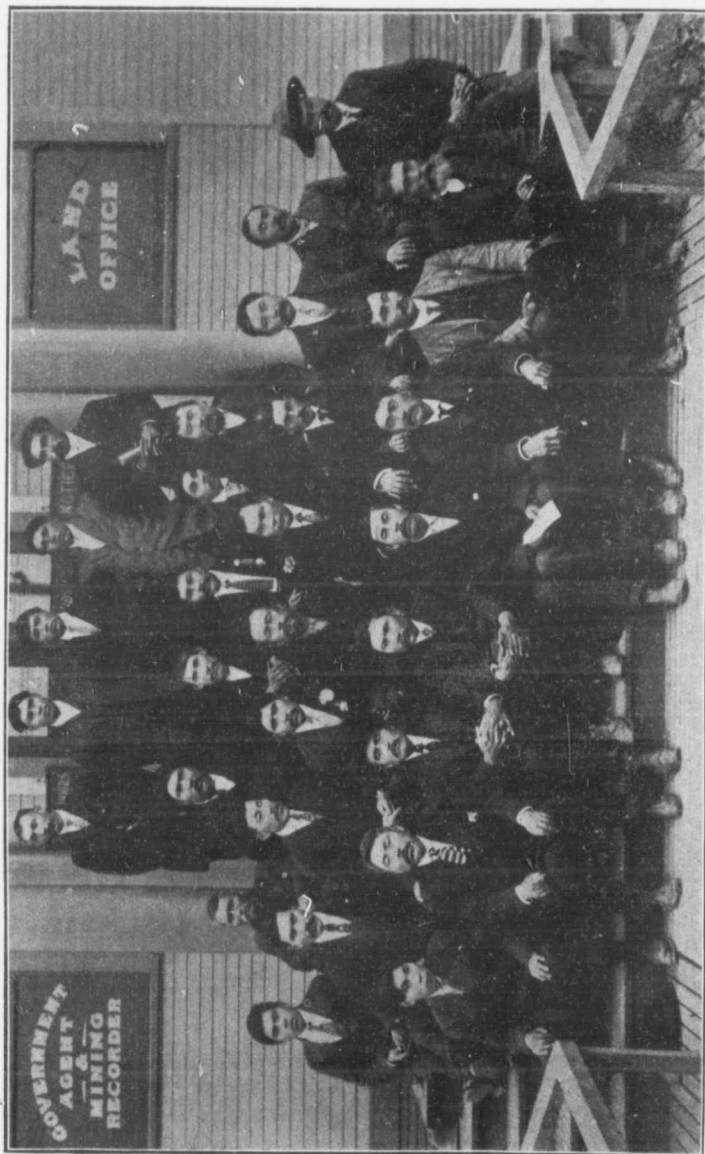
JULY, 1915

## INTRODUCTORY NOTE

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**I**N May, 1913, the Nishga Tribe of Indians, inhabiting the Valley of the Naas River, for the purpose of overcoming the serious constitutional difficulties which had been encountered in seeking to secure a judicial determination of the rights of the Indians of British Columbia, presented to His Majesty's Privy Council a direct and independent Petition. In taking that action, the Petitioners had in view the interests not only of their own Tribe but also of all other Tribes of the Province. By Order-in-Council passed in June, 1914, the Government of Canada proposed certain conditions upon which the Government would help the Nishgas in bringing their Petition before the Judicial Committee of the Privy Council. These proposals having been brought before the Nishgas, they decided to bring before the Government counter proposals and offered to send delegates to Ottawa. In January last the Minister of the Interior decided to meet the Nishga Delegates, who thereupon came to Ottawa. During the months of February, March and April, the proposals of the Government and those of the Nishgas were discussed at a number of interviews. This pamphlet contains a record of these interviews, based, except in two instances specially noted, upon stenographic reports furnished by the Government, together with related documents, including Order-in-Council dealing with the Nishga proposals passed in June last. All papers are arranged in order of time and with descriptive headings.

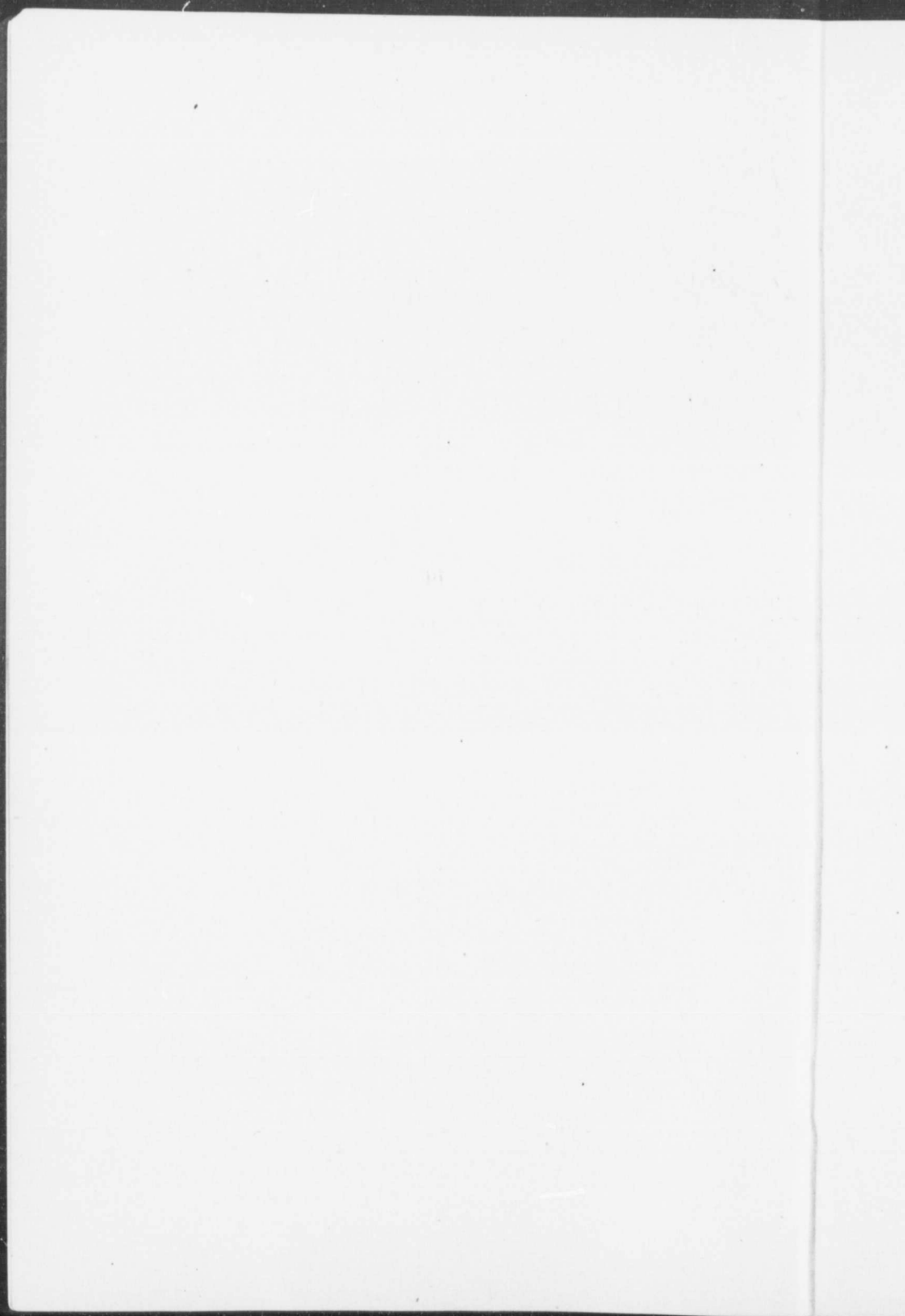




MEMBERS OF THE LAND COMMITTEE OF THE NISHGA TRIBE.  
Photograph taken in October, 1913.

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## STATEMENT OF THE NISHGA NATION OR TRIBE OF INDIANS.

ADOPTED ON 22ND JANUARY, 1913.

From time immemorial the Nishga Nation or Tribe of Indians possessed, occupied and used the territory generally known as the Valley of the Naas River, the boundaries of which are well defined.

The claims which we make in respect of this territory are clear and simple. We lay claim to the rights of men. We claim to be the aboriginal inhabitants of this country and to have rights as such. We claim that our aboriginal rights have been guaranteed by Proclamation of King George Third and recognized by Acts of the Parliament of Great Britain. We claim that holding under the words of that Proclamation a tribal ownership of the territory, we should be dealt with in accordance with its provisions, and that no part of our lands should be taken from us or in any way disposed of until the same has been purchased by the Crown.

By reason of our aboriginal rights above stated, we claim tribal ownership of all fisheries and other natural resources pertaining to the territory above mentioned.

For more than twenty-five years, being convinced that the recognition of our aboriginal rights would be of very great material advantage to us and would open the way for the intellectual social and industrial advance of our people, we have, in common with other Tribes of British Columbia, actively pressed our claims upon the Governments concerned. In recent years, being more than ever convinced of the advantages to be derived from such recognition and fearing that without such the advance of settlement would endanger our whole future, we have pressed these claims with greatly increased earnestness.

Some of the advantages to be derived from establishing our aboriginal rights are:—

1. That it will place us in a position to reserve for our own use and benefit such portions of our territory as are required for the future well-being of our people.
2. That it will enable us to a much greater extent and in a free and independent manner to make use of the fisheries and other natural resources pertaining to our territory.
3. That it will open the way for bringing to an end as rapidly as possible the system of Reserves and substituting a system of individual ownership.



4. That it will open the way for putting an end to all uncertainty and unrest, bringing about a permanent and satisfactory settlement between the white people and ourselves, and thus removing the danger of serious trouble which now undoubtedly exists.

5. That it will open the way for our taking our place as not only loyal British subjects but also Canadian citizens as for many years we have desired to do.

In thus seeking to realize what is highest and best for our people, we have encountered a very serious difficulty in the attitude which has been assumed by the Government of British Columbia. That Government has neglected and refused to recognize our claims, and for many years has been selling over our heads large tracts of our lands. We claim that every such transaction entered into in respect of any part of these lands under the assumed authority of the Provincial Land Act has been entered into in violation of the Proclamation above mentioned. These transactions have been entered into notwithstanding our protests, oral and written, presented to the Government of British Columbia, surveyors employed by that Government, and intending purchasers.

The request of the Indian Tribes of British Columbia made through their Provincial Organization, that the matter of Indian title be submitted to the Judicial Committee of His Majesty's Privy Council, having been before the Imperial Government and the Canadian Government for three years, and grave constitutional difficulties arising from the refusal of British Columbia to consent to a reference, having been encountered in dealing with that request, we resolved independently and directly to place a petition before His Majesty's Privy Council.

In following that course we desire to act to the fullest possible extent in harmony with other Tribes of British Columbia and with the Government of Canada.

We are informed that Mr. J. A. J. McKenna, sent out by the Government of Canada, has made a report in which he does not mention the claims which the Indians of the Province have been making for years, and assigns as the cause of all the trouble the reversionary claim of the Province. Whatever other things Mr. McKenna found out during his stay we are very sure that he did not find out our mind or the real cause of the trouble.

We are informed of the agreement relating only to the so-called reserves, which was entered into by Mr. McKenna and

Premier McBride. We are glad from its provisions to know that the Province has expressed willingness to abandon to a large extent the reversionary claim which has been made. We cannot, however, regard that agreement as forming a possible basis for settling the land question. We cannot concede that the two Governments have power by the agreement in question, or any other agreement, to dispose of the so-called Reserves or any other lands of British Columbia until the territory of each nation or tribe has been purchased by the Crown, as required by the Proclamation of King George Third.

We are also informed that in the course of recent negotiations the Government of British Columbia has contended that under the Terms of Union the Dominion of Canada is responsible for making treaties with the Indian Tribes in settlement of their claims. This attempt to shift responsibility to Canada and by so doing to render it more difficult for us to establish our rights seems to us utterly unfair and unjustifiable. We cannot prevent the Province from persisting in this attempt, but we can and do respectfully declare that we intend to persist in making our claim against the Province of British Columbia for the following among other reasons:—

1. We are advised that at the time of Confederation all lands embraced within our territory became the property of the Province subject to any interest other than that of the Province therein.

2. We have for a long time known that in 1875 the Department of Justice of Canada reported that the Indian Tribes of British Columbia are entitled to an interest in the lands of the Province.

3. Notwithstanding the report then made and the position in accordance with that report consistently taken by every representative of Canada, from the time of Lord Dufferin's speeches until the spring of the present year, and in defiance of our frequent protests, the Province has sold a large proportion of the best lands of our territory and has by means of such wrongful sales received a large amount of money.

4. While we claim the right to be compensated for those portions of our territory which we may agree to surrender, we claim as even more important the right to reserve other portions permanently for our own use and benefit, and beyond doubt the portions which we would desire so to reserve would include much of the land which has been sold by the Province.

We are not opposed to the coming of the white people into our territory, provided this be carried out justly and in accordance with the British principles embodied in the Royal Proclamation. If therefore as we expect the aboriginal rights which we claim should be established by the decision of His Majesty's Privy Council, we would be prepared to take a moderate and reasonable position. In that event, while claiming the right to decide for ourselves the terms upon which we would deal with our territory, we would be willing that all matters outstanding between the Province and ourselves should be finally adjusted by some equitable method to be agreed upon which should include representation of the Indian Tribes upon any Commission which might then be appointed.

The above statement was unanimously adopted at a meeting of the Nishga Nation or Tribe of Indians held at Kincolith on the 22nd day of January, 1913, and it was resolved that a copy of same be placed in the hands of each of the following:—

The Secretary of State for the Colonies, the Prime Minister of Canada, the Minister of Indian Affairs, the Minister of Justice, Mr. J. M. Clark, K.C., Counsel for the Indian Rights Association of British Columbia, and the Chairman of the "Friends of the Indians of British Columbia."

W. J. LINCOLN,  
*Chairman of Meeting.*

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#### PETITION TO HIS MAJESTY'S PRIVY COUNCIL.

LODGED ON 21ST MAY, 1913.

IN THE MATTER OF THE TERRITORY OF THE NISHGA NATION OR  
TRIBE OF INDIANS.

*To the King's Most Excellent Majesty in Council.*

The Humble Petition of The Nishga Nation or Tribe of Indians sheweth as follows:—

1. From time immemorial the said Nation or Tribe of Indians exclusively possessed, occupied and used and exercised sovereignty over that portion of the territory now forming the Province of British Columbia which is included within the following limits, that is to say:—Commencing at a stone situ-

ate on the south shore of Kinnamox or Quinamass Bay and marking the boundary line between the territory of the said Nishga Nation or Tribe and that of the Tsimpsean Nation or Tribe of Indians, running thence easterly along said boundary line to the height of land lying between the Naas River and the Skeena River, thence in a line following the height of land surrounding the valley of the Naas River and its tributaries to and including the height of land surrounding the north-west end of Mitseah or Meziadan Lake, thence in a straight line to the northerly end of Portland Canal, thence southerly along the international boundary to the centre line of the passage between Pearse Island and Wales Island, thence south-easterly along said centre line to the centre line of Portland Inlet, thence north-easterly along said centre line to the point at which the same is intersected by the centre line of Kinnamox or Quinamass Bay, thence in a straight line to the point of commencement.

2. Your Petitioners believe the fact to be that, when sovereignty over the territory included within the aforesaid limits (hereinafter referred to as "the said territory") was assumed by Great Britain, such sovereignty was accepted by the said Nation or Tribe, and the right of the said Nation or Tribe to possess, occupy and use the said territory was recognised by Great Britain.

3. From time to time since assuming sovereignty over the said territory the Crown has by Proclamation and otherwise recognized the right of the said Nation or Tribe so to possess, occupy and use the said territory, and, in particular, by the Proclamation of His Majesty King George the Third issued on the 7th day of October, 1763, having the force and effect of a Statute of the Parliament of Great Britain, it was (amongst other things) enacted as follows:—

"And whereas it is just and reasonable, and essential to Our Interest and the Security of Our Colonies, that the several Nations or Tribes of Indians, with whom We are connected, and who live under Our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to, or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds; We do therefore, with the Advice of Our Privy Council, declare it to be Our Royal Will and Pleasure that no Governor or Commander in Chief in any of Our Colonies of Quebec, East Florida, or West Florida, do presume, upon any Pretence whatever, to grant Warrants of Survey, or pass any Patents for Lands beyond the Bounds of their respective Governments, as described in their Commissions; as also, that no Governor or Commander in Chief in any of Our other Colonies or Plantations in America, do



presume, for the present, and until Our further Pleasure be known, to grant Warrants of Survey, or pass Patents for any Lands beyond the Heads or Sources of any of the Rivers which fall into the Atlantick Ocean from the West and North West, or upon any Lands whatever, which, not having been ceded to, or purchased by Us as aforesaid, are reserved to the said Indians, or any of them.

"And We do further declare it to be Our Royal Will and Pleasure, for the present as aforesaid, to reserve under Our Sovereignty, Protection, and Dominion, for the Use of the said Indians all the Lands and Territories not included within the Limits of Our said Three New Governments, or within the Limits of the Territory granted to the Hudson's Bay Company, as also all the Lands and Territories lying to the Westward of the Sources of the Rivers which fall into the Sea from the West and North West as aforesaid; and We do hereby strictly forbid, on Pain of Our Displeasure, all Our loving Subjects from making any Purchases or Settlements whatever, or taking Possession of any of the Lands above reserved, without Our special Leave and License for that Purpose first obtained.

"And We do further strictly enjoin and require all Persons whatever, who have either wilfully or inadvertently seated themselves upon any Lands within the Countries above described, or upon any other Lands, which, not having been ceded to, or purchased by Us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such Settlements.

"And whereas great Frauds and Abuses have been committed in the purchasing Lands of the Indians, to the great Prejudice of Our Interests, and to the great Dissatisfaction of the said Indians;

"In order therefore to prevent such Irregularities for the future, and to the End that the Indians may be convinced of Our Justice and determined Resolution to remove all reasonable Cause of Discontent, We do with the Advice of Our Privy Council, strictly enjoin and require, that no private Person do presume to make any Purchase from the said Indians of any Lands reserved to the said Indians, within those Parts of Our Colonies where We have thought proper to allow Settlement; but that if, at any Time any of the said Indians shou'd be inclined to dispose of the said Lands, the same shall be purchased only for Us, in Our Name, at some Publick Meeting or Assembly of the said Indians to be held for that Purpose by the Governor or Commander in Chief of Our Colonies respectively, within which they shall lie; and in case they shall lie within the Limits of any Proprietary Government they shall be purchased only for the Use and in the Name of such Proprietaries, conformable to such Directions and Instructions as We or they shall think proper to give for that Purpose: And We do, by the Advice of Our Privy Council, declare and enjoin, that the Trade with the said Indians shall be free and open to all Our Subjects whatever: provided that every Person who may incline to trade with the said Indians, do take out a Licence for carrying on such Trade from the Governor or Commander in Chief of any of Our Colonies respectively, where such Persons shall reside; and also give Security to observe such Regulations as We shall at any Time think fit, by Ourselves or by Our Commissaries to be appointed for this Purpose, to direct and appoint for the Benefit of the said Trade; and We do hereby authorize, enjoin, and require the Governors and Commanders in Chief of all Our Colonies respectively, as well Those under Our immediate Government as Those under the Government and Direction of Proprietaries, to grant such Licences without Fee or Reward, taking especial Care to insert therein a Condition, that such Licence shall be void,

and the Security forfeited, in case the Person, to whom the same is granted, shall refuse or neglect to observe such Regulations as We shall think proper to prescribe as aforesaid.

"And We do further expressly enjoin and require all Officers whatever, as well Military as Those employed in the Management and Direction of Indian Affairs within the Territories reserved as aforesaid for the Use of the said Indians, to seize and apprehend all Persons whatever, who, standing charged with Treasons, Misprisions of Treason, Murders, or other Felonies or Misdemeanours, shall fly from Justice, and take Refuge in the said Territory, and to send them under a proper Guard to the Colony where the Crime was committed of which they stand accused, in order to take their Trial for the same."

4. The said Nishga Nation or Tribe is one of the nations or Tribes of Indians mentioned in the said Proclamation as being under the protection of the Sovereign, and all members thereof are Your Majesty's loyal subjects.

5. No part of the said territory has been ceded to or purchased by the Crown, and no part thereof has been purchased from the said Nation or Tribe by the Crown or by any person acting on behalf of the Crown, at a public meeting or assembly or otherwise, or by any other person whomsoever.

6. No part of the said territory is within the limits of the territory granted to the Hudson's Bay Company.

7. By Statutes from time to time passed the Imperial Parliament, as Your Petitioners submit, recognized the territory now known as British Columbia as being part of the "Indian Territories," as appears from the Statute 12 and 13 Vict. cap. 48, entitled "An Act to provide for the Administration of Justice in Vancouver's Island," and earlier Statutes therein recited, and from the Statute 21 and 22 Vict., Cap. 99, entitled "An Act to provide for the Government of British Columbia."

8. From time to time the Government of the Province of British Columbia and various persons acting in the name of the Crown, under the assumed authority of the "Land Act" of British Columbia, have made surveys of, granted records of pre-emption of, sold and issued patents for, various parts of the said territory.

9. Together with this Petition are presented two blue prints taken from maps of the said territory prepared in the office of the Surveyor-General at Victoria in the said Province, showing the various transactions which on the 26th day of September, 1912, had been so entered into in respect of portions of the said territory as aforesaid.

10. Your Petitioners allege that the said transactions and all other similar transactions which have been entered into in respect of any part of the said territory have been so entered into in violation of the provisions of the said Proclamation of King George Third and without competent authority.

11. From time to time Your Petitioners have delivered to surveyors of the said Government entering the said territory for the purpose of surveying portions thereof, and to persons entering the said territory for the purpose of pre-empting or purchasing portions thereof under the assumed authority of the "Land Act," written notices of protest, of which the following is one:—

"Whereas, we, the Indian people of the Aiyansh Valley, Naas River, British Columbia, being the lawful and original inhabitants and possessors of all the lands contained therein from time immemorial; and being assured in our possession of the same by the Proclamation of His Majesty, King George III., under date of October 7th, 1763, which Proclamation we hold as our Charter of Rights under the British Crown;

"And whereas, it is provided in the said Proclamation that no private person do presume to make any purchase from us of any lands so reserved to us, until we have ceded the same to the representatives of the Crown in public meeting between us and them;

"And whereas, up to the present time our lands have not been ceded by us to the Crown, nor in any way alienated from us by any agreement or settlement between the representatives of the Crown and ourselves;

"And whereas, our case is now before the Privy Council in England and we are expecting a settlement of the difficulty at present existing between ourselves and the Government of this Province at an early date;

"We do therefore, standing well within our constitutional rights, forbid you to stake off land in this valley, and do hereby protest against your proceeding further into our country with that end in view—until such time as a satisfactory settlement be made between the representatives of the Crown and ourselves.

"Issued by the members of the Indian Land Committee elected by the Indians of the Upper Naas."

12. On the 3rd day of March, 1911, delegates representing the said Nishga Nation or Tribe waited upon the Government of British Columbia, asserted the title of the said Nation or Tribe in respect of the said territory, and protested against the refusal of that Government to recognize such title.

13. Notwithstanding the facts stated in the last preceding two paragraphs hereof the Government of British Columbia and the various persons to whom reference has above been made, have persisted in the course set forth in paragraph 8 hereof.

14. Your Petitioners are aware of the provisions of the agreement made in the year 1871 and set out in Article 13 of the "Terms of Union," and they are also aware of the provisions of an agreement made between a Special Commissioner of the Government of Canada and the Premier of British Columbia on the 24th day of September, 1912, relating to the matter of the so-called reserves, and approved by the Government of Canada on the 27th day of November, 1912, subject to a certain modification mentioned in the Order in Council made on that day. Your Petitioners humbly submit that nothing contained in either of the said two agreements does or can take away any of the rights which they claim.

15. In view of all that has been hereinbefore stated Your Petitioners, claiming to hold a tribal title to the whole of the said territory both by aboriginal right and under the said Proclamation, and having no other recourse for securing justice, humbly place this Petition before Your Majesty as the source and fountain of all justice, having supreme authority over all persons and matters within Your Majesty's dominions, and possessing and exercising upon and with the advice of Your Majesty's Privy Council original judicial jurisdiction.

Your Petitioners most humbly pray that Your Majesty in Council may be pleased to take into Your Most Gracious Consideration the matters hereinbefore set forth, and in exercise of the original jurisdiction to which reference has above been made and all other jurisdiction relating to such matters possessed by Your Majesty in Council, and upon report made to Your Majesty in Council by a Committee of the whole of Your Majesty's Privy Council, or upon report so made by the Judicial Committee or other Committee of the Council to which Your Majesty in Council may see fit to refer the same, may adjudge such matters and determine all questions arising therefrom for decision.

In particular Your Petitioners humbly pray that Your Majesty in Council may be pleased:—



(1) To adjudge and determine the nature and extent of the rights of the said Nishga Nation or Tribe in respect of the said territory.

(2) To adjudge and determine whether, as Your Petitioners humbly submit, the "Land Act" of British Columbia, now in force (Revised Statutes of British Columbia, 1911, Chapter 129), and any previous Land Act of that Province, in so far as the same purport to deal with lands thereby assumed to be the absolute property of the said Province and to confer title in such lands free from the right, title or interest of the Indian Tribes, notwithstanding the fact that such right, title or interest has not been in any way extinguished, are ultra vires of the Legislature of the said Province.

Your Petitioners also humbly pray that Your Majesty may be pleased, in pursuance of the above-mentioned provisions of the said Proclamation of King George the Third, to take such measures as may be found necessary for the protection of the said Nishga Nation or Tribe in the exercise and enjoyment of the rights so adjudged and determined.

Your Petitioners also humbly pray that Your Majesty in Council may be pleased to grant to them such further or other relief in the premises as to Your Majesty in Your Great Wisdom shall seem meet.

Your Petitioners also humbly pray that all such orders or directions as to matters of practice or procedure may be made or given as to Your Majesty may seem meet.

Your Petitioners also humbly pray that upon consideration of this Petition by Your Majesty in Council or any Committee of the Privy Council Your Petitioners may be heard by their Counsel.

And Your Petitioners will ever pray, etc.

This Petition is presented by the Nishga Nation or Tribe of Indians through their Agents, Messrs. Fox and Preece, of 15, Dean's Yard, Westminster, Solicitors, in pursuance of a resolution passed at a meeting of the said Nishga Nation or Tribe, held at the Village of Kincolith, situated on the Naas River in the Province of British Columbia, on Wednesday, the 22nd day of January, 1913.

## MR. SCOTT'S MEMORANDUM.

DEPARTMENT OF INDIAN AFFAIRS, CANADA.

OTTAWA, MARCH 11, 1914.

THE HONOURABLE THE SUPERINTENDENT GENERAL OF INDIAN AFFAIRS.

The undersigned has given consideration to the petition of the Nishga Indians to the Privy Council, with reference to the alleged claim of those Indians to title in the lands of British Columbia and to a like claim on the part of the other Indians of the Province. I find indications in the papers that the Government is not unwilling to submit this claim to the courts, but the difficulties which are inherent in the claim and which may have prevented its submission have so far not been overcome; the two main difficulties appear to be:—

1. The refusal of British Columbia to consent to a stated case which would include any reference to the Indian title.
2. Uncertainty as to the extent of compensation which might be demanded by the Indians if they were successful before the courts, and if the Crown found it good policy to extinguish the title of the Indians.

With reference to the first difficulty I would propose that it be held that British Columbia has fully discharged its obligation to the natives by granting from the public domain of the Province reserve lands to be administered exclusively for their benefit, and that, if the Indian claim is found by the court or the Privy Council, and, if it is thought advisable to offer anything further for extinguishment of title, the Dominion should assume the burden and compensate the Indians according to the past usage in such arrangements as have been made by the good-will of the Crown with the aborigines. The Dominion has interest in the lands in the Railway Belt, and, to this extent, would benefit by extinguishment of the Indian title.

There are two Indian treaties which might be taken as prototypes for this divided responsibility, namely, the Treaty known as the Northwest Angle Treaty No. 3 and Treaty No. 9; both of these treaties are within the Province of Ontario. The first was negotiated when the Dominion Government thought the territory covered belonged to the Dominion. When by settlement of the boundary question it was discovered that most of the territory lay in Ontario, the Dominion claimed from Ontario for past expenditure and for the discharge of future liabilities. The case went to the courts and was decided in favor of Ontario. Ontario thereupon expressed her willingness to grant the reserves and the Dominion bears the financial outlay for annuities and the other considerations.

Treaty No. 9 formed the subject of an agreement between the Governments of the Dominion and the Province of Ontario. Ontario agreed to furnish reserves and pay the annuities; the Dominion was to bear the cost of administration, education and the other provisions of the treaty.

Dealing with the second difficulty—it would be a serious matter if the Dominion were to assume the undetermined liability which

might arise if the Indians' claim were upheld by the courts. The erroneous view of the Indians as regards the nature of the aboriginal title is shown by a memorandum from the Nishga Nation, of which I attach a copy; I may quote here the sentences bearing on this point:

'Some of the advantages to be derived from establishing our aboriginal rights are:—

"1. That it will place us in a position to reserve for our own use and benefit such portion of our territory as are required for the future well-being of our people.

"2. That it will enable us to a much greater extent and in a free and independent manner to make use of the fisheries and other natural resources pertaining to our territory.

\* \* \* \* \*

"We cannot prevent the Province from persisting in this attempt, but we can and do respectfully declare that we intend to persist in making our claim against the Province of British Columbia for the following among other reasons:

\* \* \* \* \*

"4. While we claim the right to be compensated for those portions of our territory which we may agree to surrender, we claim as even more important the right to reserve other portions permanently for our own use and benefit, and beyond doubt the portions which we would desire so to reserve would include much of the land which has been sold by the Province.

"We are not opposed to the coming of the white people into our territory, provided this be carried out justly and in accordance with the British principles embodied in the Royal Proclamation. If, therefore, as we expect the aboriginal rights which we claim should be established by the decision of His Majesty's Privy Council, we would be prepared to take a moderate and reasonable position. In that event, while claiming the right to decide for ourselves the terms upon which we would deal with our territory, we would be willing that all matters outstanding between the Province and ourselves should be finally adjusted by some equitable method to be agreed upon which should include representation of the Indian Tribes upon any Commission which might then be appointed."

From these words it will become apparent what fancies occupy the minds of the Indians when they think of the aboriginal title and its purchase.

The Privy Council, to which the Nishga Nation desire to appeal, has already pronounced upon the nature of the Indian title, describing it as 'a personal and usufructuary right dependent upon the good-will of the Sovereign.'

It follows that the Indian title, when acknowledged by the Crown, cannot be separated from what the Crown elects to grant. In appraising the Indian title we should go back to the time when the lands were a wilderness, when we find a wild people upon an unimproved estate. The Indian title cannot increase in value with civilized development; cession of Indian territory has always preceded the settlement of the country and whatever has been granted

for the transfer has represented the good-will of the Crown, not the intrinsic value of the land at the time of the cession, and assuredly not the value enhanced by the activities of a white population. From the earliest times this beneficial interest has ever been appraised by the Crown, the Indians accepting what was offered, with, upon occasion, slight alterations in terms previously fixed by the Crown. It is optional, when, if at all, the Crown may proceed to extinguish the Indian title, and, therefore, if it is decided that the Indians of British Columbia have a title of this nature there can be no claim for deferred benefit from the Crown.

I would, therefore, propose that the claim be referred to the Exchequer Court, with right of appeal to the Privy Council upon the following conditions:—

1. The Indians of British Columbia shall, by their Chiefs or representatives, in a binding way, agree if the Court, or, on appeal, the Privy Council decides that they have a title to lands of the Province, to surrender such title, receiving from the Dominion benefits to be granted for extinguishment of title in accordance with past usage of the Crown in satisfying the Indian claim to unsurrendered territories, and to accept the finding of the Royal Commission on Indian Affairs in British Columbia, as approved by the Governments of the Dominion and the Province as a full allotment of Reserve lands to be administered for their benefit as part of the compensation.

2. That the Province of British Columbia by granting the said Reserves as approved shall be held to have satisfied all claims of the Indians against the Province.

That the remaining considerations shall be provided and the cost thereof borne by the Government of the Dominion of Canada.

3. That the Government of British Columbia shall be represented by counsel, that the Indians shall be represented by counsel nominated and paid by the Dominion.

4. That, in the event of the Court or the Privy Council deciding that the Indians have no title in the lands of the Province of British Columbia the policy of the Dominion towards the Indians shall be governed by consideration of their interests and future development.

"DUNCAN C. SCOTT,

"Deputy Superintendent General."

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## MEMORANDUM FOR GOVERNMENT OF CANADA.

PREPARED BY THOSE REPRESENTING FRIENDS OF THE INDIANS OF  
BRITISH COLUMBIA AND INDIAN AFFAIRS COMMITTEE.

5TH MAY, 1914.

It is considered desirable to place in the hands of the Government of Canada a memorandum stating some outstanding



facts relating to the Nishga Petition to which special attention is requested at the present time.

This Petition was devised with a view to overcoming the constitutional difficulties encountered by reason of the refusal of the Government of British Columbia to agree to a reference, and also the difficulty arising from the declaration made by their Lordships of the Judicial Committee in the Companies Case in the spring of 1912, that answers to questions referred are not a judicial decision.

The Nishga Indians were advised to adopt that course after consultation with and with the approval of Mr. J. M. Clark, K.C., Counsel for the Indian Rights Association of British Columbia.

In August, 1912, on account of the difficulties above mentioned, the Nishga Tribe resolved independently and directly to submit to His Majesty's Privy Council a petition asking for a determination of their rights and the protection of His Majesty.

In November and December, 1912, the necessity of determining the rights of the Indians of British Columbia having been recognized at Ottawa, the question by what method this should be accomplished was discussed at some length in interviews had with the Superintendent-General of Indian Affairs and the Minister of Justice, in the course of which the decision of the Nishga Tribe was reported and explained to the Ministers.

In the course of the interviews above mentioned, the Minister of Justice stated that he could not recommend expending a large sum of money for securing a decision from the Judicial Committee until he had before him a more definite statement of the claims which the Indians are making.

As a result of the view then expressed by the Minister of Justice, the Nishga Indians assembled at Kincolith in January, 1913, and adopted a full statement and explanation of their claims, copies of which were sent to the Secretary of State for the Colonies and the Canadian Ministers.

In March, 1913, after preliminary interviews had with the Acting Superintendent-General of Indian Affairs (the Minister himself being absent on account of illness) and the Minister of Justice, the Representative of the "Friends of the Indians," had an interview with the Prime Minister of Canada and the Minister of Justice, the main result of which was soon afterwards stated in a memorandum prepared for the Minister of Justice, as follows:—

"In the course of an interview had on 27th March last with the Prime Minister and the Minister of Justice the last named Minister

made a statement outlining the main points of the situation, by which, in our judgment, it was made perfectly clear that the only feasible method of securing a judicial determination of the rights of the Indians was that of bringing their claims directly before His Majesty's Privy Council."

In the course of the interview last mentioned, the Prime Minister stated, in answer to a question of the Representative of the "Friends of the Indians," that in appointing Commissioners the Government of Canada is committed only to the investigation of the facts, and that it would, therefore, be open to the Government to hold over all actual dealing with the reserves until the rights of the Indians should have been judicially determined. The assurance thus given was shortly afterwards communicated to the Nishga Tribe.

On 15th April, 1913, those representing the Council of Canada and the "Friends of the Indians," presented to the Minister of Justice "Reasons for Supporting Nishga Petition." One of those reasons was the following:—

"In our judgment it is not possible to secure a determination of the rights of the Indians by the method proposed in 1911, and by reason of failure to secure the consent of British Columbia it is not possible to obtain a satisfactory determination by means of referring questions to the Supreme Court of Canada."

In view of the fact that the Minister of Justice himself has since suggested the possibility that the rights of the Indians of British Columbia might be determined by means of the method proposed in 1911, namely a proceeding instituted in the Exchequer Court of Canada, it may be useful to mention one of the reasons which then led us to express the opinion above set forth. In the spring of 1911, Premier McBride declared emphatically to the Representative of the "Friends of the Indians" that the Province would fight "to the last ditch" against any attempt that might be made to bring the Indian land question before the Courts under any Dominion Statute, claiming that the Canadian Parliament has no jurisdiction to enact any legislation affecting the lands of the Province. There is no reason to believe that the attitude of the Provincial Government towards any such attempt is now different. It seems clear to us that the probability of such contention is, apart from other reasons that might be suggested, a conclusive reason against this method of procedure.

Upon occasion of the interview of 15th April, 1913, the matters involved were discussed at considerable length with the Minister, who at the close of the interview expressed the hope that the Government would at an early date reach a de-

cision which he said would be communicated. No such communication was received.

In pursuance of the various interviews which had been held with Canadian Ministers, and more especially those of March and April, 1913, the decision of the Nishga Tribe was carried into effect on 21st May, 1913, on which day the Petition of that Tribe was lodged in His Majesty's Privy Council.

The Nishga Indians took that step with the belief, based upon advice received both in Canada and in England, that in presenting such independent Petition, they were exercising a constitutional right, but with the desire expressed in their statement of January, 1913, to act to the fullest possible extent in harmony with the Government of Canada.

Subsequently the London Agents of the Tribe received from the Lord President of the Privy Council a letter relating to the Petition and stating as reason for not immediately referring it to the Judicial Committee the alleged fact that "the whole matter raised by the Petition is at present under the consideration of a Royal Commission."

In September, 1913, in reply to a Memorial presented by the Nishga Tribe the Commissioners stated that they were not considering and had no power to consider the aboriginal claims of the Indians, and further in effect stated that the Agreement under which they were appointed assumes that the Indians of British Columbia have not the aboriginal rights claimed.

In October, 1913, the Indian Affairs Committee adopted a resolution, again declaring the necessity of securing a judgment of the Judicial Committee, and earnestly appealing to the Government of Canada in every way possible to help the Nishga Tribe to secure an early reference of the Petition to the Judicial Committee, and to take action to that end at once.

On 29th October, 1913, the resolution above mentioned was presented to the Superintendent-General of Indian Affairs and Hon. George E. Foster, representing the Government of Canada, when these Ministers expressed the hope that the Government would soon reach a decision.

In the absence of any such decision, those representing the Council of Canada and the "Friends of the Indians," conferred in London with the Agents of the Nishga Tribe, when it was decided to defer taking further steps in the Privy Council until another effort had been made to secure a decision at Ottawa.

On 7th January, 1914, there was handed to the Representative of the "Friends of the Indians" a copy of the opinion

regarding the Nishga Petition, which had been given by the Minister of Justice in the previous month, in the course of which that Minister, while conceding that the claim of the Nishga Indians has sufficient foundation to justify consideration by the Courts expressed the opinion that the Agreement of 24th September, 1912, "appears to evince a departure from the policy of the late Government," and that it might be considered incompatible with the intention of that Agreement that the Dominion should maintain cause of the Indians in respect of the aboriginal title.

At a meeting held on 23rd January, 1914, the Indian Affairs Committee passed a resolution appealing to the Government of Canada not to reverse what the Committee understood to be the settled policy of Canada, and resolving to join the "Friends of the Indians" in seeking to have an interview with the full Canadian Cabinet as soon as it might be practicable to arrange for such interview.

In the course of an interview had on 6th March last with the Superintendent-General of Indian Affairs, that Minister assured us that the Government of Canada had by no means decided to reverse the previous policy, and that on the contrary the Deputy Superintendent General would soon present a memorandum making proposals with a view to bringing the claims of the Nishga Tribe and other Tribes before the Judicial Committee, under such conditions as might sufficiently safeguard the interests involved.

In the course of interviews since had, these proposals have been orally communicated and explained, and it has become clearly known that the main desire of the Government of Canada is, by agreement with the Indians, to arrive at a basis of settlement to be used in the event of a favorable judgment. It has also been learned that the Nishga Indians have communicated to the Commissioners their unwillingness to make representations regarding reserves to the Royal Commission. In this connection, both the Minister and the Deputy Minister have expressed a strong desire that the Indians be advised not to persist in that refusal. Also in connection with these matters, we have been assured that the Government of Canada has no intention of pronouncing an opinion upon the merits of the Nishga Petition, and that these Indians should feel assured that making representations will not prejudice the rights claimed by them.

The Deputy Minister has also stated that if a basis of settlement be agreed upon the Government of Canada will in every way help the Nishga Tribe in securing a determination

of their rights, and among other things will furnish all money needed for that purpose.

On 22nd April last, the Indian Affairs Committee, after very full consideration, declared that it was not possible for that Committee consistently to advise the Nishga Indians to make representations regarding reserves to the Commission "until arrangements have been made to refer the question of title to the Judicial Committee."

Since the Committee adopted that statement, two very important items of information have reached us from Ottawa, namely:—

1. That it has been informally agreed between the two Governments that no report will be made by the Commission dealing with the matter of reserves in any part of British Columbia until the Commissioners shall have completed their investigations and be prepared to make one final report regarding the whole Province.

2. That at present the Commissioners have not decided even approximately upon a date for visiting the Naas River.

Under the circumstances above outlined, we think there is hope of accomplishing two things at an early date:—

1. That a basis of settlement shall be agreed upon between the Government of Canada and the Nishga Tribe.

2. That other Tribes which have already declared their general agreement with the Nishga Tribe, including important Northern, Southern and Interior Tribes, shall concur in such basis of settlement.

Before closing this memorandum, we desire respectfully to point out how urgently important it is that at an early date some definite word should go from the Government of Canada to the Nishga Tribe. In October last that Tribe, having constantly expected word from Ottawa and not having received such word, resolved to send four delegates to London, England, to wait upon His Majesty the King and the Secretary of State for the Colonies. Being in England, and having received this information, we sent a cablegram advising the Indians to defer such action. Again in April the Indians assembled and expected word. On or about 20th June, these Indians will again assemble, and the Representative of the "Friends of the Indians" has promised to meet them at that time.

In view of all that has been stated, we respectfully present the following requests:—

1. That before 15th June, there be placed in the hands of the Representative of the "Friends of the Indians" either the proposal now under consideration or some other definite statement of the conditions upon which the Government of Canada will help the Nishga Tribe.

2. That the Government be prepared to consider representations that may be made by the Tribe and any alternative proposal. This we consider to be of great tactical importance with a view to attaining the result aimed at.

3. That the final report of the Commission be not adopted by the Government of Canada until after the Judicial Committee shall have pronounced judgment upon the Nishga Petition.

4. That the Commission be asked to defer visiting the Naas River until after an effort has been made to agree upon a basis of settlement.

5. That the desired interview with the full Cabinet be also deferred until after such effort has been made.

6. That the appropriation of \$5,000 for expenses connected with the British Columbia Indian Land Question, which has been standing for some years, be renewed, so that the Minister may have available the money needed for responding to any request of the Indians which may be approved by him.

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#### ORDER-IN-COUNCIL.

20TH JUNE, 1914.

CERTIFIED COPY OF A REPORT OF THE COMMITTEE OF THE PRIVY COUNCIL, APPROVED BY HIS ROYAL HIGHNESS THE GOVERNOR-GENERAL, ON THE 20TH JUNE, 1914.

The Committee of the Privy Council have had before them a report from the Superintendent General of Indian Affairs, dated 11th March, 1914, submitting the accompanying mem-



orandum from the Deputy Superintendent General of Indian Affairs upon the Indian claim to the lands of the Province of British Columbia, in which he concurs.

The Committee, on the recommendation of the Superintendent General of Indian Affairs, advise that the claim be referred to the Exchequer Court of Canada with the right of appeal to the Privy Council under the following conditions:—

1. The Indians of British Columbia shall, by their Chiefs or representatives, in a binding way, agree, if the Court, or, on appeal, the Privy Council, decides that they have a title to the lands of the Province, to surrender such title, receiving from the Dominion benefits to be granted for extinguishment of title in accordance with past usage of the Crown in satisfying the Indian claim to unsundered territories, and to accept the finding of the Royal Commission on Indian Affairs in British Columbia, as approved by the Governments of the Dominion and the Province as a full allotment of Reserve lands to be administered for their benefit as part of the compensation.

2. That the Province of British Columbia by granting the said reserves as approved shall be held to have satisfied all claims of the Indians against the Province.

That the remaining considerations shall be provided and the cost thereof borne by the Government of the Dominion of Canada.

3. That the Government of British Columbia shall be represented by counsel, that the Indians shall be represented by Counsel nominated and paid by the Dominion.

4. That, in the event of the Court or the Privy Council deciding that the Indians have no title in the lands of the Province of British Columbia, the policy of the Dominion towards the Indians shall be governed by consideration of their interests and future development.

All of which is respectfully submitted for approval.

RODOLPHE BOUDREAU,  
Clerk of the Privy Council.

## REPORT OF INTERVIEWS WITH MINISTERS.

3RD AND 4TH FEBRUARY, 1915.

Report of proceedings at the meeting of the representatives of the Nishga Indian Tribe with the Honourable Charles J. Doherty, Minister of Justice, and Honourable W. J. Roche, Minister of the Interior, on the 3rd day of February, 1915.

The deputation, composed of Messrs. Lincoln, Derrick and Calder, representing the Nishga Indians, and Mr. Woods, Secretary and Interpreter, was introduced by Mr. A. E. O'Meara, Counsel for the Indians.

Mr. Lincoln, Chairman of the Deputation, presented the formal answer of the Indians to the proposals of the Government, contained in the Order-in-Council of the 20th June, 1914, which statement is as follows:—

### STATEMENT OF THE NISHGA NATION OR TRIBE OF INDIANS.

We have been informed of the Order-in-Council passed on the 20th June last and the attached Memorandum of the Deputy Superintendent-General of Indian Affairs, and these papers have been fully explained to us.

We note with thankfulness that the Government of Canada has now formally recognized the fact that we make the claims set out in our statement attached to the Order-in-Council, which was adopted in January, 1913, and was embodied in our Petition brought before His Majesty's Privy Council in May, 1913, and that the Government has by doing so taken an important step towards dealing justly with our claims.

We cannot, however, accept the proposals contained in the Order-in-Council for reasons which will be found in our former statement and this statement.

The Deputy Superintendent General in his Memorandum attached to the Order-in-Council has expressed the opinion that our view regarding the nature of our rights is erroneous and has described as "fancies" the claims which we and the other Tribes of the Province have most earnestly made ever since white men began to come into our country.

The Order-in-Council is, as we submit, capable of being understood as approving the opinions above mentioned. We think this fact would seriously imperil our rights if decided under the Order-in-Council. Whenever our Petition may have a hearing before His Majesty's Privy Council or any other Court we do not want that it should be tied to a document declaring that its claims are unfounded. We do not

want to have our hands bound and our mouths closed in this way, but wish to be free to speak and act in the Court.

It has been generally understood that the Government intended to propose that there should be a right of appeal from the Exchequer Court of Canada to the Judicial Committee of His Majesty's Privy Council. We point out that the Order-in-Council contains no such words and is, as we submit, capable of being understood as providing for an appeal not to the Imperial Privy Council, the tribunal to which we have been looking with longing eyes for years and the only tribunal whose decision we are prepared to accept as final, but to the Canadian Privy Council.

While our Petition is now before His Majesty's Privy Council and we expect will in the end be decided by that tribunal, we are willing that first of all it shall be brought before a Canadian Court, if advised that we shall have before that Court the standing necessary for fully safeguarding our rights, and that a decision binding upon British Columbia can by that means be secured.

With a view to fully safeguarding our rights and securing a decision removing all grounds of dissatisfaction, we desire to be represented by Counsel chosen by ourselves, upon such financial terms as may be arranged.

With regard to the terms upon which it is proposed that we shall surrender our title, we think it very important first of all to point out the limitations under which lands will be set aside by the Royal Commission. The report of Special Commissioner McKenna, presented in October, 1912, makes perfectly clear that all such lands will be set aside out of Crown lands remaining undisposed of. We are, therefore, very sure that the land situation confronting us in the Naas Valley, explained in our former Statement, cannot be fully and justly dealt with under the agreement of 1912. Even if the position were different and it were possible for the Commissioners to restore to us lands wrongfully disposed of by the Province of British Columbia in violation of the Proclamation of King George Third, we would claim to have a real voice in deciding what lands are to be reserved for our use and benefit. Moreover, while we are prepared to consider the findings of the Royal Commission on their merits when known to us, we are not prepared in advance to bind ourselves to accept such findings, not knowing what they will be, and not even knowing that any additional lands will be set aside.

The Government of Canada having promised to consider any proposals that we might make, we beg to make for consideration of that Government and the other Tribes the follow-

ing proposals, without, however, saying that they are the only terms to which we would agree:—

1. That when the findings of the Royal Commission are known, each tribe that may consider such findings insufficient shall have opportunity of making application for additional lands to be reserved for the use and benefit of the Tribe for reasons to be stated in such application, and every such application which cannot be dealt with by conference between the Tribe and the two Governments shall be decided by His Majesty's Imperial Minister, the Secretary of State for the Colonies, in pursuance of the principle embodied in Article 13 of the "Terms of Union."

2. That in fixing compensation regard shall be had to all the terms and provisions of any treaty made between the Crown and any Tribe of Indians in Canada.

3. That in fixing compensation regard shall also be had to all restrictions and disabilities imposed upon Indians by Provincial Laws and those imposed by Canadian regulations relating to the fisheries.

4. That all remaining matters, including an equitable method of fixing compensation, shall be adjusted by enactment of the Parliament of Canada.

And now we close this Statement with renewed hope. We rely upon the honour of the British Crown pledged for the protection of our rights by the Proclamation of King George Third. We again place our case before the King's Great Court and confidently look for a decision justly determining what are our rights. We place our cause which is greater than our case before the whole people of Canada. We ask that they make known to the Government of Canada that this great and strong Dominion really wants to treat us, although few and weak, with full justice.

The above statement was unanimously adopted at a meeting of the Nishga Nation or Tribe of Indians, held at Kincolith on the 4th day of December, 1914.

W. J. LINCOLN,

Chairman of Meeting.

Mr. O'Meara, Counsel for the Indians, addressed the Ministers as follows:—

Honourable Gentlemen:—

What I have to say will be few and short remarks:—

With regard to what is described in the answer of the Nishga Indians as the land situation in the Naas Valley, I

wish to put before you some blue prints obtained from the Land Office of British Columbia. You will find that they show every transaction under the Land Act that has taken place in the Naas Valley up to the present time.

I wish to mention that it is an important historical fact that when in 1869 the Senate and House of Commons presented an address to the Governor-General, praying for the extension of the boundaries of Canada to the Pacific Coast, this promise was made: (I am quoting from the *Journals*, Vol. 1, pages 67 and 68) "The claims of the Indian Tribes to compensation for lands required for purposes of settlement, will be considered and settled in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines."

I respectfully ask attention to this, that the result of the important promise given is: that Canada already stands pledged to compensate these Indians for the lands which are shown by the blue prints to have been in a sense, taken for settlement, or at least disposed of. I speak of that because it is important to note that the proposal of the Government to compensate the Indian tribes of British Columbia is not a new matter, but the carrying out of a promise made in 1869.

I wish next to mention the provisions of the terms of the Union between British Columbia and Canada, with which you are familiar. I respectfully point out that in the terms of Article 13, under which lands were to be given to Canada for the use and benefit of the Indians of British Columbia, there are distinctly two classes of case:

The first was that in which the Government of Canada requested the lands and the Government of the Province was willing to grant those particular lands;

The second class of case was that in which Canada requested the land but the Province was not prepared to agree.

I simply point out that while to a very large extent class No. 1 has been dealt with and is being dealt with to-day through the Royal Commission, class No. 2 has not yet been dealt with, or at least, not dealt with upon principles embodied in the article.

I would next point out that the claims which the Nishga Indians are making are based upon a Proclamation of King George the Third. That Proclamation is manifestly an Imperial document; it is more than that because it has been held in the courts to have the force of a statute. According to the contentions of the Nishga Indians, and, I believe, of other tribes, that Imperial enactment upon which they rely, has not

been repealed and was not affected by anything that was done at the time of Confederation.

I would next point out that if on the one side you put the very terms of the Proclamation of King George the Third, and then on the other side you put the terms of the statement of the Nishgas made in January, 1913, every claim which is made by the Nishgas, I would respectfully submit, is borne out by language to be found in the Royal Proclamation.

I would next remind you, honourable gentlemen, that the claims of the Nishga and other tribes of Indians in British Columbia, were in the fullest sense, and one might say in an emphatic way, supported by the report of the Minister of Justice of 1875, which report, as is well known, was adopted by the Governor General in Council. I would ask attention to these features of the report that speak of the territorial rights of the Indians. It says that it is impossible to deny the rights that they are claiming and it comes to the conclusion that these rights are an interest in the lands of British Columbia under the British North America Act. I must mention that the claims which have been spoken of are now before His Majesty's Privy Council in the form of a direct petition of the Nishga Tribe. I will not at all argue the matter, but would point out the fact that the petition is a resort to the original jurisdiction of His Majesty's Privy Council. Moreover, the latter has been acknowledged by the letter of the Lord President, addressed to the solicitors for the Nishga Tribe. You, honourable gentlemen, are aware of the steps that were taken. It was thought by the Lord President that the Royal Commission was dealing with these claims, and that was the reason given for not referring the petition to the Judicial Committee, and you well know, gentlemen, that the matter was brought before the Royal Commission.

I next remind you, honourable gentlemen, that the Nishga petition has been dealt with in an opinion by the present Minister of Justice, and I wish just here to quote a few words of that: "Upon the merits, I think the Indian claim is a very doubtful one, but I am not prepared to say that it is without sufficient foundation to justify consideration by the courts."

I wish to say a few words about the dealing with the petition by the Deputy Superintendent General, and I may be permitted to express my regret that Mr. Scott is not able to be here. I had hoped that he would be here when I spoke of these matters.

First, I respectfully submit that whatever may be the merits of Mr. Scott's opinion, it is in conflict with previous



official dealing with the matter of the claims of the Indians of British Columbia.

Second, I wish to draw attention to what I conceive to be manifestly an incorrect statement of facts contained in Mr. Scott's memorandum. I wish to be very clearly understood at this point that I am not discussing Mr. Scott's opinion. Mr. Scott has the same right as any other man has to his own opinion, even if everyone else holds different views. What I am speaking of is the main statement of facts contained in Mr. Scott's memorandum. After discussing the claims of the Nishgas, and expressing strongly his view that their views are erroneous, he winds up his opinion in these words:—"From these words it will become apparent what fancies occupy the minds of the Indians when they think of the aboriginal title and its purchase," and then Mr. Scott goes on to state that the Privy Council has already pronounced upon the nature of the Indian title. This is the statement of facts, which I respectfully submit is not well founded. Here is what their Lordships in delivering judgment said, and that I may put the matter fairly, I will read the context of it:—

LORD WATSON—

"It was suggested in the course of the argument for the Dominion that inasmuch as the Proclamation recites that the territories thereby reserved for Indians had never "been ceded to or purchased by the Crown," the entire property of the land remained with them. That inference is, however, at variance with the terms of the instrument which show that the tenure of the Indians was a personal and usufructuary right dependent upon the good will of the Sovereign. The lands reserved are expressly stated to be "parts of our Dominions and territories" and it is declared to be the will and pleasure of the Sovereign that "for the present" they shall be reserved for the use of the Indians as their hunting grounds under his protection and dominion.

"There was a great deal of learned discussion at the Bar with respect to the precise quality of the Indian right, but their Lordships do not consider it necessary to express any opinion upon the point. It appears to them to be sufficient for the purpose of this case that there has been all along vested in the Crown a substantial and paramount estate underlying the Indian title, which became a plenum dominum whenever that title was surrendered or otherwise extinguished."

Now, what I desire with all deference to put forward and ask consideration of is this: You will find that Mr. Scott's information that the Privy Council, to whom the Nishgas

desire to appeal, has already pronounced, is erroneous, and you will find Lord Watson's in explicit language to be the exact opposite. I just respectfully suggest that the Nishga Tribe and other tribes interested, may reasonably ask that in further dealing with this matter of the Indian land question in British Columbia, there be a reconsideration of the ground upon which Mr. Scott has proceeded in his memorandum. I respectfully point out in this connection that the Government proposals are based upon the opinion of Mr. Scott and that the opinion of Mr. Scott is based upon what I respectfully submit is an incorrect statement of facts.

I wish to just add that having in view the opinion and strongly expressed advice of the Minister of Justice to which the full consideration due has been given, I have advised the Nishgas that while presenting in a formal way their full answer to the Order-in-Council of the Government, they should proceed, after giving any necessary information, they should proceed to discuss first of all the matter the Minister of Justice speaks of, that is the proposed terms of surrender, and I wish to point out that in that connection there is now before the Government for the first time a definite basis of settlement which has been proposed by an Indian tribe; I venture to think that this is a fact which may be of some service with a view to arriving at a just and satisfactory solution of the whole matter, such equitable solution as the Imperial Minister expressed his desire for in July, 1911.

MR. WOODS—I would like to read a letter addressed by Honourable Dr. Roche, Minister of the Interior, to Mr. A. E. O'Meara, under date 15th January, 1915—

MR. O'MEARA.—I would like to explain that Mr. Woods is the Interpreter and Secretary of the delegation.

Mr. Woods then read the following letter:

Ottawa, Ontario,

15th January, 1915.

Dear Mr. O'Meara,—

In reply to your query as to the meaning of certain expressions used in the Order-in-Council passed on the 20th June, 1914, I beg to say that where the term Privy Council is used, it is intended to mean the Imperial Privy Council; and in passing the said Order-in-Council the Governor-General-in-Council had no intention of expressing their views regarding the merits of the Nishga petition.

Yours faithfully,

W. J. ROCHE.

A. E. O'Meara, Esq.,  
Prince George Hotel,  
Toronto, Ont.

MR. WOODS.—Honourable gentlemen, if you will permit Mr. Derrick will now say a few words.

MR. DERRICK.—I won't take up much of your time, honourable gentlemen. I am glad that we have arrived here after a long trip. We came here after the Order-in-Council had been fully explained to us, and had noted the contents. We come here for an opportunity to express our views on the matter, and to show you that according to the Order-in-Council there is a clause which states that it was left in the hands of the Royal Commission to give the Indians lands. I wish to state that I am from the Naas River District myself and know that there are no lands there to be given to us, because they have already been taken up by preemption. You gentlemen can see for yourself by looking at the blue prints that all the lands on the Naas River have been taken up by whites. We asked the surveyors to wait over until this important question had been settled; we did not want to cause any trouble, but they still went on surveying these lands. Now we wish to show you that we have nothing left for ourselves.

MR. CALDER.—I have taken up the matter, and wish to say that even if the position were different, that is even if it were possible for the Commissioners to restore lands that have been disposed of by the Province of British Columbia, we still claim to have a real voice in deciding what lands are to be reserved for our own use and benefit. Our intentions are friendly, but we came long ways to try and do our best to express our minds to you honourable gentlemen, and in a friendly way, so that we can come to some final agreement about this important question.

MR. LINCOLN.—We, honourable gentlemen, gave you our statement for you to look over; this expresses our minds, but we don't say that is all that we are ready to discuss, that is the contents of the statement. We are prepared to consider any proposal that may be got up by the Government or by any tribe in British Columbia. We are ready to consider that. We have been informed that in time of Confederation, that an agreement was made that the Secretary of State for the Colonies would decide the question of what lands were to be reserved for the Indians. As to our second proposal, I wish to say that we are willing that the treaties which have been made by the Government of Canada, with tribes of Indians in Canada, should be used as a guide.

About No. 3 of our proposals, I wish to show you why we worded it in this manner. The Provincial restrictions referred to mean the prevention of the purchase of lands by the

Indians and citizenship which we are not allowed to take up. Honourable gentlemen, we have trust in the Parliament of Canada. I wish to say that we are willing that they should pass a law to arrange for the fixing of compensation. We leave that entirely to them. Honourable gentlemen, I know that you are just as anxious as we are to have this question settled, and I respectfully request of you an opportunity for a fuller discussion of this question. I also respectfully request that some definite understanding be come to between us, that will lead on to dealing further with this matter successfully. That is all I wish to say.

MR. WOODS.—On behalf of the deputation, I myself wish to say that we desire to bring up the matter of fisheries for discussion, but we do not want to take up too much of your time; if it is desirable we will leave the matter over to another opportunity of discussion. I just want to inform you that we are prepared to bring the matter up.

HON. C. J. DOHERTY.—If the matter of Indian claims were referred for determination by the courts, would the fisheries question be included? We would be willing to listen to anything that is desired to be said.

MR. O'MEARA.—May I just explain, that in a sense, this matter of fisheries is separate. The fact is that at the present time there are regulations for which under the recent decree Canada is held responsible, because Canada has absolute control of fisheries.

HON. W. J. ROCHE.—From what I understand from Mr. O'Meara, the Indians are not apparently prepared to accept the reference to the Privy Council under the conditions set forth in the Order-in-Council.

MR. WOODS.—This is stated in our memorandum.

HON. C. J. DOHERTY.—What I understand is that although there may be some other proposals, that in any case they would not accept the proposals contained in the Order-in-Council. I am not prepared to say that the Government would not make further proposals; no expression of opinion can be given by us to-day upon this subject; all we can do is to lay the matter before Council.

We shall be very glad to have an opportunity for further discussion. We are very sorry that we do not have the pleasure of discussing this matter with the gentlemen themselves, in their own language. We would be very glad to consider any suggestion they desire to make, but we would like to know whether to consider that they positively refuse to accept the offer contained in the Order-in-Council, in the event of the Government not seeing its way to accept such suggestions or

the suggestions that are made in the answer which is now before us.

MR. O'MEARA.—Honourable gentlemen, all that I feel justified in doing this morning is to point out that you have the statement of the Tribe before you and that it does not contain the expression of their refusal to accept anything, but simply states that for reasons therein mentioned, they are not able to accept. They do not speak of the future in one way or the other. Moreover, I might say that so far as I know the mind and spirit of the Tribe, it is absolutely a wish to consider the proposals of the Government and that the Government should consider the proposals of the Nishgas, and if possible to arrive at a settlement. I do not think the delegates would be in a position to go beyond that.

HON. C. J. DOHERTY.—All I want to point out is this: The Government has made its proposals; it is for the Indians to accept or reject them; the Nishgas are now making theirs, it is for the Government to accept or reject. I would like to make clear whether the Government's proposals are rejected, so that if the Government does not see its way to accept the proposals of the tribe and is not prepared to make any other proposal, the matter is at an end.

MR. DERRICK.—I wish to say that there are things contained in the Order-in-Council that are far from being satisfactory to us, and so we decided to get up a statement of our own; it seems to me that you gentlemen will not take that, and yet you want us to commit ourselves. All I can say is that what we want is to have this question decided in court. As long as this question is brought for decision before the court we will be satisfied.

HON. C. J. DOHERTY.—We shall be very pleased, as far as Dr. Roche and myself are concerned, to consider what they said and submit it for consideration to our colleagues and intimate to them such answer as Council authorize us to make.

MR. O'MEARA.—If I might be allowed, it is advisable that the Government should know as fully as possible the minds of these Indians of the Naas Valley, and that as far as possible the Indians should know the thoughts of the Ministers. It is believed that this might lead to some result, and, therefore, the request was made for some further opportunity for discussion.

HON. C. J. DOHERTY.—If it is thought that any good can come out of a further interview we will be very glad to receive the gentlemen and hear from themselves what they desire to say.

Upon the hearing being resumed on the fourth day of February, 1915, Mr. Lincoln presented the following supplementary statement of the Indians:—

SUPPLEMENTARY STATEMENT OF THE NISHGA NATION OR TRIBE  
OF INDIANS.

The delegates having carefully considered the remarks made yesterday by the Ministers, beg to present this supplementary statement.

We found it very difficult to answer the question put to us by the Minister of Justice, whether the Tribe intended to finally reject the terms of surrender proposed by the Government. Now we wish to speak further in answer to that question.

We do not mean now to finally reject the Government's proposals. On the contrary, one purpose for which we were sent to Ottawa was to get from the Canadian Ministers all explanation and information relating to those proposals and all reasons supporting them that the Ministers might see fit to give to us. Our minds are open and we believe the minds of those whom we represent will be open to receive all such words spoken to us, which might possibly influence the Nishga Tribe in favor of the proposals. Moreover, in any case we would not finally reject the Government's proposals before knowing more fully the mind of other tribes regarding them.

We will state the present position as correctly as possible. The mind of the Nishgas as now known to us and expressed in their various statements and the mind of the Government of Canada expressed in the Order-in-Council, as now understood by us, are so far apart that at present we see no reason for expecting that the terms of surrender proposed by the Government will be accepted by the Nishgas.

Having been clothed with full authority to arrive at an understanding with the Government, which it is the most earnest desire of the Tribe to do, we wish to lay before the Ministers and if possible before leaving Ottawa to secure their approval of, some plan which may be expected rapidly to lead on to definite results.

As is well known, our own plan has been to proceed with our Petition before His Majesty's Privy Council, and our hope has been that the Government of Canada would in every way possible help us in doing so. This plan would still be our choice, and in carrying it out while we would ask the Government to advance the funds needed such advance, if granted, would be made upon security of our Reserves, in accordance with a resolution which was passed by the Tribe in July last.



We have been willing and are still willing that instead of our plan the Government's plan should be carried out, if terms of surrender and other necessary matters could be agreed upon.

We should explain how the matter of consulting other Tribes now stands. In July the Kitkahtla Band of the Tsimpsan Tribe sent to the Naas River delegates who conferred with the Nishgas and expressed approval of the main proposals which we have now brought before the Government. In August we met the Haydas and Kitisheans who passed resolutions approving our main proposals. For some length of time the Interior Tribes have proposed to hold a meeting at Spence's Bridge and have invited us to attend and explain our Petition and our proposals. This we have agreed to do, and this morning received a telegram stating that the meeting would be held on the 25th instant.

Following is the plan for the immediate future, which we respectfully submit for consideration:—

1. That by means of the report of the interviews now being held and by any other means thought desirable, the mind of other Tribes regarding both the Government's proposals and our own, be secured.

2. That as soon as it may be thought that the mind of other tribes has been sufficiently secured, the Government, having before them such fuller information, either accept the proposals of the Nishgas, make such new proposals as they may decide upon, or help the Nishgas to proceed with their Petition.

There is one additional matter arising out of our statement which we desire to take this opportunity of laying before the Ministers, namely, the Fisheries. By reference to the resolution passed by the British Columbia Branch of the Fisheries Board, it will be found that the main reason for not altering the regulations relating to Northern British Columbia so as to allow Indians to take out independent licenses is the alleged policy of the two Governments. We understand that the Minister of Indian Affairs is convinced that the regulations should be altered. We ask that this matter of policy be soon dealt with so that the way may be opened up.

All of which is most respectfully submitted.

W. J. LINCOLN.

Chairman of Delegation.

OTTAWA, 4TH FEBRUARY, 1915.

The hearing was resumed on Thursday, the 4th instant, at 4.30 p.m., Mr. Scott also being present.

MR. DERRICK.—Honourable gentlemen, I know you have heard a lot about our claims for lands in British Columbia, but I myself don't think that you fully understand the situation, and if you will allow me, I would like to show you the blue prints of the Naas Valley and show you what state things are in up there. We handed in blue prints here yesterday. We know that every transaction dealing with lands in the Naas River Valley is a violation of the Royal Proclamation issued by King George the Third. Honourable gentlemen, I ask you if what we have heard is true, that is that the Royal Commission on Indian Affairs can only deal with lands outside those that have been disposed of by the Government, and if that is the case, I will show you on these blue prints that I have here of the valley, that it would not be dealing fairly with us, because there are no lands to mention outside of those that have been disposed of in the valley. The most important request that I make of you, honourable gentlemen, is that we should have a real voice in deciding what lands are to be reserved for our own use. I thank you, honourable gentlemen, for your attention.

MR. CALDER.—Honourable gentlemen, I wish to convey to you one matter contained in the Order-in-Council, or at least in the proposals attached to the Order-in-Council, to the effect that it was demanded of us to bind ourselves to an agreement, that is to agree to the findings of the Royal Commission, without our knowing whether the Royal Commission is prepared to give us any additional lands. Now, I wish to say that we are not prepared to jump in the dark, but we have left our statement here and I think myself that it fully explains our minds upon the subject. One thing that I want to convey to you, honourable gentlemen, is that we have come a long way to get you to understand our minds on the subject and we in return want to understand your minds, what you think of it and we want a final answer, that is of what you propose doing to help us out in our claims.

The conditions under which we are now living are bad enough, but after looking over the proposals attached to the Order-in-Council, I do not see that that will remedy the conditions any, and so I wish to tell you that the Nishga Nation have given us authority to act in any way that we think best; they have left everything in our hands to bring this thing to a final settlement if possible, and I want to say that we are prepared, if the Government is willing, if they want to change the proposals and make them a little more easy for us, we are prepared to look them over and we might come to some agreement. I want to ask you, honourable gentlemen, if

what we have been told is correct, that the Secretary of State for the Colonies has been given power to finally decide what lands are to be set aside for the Indians. I would like to get an answer to my last question.

HON. C. J. DOHERTY.—Whatever powers the Colonial Secretary has are set forth in the Terms of Union. He has power to intervene, as far as my memory goes, in the event of the two Governments, that is Provincial and Dominion, not agreeing with regard to lands. I cannot give any further answer than that at the present moment; one would have to look into the agreement to give a definite reply; it is perfectly clearly set forth in the terms of the Union what his powers in the matter are.

MR. CALDER.—I am satisfied and thank you for your answer, honourable gentleman.

MR. DERRICK (in English).—This is the map of the Naas Valley. All the land in the Naas Valley has been taken up by the white friends; not one inch is left for us; just a piece reserved; that is where the trouble is; because the land offered to us before for hunting ground the white friends take them all, and we do not trouble them, we do not stop them, but we stop the surveyors because we do not want trouble with them. With our friends we are looking to the Government; what is right they will do because they much good to us. That is what we came down here to see, about this land question. We do not want trouble with anybody; we want to see what you are going to do for us, for our own land. I hear some white friends say we stayed in Naas Valley last twenty or thirty years before, but I do not know, they live in the same place. Now I am 59 years old and my father and my grandfather did not tell me there was any treaty with the Government, and to-day the great trouble is about the land, and our Government they make money in that land. They sell it all to white friends preemptors and some men come up in Naas Valley and they make money (in furs) in our place and some white friends make plenty of money. We cannot move outside the reserve under the Indian Act. That is why we come down to ask the Government to give us the right under the Indian Act so that we can move outside, and they give us the name of the reserve and we do not want that name, and last forty years we are talking about the land, but now we come down to see what the Government here will do and we would like to meet them here and they received us and we are satisfied with this. Our Government in British Columbia, Sir Richard McBride, he did not want to see us; although we

gave him petitions at different times, we did not have any answer.

MR. SCOTT.—Have you any proposition to make? Our experience has been that the Royal Commission have satisfied the Indians as far as they have gone and we had hoped that they would do so at the Naas River, because they have not reached there yet. They should be there this summer.

HON. W. J. ROCHE.—That is what we hoped this Commission will do, when they reach your part of the country, they would be able to adjust the reasonable expectations of the Indians with regard to land, because in other places they have been able to do so, not in Naas Valley, but in other parts of British Columbia.

MR. WOODS.—You gentlemen can satisfy yourself that there are no lands to be given by the Royal Commission unless they are prepared to give us already disposed of land. There is no transportation up here (looking at the blue prints).

MR. SCOTT.—You are out in a very young country up there. In 50 years from now it will be quite different.

MR. WOODS.—We thought we would be entitled to have first choice in the land and the whites to go further up.

MR. SCOTT.—That is a point of view that should be placed before the Commission.

HON. W. J. ROCHE.—They would have to decide whether there is sufficient land for your population. What size are the villages in the Naas Valley?

MR. WOODS.—They are of different sizes. Apart from this Kincolith Valley, there is a village running to the water. You could put nothing in there. In fact, the village just fits in a little piece of land.

We got a wire asking us to attend a meeting at Spence's Bridge on the 25th of this month and we have answered that we would do so.

May we expect that the Royal Commission will reach Naas Valley this summer?

MR. SCOTT.—Yes, by the end of this summer.

MR. WOODS.—Our Indian Agent came up there and told us to be prepared to meet the Royal Commission any time, and advised us what to do about the land. He said even if some of these lands have been taken among those that you desire to be reserved for your own use and benefit, make a list of them, whether they have been taken up or not, and give them to the Royal Commission. From that we understood that the Royal Commission would be prepared to give us some of the lands

taken up by the whites, and that is why we put the question up to you.

MR. O'MEARA.—There is no doubt at all from Mr. McKenna's report, that the reserve is to be set aside from lands undisposed of.

MR. SCOTT.—That depends on the conditions that the Royal Commission will find there.

MR. O'MEARA.—The point is whether they are to deal with the lands according to Mr. McKenna's statement that their powers are only with lands undisposed of.

HON. W. J. ROCHE.—What would be the solution then?

MR. O'MEARA.—There would be no solution whatever if Mr. McKenna's statement is right.

MR. SCOTT.—A few weeks after the Commission went to British Columbia they found special conditions there and sent in a report asking that they be authorized to go into these conditions, but the Government decided that they should confine themselves to the powers granted under this Commission.

HON. W. J. ROCHE.—As I understand your suggestion is that if the Privy Council were to decide in your favour you want to open up the whole question again, if the Commission's report does not suit you. You want to keep yourself free to abide by the decision.

MR. DERRICK.—I want to say this. The reason why this land question was brought up is that this reserve system was put on us, and this reserve system put a number of restrictions on the Indians. It is those restrictions that we want to have done away with.

HON. W. J. ROCHE.—You are opposed to the reserve system. If the decision of the Privy Council were in your favour, and decided that you were to have more land, that would not please?

MR. DERRICK.—It is the law relating to the reserve system, the restrictions placed upon us that we are fighting against, that we want to do away with. That is the main issue. I want to tell you now that it is hard for anybody to live on those reserves under the laws. You can see for yourselves that we have taken your clothing, we are trying to duplicate your views and ways of living as much as possible; our food is the same, but things are different with us as against the Indians who live right in Vancouver, near the seat of the Government, that is the Government of British Columbia, and we feel that it is hardly fair that we should be included in the laws in force against these Indians.

HON. C. J. DOHERTY.—What are the restrictions that you object to?

MR. DERRICK.—I am surprised that that question should be asked by you gentlemen that are dealing with this matter. One of the restrictions is this: we live up in that country, but have we the power to take up a piece of land and cultivate it for ourselves? But a white man, a foreigner will do so. That is one of the restrictions.

HON. C. J. DOHERTY.—Do I understand that your objection is that no matter what the size of the reserve is a particular Indian cannot acquire any particular part of that for his own use and benefit?

MR. DERRICK.—Yes.

MR. CALDER.—There is more than one restriction put upon us. There are a number of them. We are just giving you these few to show you how much we are troubled in this matter. Another thing, we are living right on the river, but whites come in and have a right to get independent licenses to fish in the river and we cannot get them. The conditions of everything are unsatisfactory, and we have handed in statements which I think explain these things pretty well, and these statements tell you what we desire, what we want.

HON. W. J. ROCHE.—In the past these licenses have been granted by the Province.

MR. WOODS.—They have been issued for the first time last year.

MR. SCOTT.—While the delegates are here they might take up the matter of fisheries with the Department of Marine and Fisheries. I would be glad to take them over myself. We could satisfy them as far as we can about that. I do not know that it would make much impression on the Department, but they would hear what you have to say.

MR. WOODS.—Thank you.

HON. MR. DOHERTY.—I understand one of their objections is that they cannot individually hold property?

MR. SCOTT.—I think they cannot go outside of the reserve. The Provincial Land Act does not allow them to do that. They cannot homestead or purchase.

HON. MR. DOHERTY.—That is a Provincial thing and I do not very well see what we can do about it, but if I understood right, he said that they object to the whole reserve system, and I asked what were the restrictions they objected to and I suppose I misunderstood, but I understood that the gentlemen's objection was that they could not do as white men do and each one for himself. I merely want to make myself clear.



MR. SCOTT.—If that were the objection we could give them that.

MR. O'MEARA.—I think you will find that originally these restrictions against preempting and purchasing are really a part of the reserve system. We have historically found that they are connected with the reserve system.

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MEMORANDUM OF INTERVIEWS BETWEEN THE  
NISHGA DELEGATES AND MR. DUNCAN C.  
SCOTT, DEPUTY SUPERINTENDENT GENERAL  
OF INDIAN AFFAIRS.

At Ottawa, on the 5th, 9th and 10th February, 1915.

PREPARED BY THE DELEGATES.

APPROVED BY MR. SCOTT.

PRESENT:—

Mr. W. J. Lincoln, Chairman.

Mr. A. N. Calder.

Mr. T. L. Derrick.

Mr. R. S. Woods, Secretary and Interpreter.

Mr. A. E. O'Meara, Counsel.

Mr. Scott, having asked for information regarding that part of the statement of December last which relates to the choice of Counsel, the delegates placed in his hands the following:—

MEMORANDUM REGARDING COUNSEL.

The general position regarding Counsel for the Nishgas is shown by resolution passed by the Tribe at Kincolith, on 22nd January, 1913, as follows:—

"We desired that Mr. O'Meara, who has full authority to handle the case of the Nishga Nation, should consult with Mr. Clark, as counsel for the Indian Rights Association of British Columbia so that we might act in harmony with the plans of the Association. We regret that Mr. C. M. Tate should have taken action interfering with this course.

"We authorize Mr. O'Meara to secure on our behalf the advice of Mr. Clark or any other counsel as he may decide to be necessary.

"We also authorize Messrs. Fox and Preece, of London, England, to act as our agents and on our behalf to present a petition to His Majesty's Privy Council."

That still stands and the people desire it should stand to the end. The two are quite distinct—Nishgas and Indian Rights Association. Mr. O'Meara will handle Nishga Petition whether in Canadian Courts or Privy Council. Already he has secured, both in Canada and in England, much information and advice bearing upon the selecting of one or more additional counsel. When the proper time arrives he will advise and we will decide. We are now advised that the proper time has not yet arrived. Mr. O'Meara thinks it is not possible at present to deal fully and satisfactorily with that matter. Possibly in the near future an additional counsel might be asked to advise upon some special question, for example that of procedure. If soon or at a later date an understanding should be arrived at and the case should go before the Canadian Courts, in handling our petition a leading Canadian Counsel will be needed. If the Petition should go directly before the Judicial Committee possibly only an English leading Counsel will be required.

W. J. LINCOLN.

Chairman of Nishga Delegation.

Mr. Scott, having asked for an explanation of the reference to reserves as security for money to be advanced by the Government, contained in the supplementary statement, the delegates quoted from the opinion of the Minister of Justice given in December, 1913, and explained that when the views then expressed had been communicated to the "Friends of the Indians" and the Nishgas themselves, the former decided if necessary to secure from Canadian citizens interested a total advance of \$25,000 so as to enable the Nishgas to carry their case to the Judicial Committee, and the Nishgas passed a resolution agreeing that their Reserves should be deemed security for funds advanced in connection with the Nishga Petition, either by the Government of Canada or by or through the "Friends of the Indians."

Mr. Scott points out that the Government had assumed under certain conditions the burden of paying the costs of the action by the terms of the Order-in-Council of the 20th June, 1914.

The correspondence with the Minister of Justice of October and November last was discussed and various matters contained in the letter of the Minister of Justice were explained by Mr. Scott, who specially emphasized the promise of the Minister that the matter of procedure would be fully con-

sidered and dealt with. Mr. Scott also assured the delegates that Counsel on their behalf would have full opportunity of discussing this matter.

In the course of the discussion regarding procedure it was pointed out by Mr. O'Meara that in deference to the view of the Minister of Justice, the Nishgas had upon his advice decided to let this matter stand over until the matter of terms of surrender had been dealt with. Mr. Scott, however, thought it important that procedure receive early attention, and upon his suggestion it was arranged that Mr. O'Meara would, as soon as possible place in the hands of the Minister of Justice a memorandum dealing with those parts of the Nishga statement of December last, which relate to procedure.

In answer to Mr. Scott's question why a decision binding upon British Columbia is considered by the Indians to be necessary, the delegates made reference to the Nishga statement of January, 1913, and the Naas River land situation, as explained to the Ministers upon occasion of recent interviews.

The attitude of the Nishgas towards the Royal Commission and the correspondence relating to that matter which passed in April, 1914, were discussed at some length. The delegates explained that they felt serious difficulty in asking the Commissioners to set aside lands for them before a definite arrangement shall have been made for bringing their case before the Judicial Committee of the Privy Council. Also in support of their attitude the delegates placed before Mr. Scott the statement adopted by the Indian Affairs Committee on 22nd April, 1914, and then sent to the Minister of Indian Affairs and the Minister of Justice. In reply Mr. Scott recognized the importance of the points raised but strongly urged upon the delegates that with a view to protecting the interests of the Tribe, the Nishgas should bring all the facts relating to the land situation before the Commission.

Mr. Scott further stated it as his opinion that the Commission in dealing with the requirements of the Indians for reserves would deal justly with the matter and that if additional reserve lands were found to be needed for the Indians and so reported by the Commission they would in some way be provided.

Mr. Scott also stated emphatically that, as head of the Indian Department, he would not consider that a satisfactory settlement of the reserves had been arrived at unless any report of the Commission, recommending additional reserve lands, had been implemented.

DUNCAN C. SCOTT.

REPORT OF INTERVIEWS WITH MR. SCOTT.

OTTAWA, 11TH FEBRUARY, 1915.

MEMORANDUM.

Re Delegation of Indians of Naas River, who visited the Department on the 11th February, 1915, consisting of:—

Mr. Lincoln, Chairman.  
Mr. Calder.  
Mr. Derrick.  
Mr. Woods, Secretary.  
Mr. A. E. O'Meara, Counsel.

The delegation have requested that our interviews should be recorded and that a memo. should be submitted containing the gist of the former interviews which would be subject to my approval before forming part of the record. I agree to this on the distinct understanding that anything that I may say will not be binding upon the Government, as I am bound by the order of His Royal Highness in Council of the 20th June, 1914, dealing with the British Columbia matters. I would be able, however, to inform the Superintendent General of Indian Affairs of any representations which the Indians have made in these discussions in order that they may be fully considered.

MR. CALDER (through interpreter).—I want to express my thanks for your statement yesterday that you sympathize deeply with us after we had explained the conditions under which we were living on the Naas River. You expressed your sympathy with us; I want to ask you to go over your views attached to the Order-in-Council and explain the reasons why those views were given. In one of our former discussions you said that the question was whether the Proclamation applies in British Columbia but that would be a question to decide, and if it does apply we have the rights shown by that Proclamation. I wish to state the words of the Proclamation support every claim that we have made.

MR. SCOTT.—Under that Proclamation we have dealt with Indian lands in other parts of Canada, but it has never become clear whether it applies to British Columbia. The exact legal position of the British Columbia lands would have to be decided, and that would be one of the useful purposes served by coming before the courts.

MR. O'MEARA.—I think that it is absolutely under-

stood between yourself and the delegates now that a question to be decided by the courts is whether the Proclamation applies to British Columbia. Now then what the delegates want to get at is, if it be assumed that there should be in the future a decision of the Judicial Committee holding that that Proclamation does apply, what are their rights under it?

MR. SCOTT.—That is the very class of question that I do not think I should pronounce upon. The Minister of Justice could elucidate that for them. But the opinion of a man who is not a lawyer would be inconclusive and might involve us in serious difficulties. I can tell them how other Indians have been dealt with, as that is of record. I summarized that action in the Order-in-Council. The Order-in-Council said nothing about the Proclamation of 1763.

MR. O'MEARA.—The petition does not base their claim entirely on the Proclamation, but upon the general aboriginal right.

MR. O'MEARA.—Under ordinary circumstances I would advise the delegates to close the matter. I submit that it is a reasonable thing to discuss your view as to the wording of the Proclamation. That Proclamation is the main basis on which the Nishgas are basing their claim. These delegates wish to talk with you about the language used in the Proclamation.

MR. SCOTT.—I can say how it has been applied in the past but not how it will be applied in the future. In my memorandum to the Superintendent General of the 11th March I state that in the past the Crown has decided what compensation should be given in each case and the Indians have agreed to it with slight modifications.

MR. O'MEARA. — To shorten and simplify the matter the delegates have asked me to open and point out to you the special matters on which they wish to address you. Let me quote these few words from what I have had the honour of saying to the Ministers:—

"I would next point out that if on the one side you put the very terms of the Proclamation of George III and then on the other side the terms of the statement of the Nishgas, made in January, 1913, every claim which is made by the Nishgas, I would respectfully submit is borne out by the language to be found in the Royal Proclamation."

We spread out before you, so to speak, the full words of the Proclamation, and we point out for your consideration three facts:—

1. That throughout that Proclamation the land to which it applies is described and treated as being the land of the Indians.

2. That the claim which is made by the Nishga Indians that under that Proclamation they are entitled to decide for themselves what lands shall be reserved for their use and benefit is entirely borne out by the expressed language, which shows that it is to be optional with the Indians whether they shall dispose of their lands at all. Upon that point I wish to quote a few words from the Proclamation:—

"We do, with the advice of our Privy Council, strictly enjoin and require that no private person do presume to make any purchase from the said Indians of any lands reserved to the said Indians within that part of our colony where we have thought proper to allow settlement, but that if at any time any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us in our names at such public meeting or assembly of the said Indians to be held for that purpose," etc.

3. The fact to which we ask your attention is that again and again by expressed language it is recognized in the Proclamation that it is a matter of purchasing the land from the Indians, and the delegates understand and the Nishga people understand that the result is that for such portions of their land as they shall agree to surrender actual compensation should be made.

Before sitting down, let me respectfully emphasize that I am not speaking now of a point of constitutional law or any other sort of law, but putting before you matters of fact upon which the delegates wish to make a few remarks to you.

MR. DERRICK.—I am glad, Mr. Scott, that you have given us these five interviews, and I think we have conveyed our minds to you. We told you how hard it is for us to get on up on the Naas the way the laws are made, and, after you had heard us, you expressed your sympathy with us and said you would do everything in your power to right the wrongs if you could, but that you did not make those laws, they were made by those in office before you.

I pointed out to other Ministers by the blue print what condition we are in on the Naas River. I think that we have made it plain to you how unsatisfactory conditions are with us there, and you stated your sympathy with us. I want to ask you if you still think our views in these matters are erroneous, quoting words from the memorandum attached to the Order-in-Council.

Ever since I was a little boy I remember when the first missionary came up in Northern British Columbia; he was Mr. William Duncan; then from that time on we would talk about the laws, the laws of England, those laws have been enforced



on us and we have submitted to them. I do not see how it is that those laws could be enforced on us, but that this Proclamation would be left out everything else would be included in British Columbia but the Proclamation.

MR. SCOTT.—I would reply to those questions, at the same time I do not wish the Indians to take any harsh meaning out of my words because a word I used here regarding their ideas, calling them fancies, while, evidently it did not exactly displease them, it was not thought by them to be a sufficiently important word to use. I gathered from these statements, which I attached to my memorandum, that they were making what I considered extravagant claims, that is, they wished to partition the country, to use the fisheries without any reference to the laws that had been made by the Crown with reference to fisheries, and I thought and still think those claims extravagant if they make them; that is the reason I went on to explain in memorandum attached to the Order-in-Council what had been the usage of the Crown in dealing with Indians. We never could have made an arrangement with the Indians if they were allowed to make excessive demands which the Crown would have to meet. In my memorandum attached to the Order-in-Council I have set forth these ideas merely based on the past usage of the Department. In my memorandum I took the ground that British Columbia had done its share towards satisfying the Indian title by setting aside a great many acres of land for reserves, and, when the paucity of arable lands in the province is considered, I thought they had done their share towards satisfying the Indian claim and that the Dominion might come in then and offer certain other things to the Indians. The Dominion Government adopted that view and was willing to take up the obligation because they were undoubtedly anxious to have a settlement of the Indian land difficulties in British Columbia, but the Dominion has stated very plainly, and I think you ought to give weight to that fact, the extent to which it was willing to become obligated; it was willing, if the courts decided that the Indians of British Columbia were found to have a legal claim and to have title in the lands to obtain section, but not willing to pay any more for it than had previously been paid in all other transactions with Indians.

I think the action of the Dominion Government is valuable, because it enables the Indians to go to the courts with this case. I think the Indians ought to remember that no government would be likely to do more for them if the case were decided in their favour by the courts than the Dominion Government is offering to do now, that is to say that the title

is considered an aboriginal one and would be extinguished according to past usage of the Crown.

MR. O'MEARA.—While I agree that what you have been saying in the last five minutes is both interesting and important, I venture to point out that it is not the matter which the delegates brought before you, and they are desirous of having you answer the fundamental question—how you reconcile your opinion that their views are erroneous with the words of the Proclamation.

MR. SCOTT.—I look at the Proclamation and then the usage of the Crown under the Proclamation—not a separate matter. The Crown has acted in this manner invariably in taking the Indian title. All I can say about it is, that the Crown has taken cessions of Indian land throughout the country for more than one hundred years, always in the same way. When you ask me that question, I simply refer to the usage.

MR. O'MEARA.—I think, to help us along when we meet again, I will put another question—how do you reconcile what you have just said with this statement of Lord Dufferin's, made in 1876 at Victoria?

"From my first arrival in Canada I have been very much pre-occupied with the condition of the Indian population in this Province. You must remember that the Indian population are not represented in Parliament and consequently that the Governor-General is bound to watch over their welfare with especial solicitude. 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 central, has failed to acknowledge that the original title to the lands existed in the Indian tribes and communities that hunted or wandered over them. Before we touch an acre we make a treaty with the chiefs representing the bands we are dealing with, and having agreed upon and paid our stipulated price—oftentimes arrived at after a great deal of haggling and difficulty—we enter into possession, but not until then do we consider that we are entitled to deal with an acre. The result has been that in Canada our Indians are contented, well affected to the white man and amenable to the laws and government."

MR. SCOTT.—I am not here to reconcile the opinion of different persons and have nothing before me to show that Lord Dufferin, when Governor-General, had the full facts before him.

MR. DERRICK.—You have answered the questions I asked you. We have discussed more than one. We have shown you our grounds on the Naas (the map) and how far

the hunting grounds extend. We get our living from hunting. We have told you that these have been taken up. We are not asking anyone for these lands, they belong to us, are all our own. Whites have come in and taken up our lands. The only thing we ask is to have this question placed before the court, we do not care which one, but as long as we have been granted a right hearing in this matter we are satisfied. I do not see that our views are fancies, as you stated. I have a good deal more to say, but time is getting on and we had better leave over if you will give us another hearing.

Adjourned until the afternoon.

#### AFTERNOON SESSION.

MR. CALDER.—In explaining your reasons for saying our views were fancies your explanations were not made plain to us; you took in the fisheries and other things that do not deal with the question of title and we thought you meant this question of title all the time you referred to this matter in your memorandum. Your explanation this morning did not make it clear.

MR. SCOTT.—In dealing with the Indian title in my memorandum I was guided by some cases which had been before the Canadian courts and which afterwards went to the Privy Council, and by those cases, in my opinion, it was shown that the Crown had a paramount title. Then there is another title called the Indian title: the purpose of my memorandum was to show that the Crown had always dealt in a certain way with the Indian title. I simply stated in my memorandum that in all the treaties that had been made by the Government, the Government first decided what should be paid (or approximately the consideration) for the Indian title. The Government never approached the Indians as if they had something to sell, but decided what they should give for a certain indefinable thing called the Indian title, that is the way we have negotiated all these treaties.

MR. CALDER.—The Government took upon itself to decide what the amount to be paid the Indians should be without reference to the Indians?

MR. SCOTT.—Yes. The Government decides and then discusses the matter with the Indians, and the two parties come together.

MR. DERRICK.—I have grasped your explanations in this matter of title which had never been put before us in that manner before; we are glad that you have done so. As I have explained to you before, we are not asking for anyone's land.

we are asking for the land we use ourselves and claim to be our own. We have no more of these lands that have not been taken up. The lands we are discussing now have all been taken up by other people and the way the conditions are now after all your explanations I do not see how it is possible for us to benefit, even if this case is judicially determined. As to these matters of reserves, we have not yet told you that we never agreed to that system. When George O'Reilly first went up there and surveyed those lands they call reserves our chief stood up and protested against them, but it was forced on us. Of course, from the time these reserves were given, the Indian Act was forced on us; all the clauses of the Indian Act were not used, they did not altogether go by it, there were some parts of that favourable to the Indians, but it seems that just those parts that put restrictions on the Indians were enforced. You have explained your reasons why you worded your memorandum as you did and the meaning of the Order-in-Council and all that. We have grasped it, but we see that we cannot come to an agreement according to the Order-in-Council as it is now. We do not see how it is going to benefit us; that is the reason we came here, but, after all your explanations, we do not see how it is going to benefit us if we agree to these terms.

MR. SCOTT.—I would like to explain a little further the value of the title; you see the purpose of my memorandum was to draw the difference between what the Indians thought the title to be and what it really was. The Indian title cannot increase in value as the country settles up; it is always the same, no matter how well off your people become.

When the white people came into the unsettled districts they found thousands of Indians roaming over the country. For instance: The Indians were savages or half civilized; they said to them we want your good-will, we want to occupy your territory, here is a barrel of flour. The good-will of the Indians and of the Crown passes, that is what I tried to make plain in my memorandum—the difference between the two things—your idea of the Indian title and what it really is.

Where I thought the Indians were making a mistake was that they were looking at the Province of British Columbia as it stands to-day with all its cities, manufactories and wealth, and saying, our share in this is very valuable, and I want to point out to them that their share does not exist in that part of it at all; that is what the white men did when they came into the country. Their interest still continues to be the Indian interest. In my memorandum I said what had been the usage of the Crown, that is the Crown had decided

what to give. I gave you the other day a volume of treaties showing what the Crown had given in all the treaties for lands just as valuable, if not more so, as the lands of British Columbia. I gave you a map showing what country each treaty covers so that you could see exactly the extent in acres or square miles, and what was given by the Crown in the way of annuities, special reserves, agricultural implements, education, etc.

MR. WOODS.—The Chief says he does not see any benefit that would accrue if he signed this agreement supposing they won the case.

MR. SCOTT—I cannot agree with him. They would, I think, get benefits just as the Indians of other parts of the country got benefits out of the treaties. I will show him what they would get. In the first place, it would get rid of this trouble; we would go to the courts, have the case disposed of once for all; we would see whether the Proclamation of 1763 referred to the Province of British Columbia, or not; that is the first thing we would get out of it. You would have counsel to represent you and would present the case very fully to the court. The court would have all the facts fully before it, the Minister of Justice promised this in a letter to Mr. O'Meara. This first thing would be a great thing accomplished. If the British Columbia Indians won this case, then under the agreement we would make treaties with the Indians a separate one for each tribe, under the usage of the Crown, that is the Crown would decide what to give the Indians for this title. I would hope that the Government would consider the circumstances of each tribe in making a treaty, and offer the Indians something of real value to them. The Indians of British Columbia have got now so far on in civilization that to offer them \$5.00 per head per year is not necessary. It would not meet the needs of the case. There are other things they do want; civilization in its widest sense, schools, hospitals, medical attendance, many things to benefit them and improve their position, and I should hope that the Government in making treaties would consider the needs of each tribe. These are my reasons for saying I do not agree with Mr. Derrick when he does not see what benefit it would be; I would expect it to be of great benefit in every way for the reasons I have explained.

MR. DERRICK.—I want to ask you this: If it is possible that we agree to the Order-in-Council, and after this case had been decided in our favour, would the Indian Act be abolished?

MR. SCOTT.—No, certainly not. The Indian Act is made

by the Dominion Parliament, it is intended to be of benefit and protection to the Indians just as I tried to explain to you yesterday regarding reserves. Reserves benefit in one way, the law in another. We do not want the Indians to be under the Indian Act any longer than is necessary. There are clauses in the Act which make it possible for us to make citizens out of the Indians. When I handed you the Indian Act, I showed you the enfranchisement clauses.

(To the interpreter):

Make it plain to him that the answer to his question regarding the Indian Act and the reserve system is practically the same. They both protect the Indian.

MR. DERRICK.—Even if this case is tried and was decided in our favour, I do not see how we are going to benefit in any way. What changes will be made?

MR. SCOTT.—You will have the treaty and certain things in exchange for the Indian title. As I stated before, the Government will consider each case by itself, each tribe in British Columbia separately. I do not say that the Government will modify or change the law. Again we have the case of the Nishga Indians; if it found a lot of civilized Indians like those before me, the Government might consider dealing with them in a different way. At any time the Nishgas can come and ask the Government for what they want; for instance, they might take advantage of the enfranchisement clauses. It is not necessary that they should sit down with their hands tied and do nothing.

MR. CALDER.—I want to ask that when all these treaties were made with the different tribes in Canada, was the action taken after a decision by the court? Was their case up for trial at all?

MR. SCOTT.—No, the part of the country we were dealing with then came under the Proclamation of 1763, and the Government, when it decided to obtain a surrender of the Indian title over the western plains and Ontario, went ahead and did it, there was no controversy over the western plains.

MR. CALDER.—I see now that we are involved deeper than ever in this. Before we can deal with this matter, it has to go before some court and the way I see it is, that we cannot take these other treaties as an example because our case is different from that of these tribes that have already received the benefits of the treaty from the Government. The British Columbia question is different altogether from the tribes in Canada which have already gone into treaty.

MR. SCOTT.—I do not agree with you. If you have a



title it is just the same kind of title, it is not different in any way, and it must be dealt with in the established way. British Columbia thinks it has dealt with the Indian title by setting apart reserves. The Dominion says in the Order-in-Council that British Columbia has done its share by giving the reserves according to the terms of union, but if the courts find that you have a further claim the Dominion says we will accept the additional obligation and satisfy it as we have done in the past with other tribes.

MR. CALDER.—Just as soon as that is decided whether the Proclamation applied to British Columbia then we will know what steps to take; we will know the different readings of the laws held by the Government referring to that question.

MR. SCOTT.—Do you mean that then you will be prepared to sign the agreement?

MR. CALDER.—You say after the courts find that out then they can go into these matters about the treaty.?

MR. SCOTT.—No. The Indians must sign the agreement first, the Government will not prejudice itself; no government could do better for the Indians than the Government has been doing. As you did not understand the true nature of the Indian title, the Government has explained it, and asks you to sign an agreement saying that you do now understand.

(To the interpreter):

Impress upon them that no government will do better than the Crown has always done for the Indians, that the Indian title is just of so much value to the Crown. That is all.

MR. O'MEARA.—What about its value to the Indians?

MR. SCOTT.—My view is that the question of title is not what the Indians consider it to be; it is something the Crown has recognized in its good-will. The Government will deal justly with the Indians.

MR. WOODS.—I, myself, do not see what the Government is afraid of that they want to have this agreement signed by the Indians before they take action.

MR. SCOTT.—The Government want the Indians to understand what is being done. The whole purpose of my memorandum is to have the facts thoroughly explained to the Indians and have them say they understand them; that is all you are doing by that document; you are saying we understand that the title is an aboriginal title.

MR. CALDER.—In our interview the other day with the Ministers, I asked the honourable gentlemen whether they

were prepared to modify the proposals; he answered that he did not have the power to represent the whole Government, he could not give me the answer I asked for, but he stated he would put this matter before his colleagues and they would decide whether they would modify it. I want to know what time we would get the answer as to that. We want to see their decision. I do not suppose he has handed it to you, has he?

MR. SCOTT.—No. I hope it will not be very long. The Ministers are very busy now; Parliament is in session.

MR. WOODS.—Do you see why he brought that up?

MR. SCOTT.—Yes. I am not empowered by the Government to accept these proposals of yours; we could, perhaps, go over them in an informal way. We might go over them together. We might deal with them in that informal way and get a different set of proposals to submit to the Government.

CALDER.—Will notes be taken of the discussion if we do have it to-morrow?

MR. SCOTT.—Yes. We will see if we can get together on these two statements. There are certain things we would have to strike out, others might be left in.

MR. O'MEARA.—On page 8 of the report of Wednesday, last week, which I have before me, I note that I have placed before the Ministers that you had made an erroneous statement of fact; in order to support that I pointed out that Lord Watson had stated:—

"There was a great deal of learned discussion at the Bar with respect to the precise quality of the Indian right, but their Lordships do not consider it necessary to express any opinion upon the point. It appears to them to be sufficient for the purposes of this case that there has been all along vested in the Crown a substantial and paramount estate underlying the Indian title which became plenum dominion whenever that title was surrendered or otherwise extinguished."

May I just emphasize that it is not a question of opinion but of fact, so far as we can see. You say the Judicial Committee decided in that case the nature of the Indian title; Lord Watson in explicit language says that they did not decide on the Indian rights.

The delegates would like an answer.

MR. SCOTT.—My answer is that this memorandum was submitted to the best legal advice I could get and passed by its authority, so that any phraseology I used received the support of the law officers of the Crown. This matter I was very careful to submit, because I would not and do not now give an opinion on any legal matter whatever; I simply state that I

submitted the whole document to the best legal authority I could obtain, with the result that it was passed.

MR. O'MEARA.—Do I rightly understand that the Department of Justice confirmed your statement in that matter?

MR. SCOTT.—I do not say, but will have an extract made of this and submitted to Mr. Newcombe to see what he has to say. My memorandum was submitted on all points of law to the law officers of the Crown; they passed it. I still think I am right in stating what I did state.

MR. CALDER.—Did you say that you would put it before Mr. Newcombe?

MR. SCOTT.—Yes.

MR. O'MEARA.—According to the best of our judgment, it is perfectly clear that Lord Watson, speaking of the goodwill of the Sovereign in the case from which you quote, was referring to the Sovereign in his Imperial capacity. I point out that in the following paragraph of your memorandum, you in several places use the expression "the Crown," and in one the "good-will of the Crown":—

"It follows that the Indian title, when acknowledged by the Crown, cannot be separated from what the Crown elects to grant. In appraising the Indian title we should go back to the time when the lands were a wilderness, when we find a wild people upon an unimproved estate. The Indian title cannot increase in value with civilized development; cession of Indian territory has always preceded the settlement of the country and whatever has been granted for the transfer has represented the good-will of the Crown, not the intrinsic value of the land at the time of the cession, and assuredly not the value enhanced by the activities of a white population. From the earliest times this beneficial interest has ever been appraised by the Crown, the Indians accepting what was offered, with, upon occasion, slight alterations in terms previously fixed by the Crown. It is optional when, if at all, the Crown may proceed to extinguish the Indian title, and, therefore, if it is decided that the Indians of British Columbia have a title of this nature there can be no claim for deferred benefit from the Crown."

Will you kindly explain to the delegates what you meant by "the Crown," in the different parts of your memorandum.

MR. SCOTT.—We will not burden this report with discussions on that point.

MR. O'MEARA.—I point out that the expression "the Crown" may mean the Sovereign of Great Britain, the Government of Canada, or the Government of British Columbia. This particular question the delegates wish you to answer is, when you used in seven places the expression "the Crown," what was the meaning of it?

MR. SCOTT.—Mr. O'Meara you should be able to answer that question yourself. You know that under the British

North America Act, the Dominion is the only Government which has the power to legislate for Indians. The answer should be sufficiently clear.

MR. WOODS.—It was put before us to find out what it meant. We thought before that was put up to us in that way, that it referred to the Home Government.

MR. SCOTT.—Before it was put up to you by whom?

MR. WOODS.—Mr. O'Meara.

MR. O'MEARA.—When you had on behalf of the Government put in my hands the papers, the Order-in-Council and attached memoranda, to be placed before the Nishga Tribe, I gave the matter very full consideration, and it was clear to me that it would be difficult to place your whole opinion before the assembled Tribe. Therefore, for the sake of clearness and brevity, I prepared a summary of your opinion. I would like to place that before you, as, if it is correct, it becomes important that a similar summary be placed before the other Tribes.

MR. SCOTT.—In discussing this matter with the Nishga Indians you were not empowered to act for the Government. The memorandum was given you for your information, I cannot, therefore, admit your summary. When we come to the Tribes we will have our own officers there to explain matters to them. We have not yet come to the Tribes.

DUNCAN C. SCOTT.

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## REPORT OF INTERVIEW WITH HON. DR. ROCHE.

AT OTTAWA ON WEDNESDAY, 17TH FEBRUARY, 1915..

PREPARED BY THE REPRESENTATIVES OF SOCIAL SERVICE COUNCIL.  
APPROVED BY THE MINISTER.

With the Minister was Mr. Duncan C. Scott, Deputy Superintendent General.

Those present were:—

Rev. Dr. Tucker and Rev. Dr. Moore, representing the Social Service Council of Canada, the Nishga Delegates, and Mr. A. E. O'Meara, Counsel for the Nishga Tribe.

The Nishga Delegates presented the following supplementary statement:—

SUPPLEMENTARY STATEMENT NO. 2 OF THE NISHGA NATION OR  
TRIBE OF INDIANS.

Since our last interview with the Ministers we have had six interviews with Mr. Scott which have served a useful purpose in enabling us to know more of Mr. Scott's mind, and we hope also in enabling Mr. Scott to know more of our mind.

All that Mr. Scott has said to us we have listened to attentively and considered carefully. The main result is that now more strongly than ever we think that before any terms of surrender can be satisfactorily agreed upon between the Government of Canada and the Nishga Tribe the Privy Council must decide whether the Royal Proclamation applies to British Columbia and what are our rights under that Proclamation.

This has always been our own conviction. When, however, the Government desired that terms of surrender should be agreed upon in advance, we were willing to make an effort to meet the Government's desire and are now willing to make further efforts to do so, notwithstanding the view which we hold so strongly.

If it could be shown to us that the opinions regarding our rights contained in Mr. Scott's memorandum are well founded we would look much more favourably upon the terms of surrender proposed by the Government, and might advise our Tribe to accept them if the matter of finally deciding the lands to be reserved were dealt with as suggested in our first proposal or by some other equitable method.

Therefore, we think that the question whether the opinions contained in the memorandum are built upon a good strong foundation is a very important question. This consideration, which goes to the root of the whole matter, has led us to ask that a number of expressions of opinion to be found in the memorandum be explained. Mr. Scott's answers have not at all satisfied our minds. Moreover, Mr. Scott has said that his memorandum has in some sense been approved by the "Law Officers of the Crown." We, therefore, now ask that the Minister of Justice explain to us with as much fulness as reasonably possible, the matters which we have put before Mr. Scott and some other matters deeply affecting our rights, namely, the following:—

1. Letters received last Spring from the Minister of Indian Affairs, and Mr. Scott, and the interviews which we have had with the Ministers and Mr. Scott since coming to Ottawa show that it is generally conceded that in some way the matter of restoring to us lands which have been disposed

of by the Province, unlawfully as we claim, should be dealt with.

2. Under the powers conferred by Article 13 of the "Terms of Union" upon the Secretary of State for the Colonies, these lands, it seems to us, might have been set aside for us, and might still be set aside for us, notwithstanding the unwillingness of the Province that such lands be set aside. What we want to know is whether the powers of the Colonial Secretary still exist. In passing the Orders-in-Council adopting the McKenna Agreement, did the two Governments intend to take away the powers conferred upon the Secretary of State for the Colonies, or did they intend those powers should continue.

3. If the two Governments did intend to take away the powers of the Secretary of State for the Colonies, the next question is whether the Governments intended to create any other way of dealing with this same matter. Under the McKenna Agreement and the Orders-in-Council passed by the two Governments have the Commissioners power to restore to us these lands which have been disposed of by the Province?

4. In view of the terms of the Royal Proclamation and especially those brought before Mr. Scott on 11th instant, may have the claims set out in our Memorial attached to the Order-in-Council of 20th June last been described in the Memorandum as "erroneous" and "fancies?"

5. In view of the words of Lord Watson brought before the Ministers on 3rd inst., how is the statement contained in the Memorandum that "The Privy Council, to which the Nishga Nation desire to appeal, has already pronounced upon the nature of the Indian title" to be explained? That the meaning of this question may be made clear we quote the following words of Lord Watson, which we respectfully submit make exactly the opposite statement of fact:—

"There was a great deal of learned discussion at the Bar with respect to the precise quality of the Indian right, but their Lordships do not consider it necessary to express any opinion upon the point."

6. Mr. Scott, in his Memorandum mentions the words used by the Judicial Committee in referring to the Indian title, namely, "a personal and usufructuary right dependent upon the good-will of the Sovereign" and then says:—

"It follows that the Indian Title, when acknowledged by the Crown, cannot be separated from what the Crown elects to grant."

What we want to have explained is why this "follows." When asked to explain what he meant by "the Crown" Mr.



Scott was at first unwilling to give any answer, but finally said as we understood, that in the Memorandum he meant the Government of Canada. We have very great respect for the Government of Canada, every Minister and every Official of that Government. But we also have respect for the liberties and ancient rights of the Nishgas and the other Tribes of British Columbia, and feel it necessary to speak our mind plainly. We are claiming Imperial rights—rights recognized and guaranteed by the Proclamation of King George the Third, which had and we believe still has the force of an Imperial Statute, rights which existed before the Dominion of Canada or the Province of British Columbia came into being, and as we claim have never since been taken away. We wish to know at what time and in what way the power of the British Sovereign and British Parliament to deal with our rights under the Proclamation was handed over either to the Government of British Columbia or to the Government of Canada.

All of which is most respectfully submitted.

W. J. LINCOLN,

Chairman of Delegation.

Ottawa,

17th February, 1915.

The Delegates then asked that the various matters mentioned regarding which explanation is sought, be referred for that purpose to the Minister of Justice.

Mr. Woods read from the supplementary statement presented on the 4th February, the part relating to future plans.

Mr. Woods also stated that two of the Delegates would soon return to Naas River, while the other two would attend the meeting to be held at Spence's Bridge on the 25th, and then return to Ottawa for such further discussion with the Government as might be found necessary.

The Nishga Delegates presented the following memorandum regarding expenses:—

NISHGA PETITION TO PRIVY COUNCIL.

MEMORANDUM FOR HON. DR. ROCHE.

We desire to briefly mention that in the past, while the efforts which we have made in connection with the British Columbia Indian land question have clearly, we think, been for the benefit not only of our own Tribe, but also of all other

Tribes of the Province, a heavy burden has been carried by ourselves and those helping us. The "Friends of the Indians" have expended upwards of \$17,500. We ourselves have expended upwards of \$5,000. Our Counsel, Mr. O'Meara, who for nearly four years has been our chief adviser, and has acted as our Counsel in the matter of our Petition which is before the Privy Council, has given us legal services which, if given in a professional way, would have cost many thousands of dollars, without making any charge whatever, and in addition in order to help us through has advanced out of his own pocket towards expenses, upwards of \$2,500.

The "Friends of the Indians" have not asked and we understand do not intend to ask, under any circumstances, that money expended by them be refunded. We ourselves, while at some future day we might ask that this matter be considered, are not at present asking the Government to refund money expended by us. But, knowing that for some years Parliament has appropriated \$5,000 for legal and other expenses connected with the British Columbia Indian land question, no part of which as we understand, has been yet used, we think that the time has now come at which we can reasonably ask, and we do earnestly ask, that the amount advanced by Mr. O'Meara be now refunded out of that appropriation, and that the balance remaining be available for future expenses of the same kind.

Respectfully submitted,

W. J. LINCOLN.

Chairman of Delegation.

Ottawa, 17th February, 1915.

DR. TUCKER said that the Social Service Council of Canada, which he represented, was not wedded to any particular mode of settling the Indian Land Question of British Columbia. The Council had repeatedly endorsed the proposal of a reference to the Judicial Committee because this is what the Indians had been looking forward to for years and nothing else was likely to satisfy them, and because this had been promised them by the Government of Canada. Just what the Council was extremely anxious for was that the question should be speedily and finally settled and that it should be settled on a fair and equitable basis, a basis that would be reasonably satisfactory to the Indians and that could be looked back upon as creditable to the people of Canada.

In regard to a question that had been mooted he would like to bear his personal testimony to the vast amount of work

that Mr. O'Meara had done in connection with this question, both in England and in Canada and the vast amount of information he had acquired regarding it. For years past his whole time and thought had been given without stint to the subject.

DR. MOORE.—As Secretary of the Indian Affairs Committee of the Social Service Council of Canada, I desire to call your attention to some matters in connection with the petition of the Nishga Indians of British Columbia, concerning the title to Indian lands in that Province.

1. We look upon the petition of the Nishga Tribe, in a general sense, as being a test case. It is based upon the same general claims as are held by all the Indian Tribes of British Columbia to a title in the lands of the Province.

2. In the next place we desire to ask your attention to the matter of providing funds for the purpose of assisting the Nishga Indians in carrying their case to the Privy Council.

(a) The following paragraph from a document expresses the opinion of the Minister of Justice in connection with this matter, given in December, 1913:—

"If the Government do not propose to uphold the claim I think that the inadvisability of making any reference of this petition should be represented to the Colonial Office; and the Indians would in consequence presumably be left without any intervention or support from this Government and in face of the deliberate opposition of the Government of British Columbia, to pursue such legal remedies on their own behalf and at their own expense as the very meagre prospects of the situation might afford."

(b) We also desire to call your attention to the action of the Government with regard to supplying funds to meet expenses of the Oka Indian case. As we understand it the Indians who had Counsel for each of the contestants in the case, chose their own Counsel. Although the Oka Indians acted independently of the Government, and the Canadian Government did not support their claims, it was recognized from the beginning that all expenses of the Indians would be met by the Government. These expenses were paid and the Government also paid the costs of the Seminary, as well as the costs of the other parties to the case, making a considerable amount reaching into several thousands of dollars. This seems to us to be a precedent, which we cite as a reason for the Government undertaking costs in the present case.

3. We wish merely to call attention to the fact that the British Columbia lands are held in trust by the Government of Canada for the Indian Tribes in that Province.

4. It seems to the Indian Affairs Committee that the time

has come for definitely dealing with this question. Funds are immediately needed and we beg to urge upon the Government a favourable consideration of our request in this matter. This view is taken by various bodies acting in accord with ourselves, in endeavoring to assist the Indians towards a settlement of their case. The Calgary Association for the protection of the Rights of Native Races, and a Committee in Winnipeg which also has rendered special service in this matter, have adopted strong resolutions, urging that funds should be provided by the Government for this purpose. At the meeting of the Committee on Indian Affairs a resolution was adopted urging that the Government should render assistance of a financial character to the effort now being made to secure a settlement of the question as to the claims of the Indians. The following memorandum now presented deals with this matter:—

MEMORANDUM FOR HON. DR. ROCHE.

PRESENTED BY DELEGATES REPRESENTING INDIAN AFFAIRS  
COMMITTEE.

17th February, 1915.

For nearly five years the "Friends of the Indians of British Columbia" have sought, by dealing with the Indian Tribes and the three Governments, to bring about an equitable settlement of the British Columbia Indian land question.

From March, 1911, to the present time, Mr. A. E. O'Meara in addition to acting as Representative of that Organization, has acted as honorary Counsel for the Nishga Tribe in relation to the Petition of that Tribe presented to His Majesty's Privy Council.

By the various steps that have been taken in dealing with the Nishga Petition and in particular by seeking in pursuance of the Order-in-Council passed in June last, to ascertain fully the mind of the Nishga Tribe and other Tribes and ultimately to bring about an understanding between those Tribes and the Government of Canada, Mr. O'Meara has, in the opinion of those whom we represent, performed an important public service.

We are informed that towards the expenses incurred in connection with the Nishga Petition, Mr. O'Meara has personally advanced an amount exceeding \$2,500.

We are also informed that for some length of time Parliament has appropriated the sum of \$5,000 for expenses con-

needed with the British Columbia Indian land question, which appropriation still remains unused.

The facts above stated having been considered by the Committee of the Calgary Association of Friends of Native Races in consultation with the Chairman of the "Friends of the Indians," and afterwards upon suggestion of that Committee having been considered by the Winnipeg Provisional Committee of Friends of Native Races and the Indian Affairs Committee, it has been unanimously thought by those named for the reasons above indicated, that this matter should be brought before the Minister with the earnest request that the amount so advanced be refunded to Mr. O'Meara out of the appropriation mentioned.

5. We also beg to suggest that the present time would be opportune to give the public of Canada full information concerning this claim put forth by the Indians of British Columbia in regard to the lands of that Province, and beg to suggest that the Government print such a pamphlet, which would be of great value in disseminating information. This pamphlet, in our judgment, should contain the Nishga Petition, the Order-in-Council of last June, together with Mr. Scott's memoranda, accounts of the interviews of the Nishga delegates with the Ministers and the Deputy Superintendent and such other matters as seem relevant to the case and should be given to the public.

On behalf of the Indian Affairs Committee of the Social Service Council of Canada, we beg to urge the consideration of these matters.

MR. O'MEARA.—I should state some further facts relating to the Spence's Bridge meeting. The origin of this meeting was an invitation of the Interior Tribes assembled in June last conveyed to me by Mr. J. A. Tait, of Spence's Bridge, in the following month, asking that I should attend a meeting to be arranged and explain more fully the Nishga Petition and the steps which had been taken in connection with it. The meeting was proposed for last Fall, but it was thought better to defer it until there had been opportunity of conferring with Mr. Clark, and until possibly the Nishga Delegates might be present. Mr. Teit is one of the best friends of the Indians of British Columbia. Also probably no other man to be found in the Province has a better knowledge of their mind, or is better able to advise them well. In common with myself, he has set before him as the object to be aimed at, an equitable solution of the land question.

THE MINISTER.—I think too much importance has been attached to the suggestion that the Order-in-Council

may be read as approving the opinions expressed in Mr. Scott's memorandum. As I have already stated, there was no such intention. It should be clearly understood that the Governor-General in Council did not pronounce upon the merits of the Nishga Petition. The matters brought before us by the Nishga Delegates at previous interviews and to-day will be fully considered. I cannot promise that the Government will modify the position which has been taken as shown by the Order-in-Council, but can assure the Delegates that their proposals and any other suggestions they may make will have every consideration.

With regard to the subject of expense, I recognize what has been done for the cause of the Indians, but there are difficulties in the way of granting the requests now made. The appropriation mentioned is not now in force, and would require to be renewed. I feel there might be objections to making an appropriation in order to provide for expenditure already made without the previous authority of the Government. Moreover these requests are made by only one Tribe. I can, however, assure all concerned that when an understanding having been reached, the case, shall be brought before the courts, there will be no hesitation in providing all necessary funds.

I have received from the Indian Rights Association a communication making a protest against the Nishga Petition and referring to another petition known as the Cowichan Petition, and claiming that this is what should be brought before the courts. I do not know that this communication has a very material bearing upon the present interview, because it is intended to consult the other Tribes, but I mention the matter so that any explanation thought desirable may be given.

MR. O'MEARA.—I am in a position to state the main facts relating to the Cowichan Petition. That is the Petition which in the spring of 1909, at the request of the Cowichan Indians, I took to England, and presented to His late Majesty and the then Secretary of State for the Colonies. The request was conveyed to me by means of a telegram from Mr. C. M. Tate, who is the Secretary of the Indian Rights Association, and from whom no doubt the protest has come.

In order to show clearly why subsequently the Nishga Petition was launched, I quote the following from the memorandum prepared for the Government of Canada by Dr. Tucker and myself on 5th May last.—

"This Petition was devised with a view to overcoming the constitutional difficulties encountered by reason of the refusal of the



Government of British Columbia to agree to a reference, and also the difficulty arising from the declaration made by their Lordships of the Judicial Committee in the Companies Case in the spring of 1912, that answers to questions referred are not a judicial decision.

"The Nishga Indians were advised to adopt that course after consultation with and with the approval of Mr. J. M. Clark, K.C., Counsel for the Indian Rights Association of British Columbia."

The Nishgas and myself desired that the consultation with Mr. Clark thus begun should be continued. For this Mr. Clark was willing, and in the Fall of 1912, as shown by letters in my possession, was prepared to co-operate in drawing the Nishga Petition. Suddenly and to the surprise of both of us, came a letter from Mr. C. M. Tate instructing Mr. Clark not to continue such co-operation. In the campaign against the Nishgas and myself then commenced and continued to the present time, Mr. Tate has professed to act on behalf of the Indians of the Province, but, I believe, without their authority. In my recent letter I briefly replied to this protest. Both the Nishgas and myself are prepared to give a further reply, if necessary.

MR. SCOTT.—It is important to point out that the whole purpose of my memorandum was to make clear to the Indians that their title is an aboriginal title.

DR. TUCKER.—Of course all agree that the title claimed by the Indians of British Columbia is aboriginal in character.

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## STATEMENT OF THE INTERIOR INDIANS OF BRITISH COLUMBIA.

RELATING TO THE ORDER-IN-COUNCIL PASSED BY THE  
DOMINION GOVERNMENT ON THE 20TH OF JUNE LAST.

27TH FEBRUARY, 1915.

TO THE HON. DR. ROCHE, MINISTER OF THE INTERIOR, OTTAWA.

After having carefully considered the Order-in-Council above named, the same having been fully explained to us, and discussed by us for two days we have agreed to submit to you the following statement for your consideration:—

I. We are pleased that the Dominion Government is now prepared to do something towards a settlement of our claims. We have asked for this for a long time, and now it seems the Government has at last made a "trail" for us to follow so we may reach the goal of our desires. This "trail" is outlined in

the Order-in-Council. The Dominion Government is willing to refer the question of Indian title to the Courts if we agree to the conditions laid down in the Order-in-Council. Now if the Government is willing to settle our claims after reference to the Courts will they not be willing (or even more willing) to settle them along the same lines without reference to the Courts. The title we claim is the same title which has already been acknowledged and recognized by the Dominion Government as being held by the other Tribes to the East of us in Canada. Why should we be discriminated against by the Governments and why should our title (which is actually the same as theirs because we were equally with them possessors of our several tribal territories) be considered different from theirs, or why should they have a title, and we none as we have been told by the British Columbia Government? If this question is to be settled by treaties, by the surrendering of our lands or tribal territories, by compensation to be paid us by the Dominion Government, and by lands of our own to be relinquished by the Provincial Government, why cannot this be done without reference to the Courts? Hitherto we have seen no way of settling this question outside of the Courts because of the refusal of the British Columbia Government to acknowledge that we had any rights of any kind, and because the Dominion Government had not shown us any way in which the question might be settled otherwise. Now it seems the Government is preparing a way for us, or indeed has already made a "trail" for us which if followed may lead at the end to a settlement. It is well, however, that we consider this "trail" and find out if we can really walk on it to advantage before we make up our minds to follow it. Now at our meeting we have very carefully examined this "trail" which has been made for us or pointed out to us, and we find it is not as good as we had expected. We find in some places there are crooks and windings and rough places and altogether we think it will not be to our advantage to follow the "trail" as it is. We hesitate. We are afraid. However, there is no trail which cannot be improved and this road may yet be made so easy for us that we may be able to follow it with benefit and pleasure to ourselves. We are encouraged because we have been told that if we find in the "trail" or proposals of the Dominion Government for the settlement of our case anything which we consider will not be beneficial to us then the Government will be glad to consider any proposals which we may make which may make matters easier for us and for them and lead to a settlement. Therefore we beg to submit for your consideration what we call the "crooks" in

the trail, or those parts of the Government proposals contained in the Order-in-Council which seem to be disadvantageous to us. We ask that the Government make the trail straighter for us so we can follow it to advantage. If this cannot be done we do not see how we can accept the Government proposals (when we see they can be of little or no advantage to us) and we will instead continue to press for a decision in the Courts as heretofore.

2. We will now consider the conditions to which we are expected to agree as laid down in the Order-in-Council and the "crooks" or parts of the trail which we think should be made straight will become apparent. At the same time we will consider the proposals of the Nishga Tribe as defined in their statement made to the Government and handed in by the deputation from the Tribe at present waiting on the Government. We are willing to agree to condition No. 1, of the Order-in-Council if we can get a guarantee from the Government that we will receive *a sufficiency of land to satisfy all our requirements*. In this matter firstly we are entirely in accord with the Nishga Tribe in proposition No. 2, of their statement, viz.: "that in fixing compensation regard shall be had to all the terms and provisions of any treaty made between the Crown and any Tribe of Indians in Canada." That is, we claim the right to choose the kind of treaty we shall agree to, as treaties along certain lines might be quite unsuitable to conditions prevailing among our Tribes. Secondly we consider it is unreasonable that we should be asked to agree to the findings of the Royal Commission when we have no idea what their findings will be or whether the same will be satisfactory to us. We cannot agree to a thing we know nothing about. We do not care to jump in the dark. We are anxious that no mistakes be made which may in future years bring trouble to us or to our children. It is the opinion of many of us that the Commission is not going into the question of our requirements in the matter of land deep enough, and thoroughly enough, and we can easily give reasons for these opinions. Then in many cases we do not see how the Commission can benefit us to any extent for they say themselves they are restricted to dealing only with unoccupied so-called Provincial lands, so that in a number of places even if they allow us a considerable area of additional land the same can only be high range mountain land (no other being available) suitable only for summer pasture and often not the best or even medium of that, whilst in many places our most crying need is agricultural or cultivateable land. The addition of some second rate mountain pasture to our reserves cannot benefit us nor help us

to make progress. It can be no satisfaction of our needs. Then besides there is the question of irrigation water which is a crying matter in many parts of our country and we see no signs of the Commissioners giving us satisfaction regarding water any more than the Indian Agents have been able to do. We want to be absolutely sure of getting an ample sufficiency of land for all our requirements for we are now at a critical stage. For these reasons we agree entirely with the Nishga Tribe in proposition No. 1, of their statement, and think that possibly their proposition is the manner in which this difficulty can be surmounted. Regarding condition 4, of the Order-in-Council we consider that it would only be fair on the part of the Government to allow us the choosing of our own Counsel if the question of our claims goes to Court for settlement. We also wish to state that we agree with Nos. 3 and 4, of the proposals of the Nishga Tribe as contained in their statement. We think that all disabilities we labor under on account of the imposing of the Reserve system on us should be taken into consideration when making a settlement and that all restrictions be removed as far as possible. We also desire that all questions concerning game, fish, etc., and our hunting and fishing rights should be included in and defined by treaty and also all matters concerning the wellbeing of the Indians, such as schools, doctors, etc.

Signed at Spence's Bridge, British Columbia, the 27th February, 1915.

SIGNATURES,

Alexander Chilahitsa,  
Hered. Hd. Chief Okanagan Tribe.

John Chilahitsa,  
Chief Douglas Lake Band, Okanagan Tribe.

Paul David,  
Chief Tobacco Plains Band, Kootenay Tribe.

Louis,  
Chief Kamloops Band, Shuswap Tribe.

Pierre Michel,  
Chief Vernon Band, Okanagan Tribe.

Babtiste Chianut,  
Chief Nkamip Band, Okanagan Tribe.

Francois Selpaghen,  
Ex-Chief, Salmon Arm Band, Shuswap Tribe

William Terrapesket,  
for Chief Whamehun Lower Similkamun.

Tinamellst alias Charley Squakin, ex-Chief and  
Delegate Hedley Band, Similkamun.

Francois Pekelpitsa, Delegate Penticton Band,  
Okanagon Tribe.

Sandy, Chief Coldwater Band, Thompson Tribe.

Pierre, son and Delegate for Chief John Ashnole  
Band, Similkamun.

Thomas Peter, Chief Coutlee Band, Nicola  
Thompson Tribe.

Taghelest alias Adam and Antoine Chief  
Shuswap Lake, Shuswap Tribe.

Alexandér, Chief Cretson Band, Kootenay Tribe  
(by letter).

Sutpaghen alias Shooter, Chief Nicola Lake  
Band, Thompson Tribe.

Scotty, Chief Ashcroft Band, Thompson Tribe.

David, Chief Bridge River Band, Lillooet Tribe.

Bob Anahem, Chief Anahem Band, Chilcoten  
Tribe.

Louis Dwillt, Chief Stony Band, Chilcotin Tribe.

James Raitaasket, Chief Lillooet Band, Lillooet  
Tribe.

Tommy Hdolph, Chief La Fauntain Band,  
Lillooet Tribe.

William Sapers, Chilliwhack, Halo Tribe.

Babtiste William, Chief Williams Lake Band,  
Shuswap Tribe.

Stalo or Lower Fraser Tribe.	{ John Leern, Harry Cheam, Chief James, August Billy, Dennis S. Peter, Andrew Phillip,	Chehalio, Chief Agassiz, Chief Yale, Union Bar, Hope, Chehalis.
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Louis James, Delegate Keefers and Spuzzum  
Bands, Thompson Tribe.

Basil David, Chief Bonaparte Band, Shuswap  
Tribe.

Bob, Chief Pavilleon Band, Shuswap Tribe.

John Potlentza, Chief Pikaist Band, Thompson  
Tribe.

John Whistamnista, Chief Spence's Bridge  
Band, Thompson Tribe.

William Nakiltse, Chief Potato Gardens Band,  
Thompson Tribe.

Paul Hehena, Chief Spuzzum Band (by request  
of son), Thompson Tribe.

James Stager, Chief Pemberton Band, Lillooet  
Tribe (by letter and request).

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#### ANSWER OF MINISTER OF JUSTICE.

DUNCAN C. SCOTT, ESQ., DEPUTY SUPERINTENDENT GENERAL OF INDIAN  
AFFAIRS, OTTAWA, ONT.

DEPARTMENT OF JUSTICE.

OTTAWA, 11TH MARCH, 1915.

DEAR MR. SCOTT,—

Re NISHGA INDIANS.

Referring to your letter of 3rd instant, I have considered the  
document marked *Supplementary Statement No. 2 of the Nishga  
Nation or Tribe of Indians*, wherein certain inquiries are presented



with a request for explanation by the Minister of Justice. I have been led to suppose by the correspondence and interviews which have taken place with regard to the Indian claims in British Columbia that the Indians are proceeding upon legal advice; that they entertain the view that they have legal claims to the unsundered lands of the Province which should be judicially determined, and that they realize that the legal quality of the claims which they set up is not free from doubt.

The Indians are, I think, moreover aware that the method of having these claims satisfactorily determined, having regard to all interests concerned, has been for some time under the anxious consideration of the Government. Several proposals have been made, considered, and for one reason or another rejected, and there has also been some legislation. A commission has been appointed, and more recently has come the proposal evidenced by your report of 11th March last and the Order-in-Council thereon of 20th June. It is remarkable therefore that the writer of this supplementary statement should at the present stage of the negotiations propound for the answer of the Minister of Justice a number of questions which the Minister has no quality to determine, in respect of which, if I am not misinformed, the Indians have a legal adviser of their own selection, and the authoritative answers to which so far as they are in anywise material may to a considerable extent determine the questions in controversy. The motive of the submission of these questions might be understood if the Indians had expressed any disposition to be influenced by the Minister's view, but on the contrary they are pressing for the means of judicial determination, and I am sure that the Government quite sympathizes with their wish to have the questions thus determined. Your Department and mine are in fact still concerned in the effort to put these questions before the Court upon a satisfactory footing and with the fullest scope for decision. In these circumstances it is quite an immaterial inquiry whether or not the Minister of Justice would uphold or deny the claims propounded by the Indians, and it does not therefore appear to the Minister that any useful purpose will be served by the expression of his opinion upon these questions, to which doubtless the Indians and their advisers have devoted much attention. The proposals of the Government are before the Indians upon the Order-in-Council of 20th June, which presents the latest suggestion. The Indians do not complain of any obscurity in the proposals which requires to be elucidated or explained, and I can only say that I think the Indians would be better advised to comply with the conditions of the proposed reference than to waste further time over the consideration and debate of questions such as those formulated in the supplementary statement from which nothing conclusive can result.

Yours very truly,

E. L. NEWCOMBE, D.M.J.

REPORT OF INTERVIEW AT THE OFFICE OF THE  
SUPERINTENDENT GENERAL OF INDIAN  
AFFAIRS.

OTTAWA, MARCH 25TH, 1915.

BETWEEN THE HON. THE SUPERINTENDENT GENERAL AND DELE-  
GATES OF THE NISHGA TRIBE.

Present :—

Hon. Dr. Roche.  
Mr. Duncan C. Scott, Deputy Superintendent General.  
Mr. A. E. O'Meara.  
Mr. W. J. Lincoln, and  
Mr. R. S. Woods, Interpreter.

MR. WOODS.—According to the plan approved by you, sir, in our last interview, we have been to Spence's Bridge, and, after carefully considering everything that has happened since we arrived in Ottawa, we decided to present a third supplementary statement, for which we are here to-day.

(Copy presented to the Minister.)

Mr. Woods here read *Supplementary Statement No. 3*, as follows :—

SUPPLEMENTARY STATEMENT NO. 3 OF THE NISHGA NATION OR  
TRIBE OF INDIANS.

Since our interview of 17th February two delegates attended the meeting of Interior Tribes held at Spence's Bridge on 25th, 26th and 27th February, and the other two delegates in returning to the Naas River stopped at Hazelton and informed the Kitishean Tribe of our Ottawa interviews.

At Spence's Bridge we fully discussed the situation with the assembled Indians, who freely expressed to us their mind and sent to the Minister a memorial dealing with a number of the matters discussed, from which it will be seen that the Interior Tribes have agreed with all our proposals.

Since returning to Ottawa we have very carefully considered the letter relating to the explanations requested in our last Statement which on 11th inst. the Deputy Minister of Justice, acting, as we understand, on behalf of the Minister of Justice, addressed to Mr. Scott.

We quite agree with the words of that letter, that we are pressing for the means of judicial determination. For that very thing we have always pressed, and are still pressing

most earnestly. We feel that in doing so we are acting in complete accord with what has been done by Canada ever since the time of Confederation and more especially with what has been done by Canada since the claims of the Indians of British Columbia were placed before His late Majesty King Edward and the then Imperial Minister in the spring of 1909. In 1910, the Department of Justice reported that the land question should be judicially determined. In the same year Sir Wilfrid Laurier came to Prince Rupert and promised our delegates and those of other Northern Tribes that this would be accomplished by bringing our claims before the Judicial Committee. It was in order to overcome the constitutional difficulties encountered in seeking to carry out the promise then made by Canada that our Petition was devised. It was after consultation with Canadian Ministers extending from November, 1912, to April, 1913, that our Petition was finally lodged in the Privy Council.

When in July last we began to consider the Order-in-Council, we understood that a new way of carrying out the promise made in 1910 had been brought forward and that if terms of surrender could be agreed upon the controversy which has existed between the Indian Tribes and British Columbia for half a century—the whole controversy—would with the help of Canada be brought for final decision before the Judicial Committee, that our rights—all our rights—would be determined by that Tribunal, and then finally in the light of such judgment determining the nature and extent of our rights the terms of surrender which had been agreed upon in advance would be carried into effect.

The letter which has now come from the Deputy Minister of Justice has made us more sure than ever that on this subject of judicial decision we have taken the right view. It is conceded that authoritative answers to the questions placed before the Minister of Justice, "may to a considerable extent determine the questions in controversy." The matters regarding which explanations were asked have all arisen from Mr. Scott's memorandum and the proposals of the Government based thereon. We need authoritative answers before we can intelligently and with any satisfaction to ourselves decide about the Government's proposals. We are informed that the Minister is unable to give authoritative answers. To whom then shall we look for such answers affecting so vitally our rights and our whole future? We think we must look to the Judicial Committee and to that Tribunal alone.

Therefore, considering a judicial determination of all our rights to be fundamentally necessary and of paramount im-

portance, we are glad now to be assured that the Government sympathizes with our wish to have all questions in controversy judicially determined, and we feel encouraged to hope that soon all needed further action will be taken to that end.

We desire to place before the Government as clearly as possible the point of view from which we look at our Petition, the terms of surrender proposed by the Government, and those proposed by the Nishga Tribe.

We have already before His Majesty's Privy Council humbly claimed the constitutional right of having this controversy judicially decided. We now most respectfully claim the same right before the Government, Parliament and people of Canada. We well know that we who assert this right are few and weak and that the Governments are great and strong, but we have so great faith in British justice that we press on, using only constitutional and peaceable methods, but using such methods to the fullest possible extent, and hope at last to succeed in placing our case before the highest tribunal of the Empire. We are now quite sure that in so pressing on we shall have behind us all, or nearly all, the Tribes of British Columbia.

Meantime we are willing to go a long way towards meeting the wish of the Government that terms of surrender shall be agreed upon in advance.

About the terms proposed by the Government, we will say what seems to us the best that it is possible for us to say. If it could be arranged that the matter of finally deciding the lands to be reserved should be dealt with by the method suggested in our first proposal or by some other method to be agreed upon, and if then the Judicial Committee should decide that the opinions regarding our rights contained in Mr. Scott's memorandum are well founded, we would be satisfied with the terms proposed by the Government and are willing so to agree now.

If, on the contrary, the claims which we have made in our Statement of January, 1913, and our Petition should be upheld by the Judicial Committee, we think that the terms of surrender proposed by us would clearly afford a means of making an equitable settlement. At the same time we recognize that so long as Mr. Scott's memorandum stands as the basis of action it is difficult for the Government to adopt our proposals.

After giving further careful consideration to the matters mentioned in paragraphs numbered 1, 2 and 3, of our last Statement and taking into account the fact that these matters have not been explained, we are more sure than ever that on

the subject of the Royal Commission first we ourselves and afterwards the Indian Affairs Committee took the right view. Until it shall have been definitely arranged between the Government and the Nishga Tribe that the issues contained in our Petition shall be decided by the Judicial Committee, we do not see that any good purpose will be served by our meeting the Royal Commission.

In our Statement of December last we made brief reference to the matter of procedure. We are advised that no plan for bringing this controversy before a Canadian court which is free from grave constitutional difficulty has yet been proposed. If, however, the Government should propose some new plan we are prepared to give it our very best consideration.

We are aware that, as stated by the Minister of Justice in his opinion of December, 1913, it may be considered incompatible with the intention of the agreement of September, 1912, that the Dominion should maintain the cause of the Indians in respect of the aboriginal title. Therefore, we do not expect the Government of Canada to help us as fully as if that agreement had not been made. But we request attention to the fact that in December, 1912, assurances were given by the Minister of Indian Affairs and the Minister of Justice that in passing the Order-in-Council adopting that agreement the Government of Canada had no intention of prejudicing our rights. We certainly think that if, by reason of the agreement mentioned, the Government should not help us in securing a hearing before the Judicial Committee and as result we should be hindered or delayed, our rights would be most seriously prejudiced. If that should happen it will be made clear that instead of helping us to overcome the constitutional difficulties to which we have above referred, the Government of Canada by adopting the McKenna agreement created a new difficulty.

While, therefore, we are content that all responsibility for our Petition and every step taken in carrying it forward should continue to rest upon us, we confidently ask that the Government will help us to secure an early reference of the Petition to the Judicial Committee and, under resolution passed by the Nishga Tribe at the meeting held at Kincolith from 30th July to 1st August last, advance all funds needed charging such advances against the lands of the Nishga Tribe held in trust by the Government of Canada.

We believe the ideal which the Nishgas have set before themselves to be truly British. We want to be free men, to have free possession of so much of the territory of our fore-

fathers as we require to keep for our own use, to be free to live independent lives and make full use of the fisheries and other resources of our territory, and to work out a future for ourselves. In order in the end to realize this ideal, we desire now to have full liberty of action and to be free to use our own resources, whether in our hands or held in trust by the Government of Canada, for the protection of our own rights.

In view of the fact that from March, 1911, to the present time all the most important steps taken in carrying forward our Petition have been taken after consultation with Canadian Ministers, and in view of the further fact that nine other Tribes have now formally declared themselves to be behind us, we ask that the requests regarding expenses brought before the Minister on 17th February be now granted. We also ask that an appropriation sufficient to provide for such expenditure and all additional expenditures that may be found necessary in connection with the land question during the coming year be asked from Parliament at the present session.

We close this Statement with an earnest plea for the speediest possible action. We fully recognize the good will of the Government towards us. We fully recognize all the difficulties, but we ask the Government to realize that we are like a Nishga hunter waiting and watching at a certain spot and patiently enduring all hardship day after day sometimes for weeks, because he is sure that in the end the bear for which he is watching will come down the mountain to that very spot. Just as this is often done for the small object of securing game, so for the very great object, a decision of the land question, the Nishgas and all other Tribes have for many years been longing and waiting. That longing we seek by our Petition to satisfy. We want to take back word to every native village of all British Columbia that soon, very soon, what we have for so long a time striven to accomplish will actually be accomplished.

All of which is most respectfully submitted.

W. J. LINCOLN,

Chairman of Delegation.

Ottawa, 25th March, 1915.

DR. ROCHE.—Is it understood that all the Tribes who met with you at Spence's Bridge are in accord with you and your proposals?

MR. WOODS.—Yes, and through Mr. O'Meara's advice and our own efforts in explaining everything that had taken place in Ottawa and the interviews with the Ministers and



with Mr. Scott, they decided and passed a resolution adopting the Nishga proposals. From that we feel very much encouraged and also from the fact that we have other Tribes in the Province standing behind us, not only that, we have some very powerful Canadian organizations behind us that have promised they would do their best to help us obtain what we are now asking for, and, before we left Spence's Bridge, the Indians at the meeting told us in these words: "We are with you. Go on." That is all about the Spence's Bridge matter.

DR. ROCHE.—As a result of your meeting at Spence's Bridge the basis of reference to the Privy Council, as laid down by the Order-in-Council which we passed, was not acceptable to the Indians who had assembled at Spence's Bridge; do I understand that?

MR. WOODS.—They pressed very urgently that this case should be referred directly to the Privy Council without their being tied to any agreements or any promises, that is what they urged, but, after going into these interviews that I mentioned, and through the advice of Mr. J. A. Teit, they decided to ease up a little on it, and, after my explaining the Nishga proposals, they decided that they would be satisfactory to them, although they did say that it was not quite as strong as they would like it put.

DR. ROCHE.—I understand, then, that they are agreeable to have the case brought before the Privy Council on the basis that we recommended; is that what you wish to convey?

MR. WOODS.—As I told you, they wanted this referred to the Privy Council without any agreement.

DR. ROCHE.—They would prefer that?

MR. WOODS.—Yes, from the speeches that were made.

DR. ROCHE.—After being advised by Mr. Teit and further explanations you say they did consent to have the reference made on the grounds as set forth in the Order-in-Council?

MR. WOODS.—On the basis of the Nishga proposals. And there is another question: I think the Government here have been given to understand that the Nishgas have always stood together in this matter, and that everything had been smooth sailing for the Nishgas, but I want to tell you that it was not always smooth sailing, there are a number of hotheads in that Tribe that have wanted to take drastic action in keeping the whites out of the Naas Valley, but, through the efforts of the Nishga Land Committee, and especially Mr. O'Meara, since he undertook to advise the Nishgas, these hotheads have been persuaded not to cause any trouble; they have been kept

under control. Now the Nishgas stand in this case quite as one man.

I would like to say a few words on this matter of the Royal Commission; we had gone into that very carefully with Mr. Scott in our discussions with him. We come to this, that, through the failure of the Government to help us, that is from what we understood of the letter written by Mr. Newcombe, the Deputy Minister of Justice, was that the Minister of Justice was not prepared to give us the information that we asked for and from that those questions that we did ask information on dealt vitally with this matter of the Nishgas meeting the Royal Commission, we think, would do so or not, and, after going into that letter very carefully with the help of our adviser, Mr. O'Meara, we have come to the decision that the Nishgas will take the stand that they will not meet the Royal Commission, and that resolution has been approved by the Indian Affairs Committee.

MR. SCOTT.—What is the Indian Affairs Committee?

MR. WOODS.—The Indian Affairs Committee of the Social Service Council of Canada. So, after that matter, the main responsibility now rests on the Minister of Justice.

DR. ROCHE.—Did the Indians think their case would be prejudiced in any way by giving all the information necessary before the Royal Commission?

MR. WOODS.—What they did think is that no benefit will be derived from it under the conditions now laid before it. We discussed this matter very carefully with Mr. Scott, but we needed proof that we would get what we wanted, but the Minister of Justice seems to have taken the stand that he is not going to give it to us, so the matter now rests with him.

DR. ROCHE.—I understand the character of the questions asked of the Minister of Justice was of a kind that were supposed to be decided by the courts, and, therefore, he did not wish to prejudice the case or give a legal opinion in advance of a decision of the courts.

MR. WOODS.—In any decision that we come to, any steps that we take in this matter, the meaning we derive from the Order-in-Council, the way we understand it, any questions of law to be brought up, why that is absolutely beyond us. We leave that entirely in the hands of Mr. O'Meara. We understood from the Order-in-Council that we had to agree beforehand to be satisfied with the findings of the Royal Commission; that was plain enough to us, and, after our discussions with Mr. Scott, he was not able to change our minds on that.

DR. ROCHE.—You are quite agreeable to abide by the judicial decision of the Privy Council, but you are not agree-

able to abide by the decision of the Royal Commission, a body that has been appointed by two Governments for the allotment of lands. How, then, did you expect that the decision of the Privy Council would be carried out in the event of its being in your favour?

MR. WOODS.—This Order-in-Council wants us to admit that our rights are those and those only. We say no. We want the Judicial Committee to decide what our rights are.

DR. ROCHE.—The Judicial Committee would not have anything to do with the allotment of lands.

MR. WOODS.—After our rights had been decided that question could then be brought up.

DR. ROCHE.—I understand the Judicial Committee would decide as to whether you had the Indian title or not.

MR. WOODS.—Yes, and to explain what title we have, but, if we agree to the Order-in-Council as it now stands, we have to admit that our title is an aboriginal one and that our rights are limited. Well, that is the thing that we don't want because that takes in this question of lands: we won't have a voice in deciding what lands we will keep for our own use, for ourselves. If it can be shown to us, proven that the Royal Commission is able to give us lands that have already been disposed of and some of those lands that the Indians on the Naas need, why this question of coming to an agreement with the Government would be easy, and our questions, asking the Minister of Justice for information, were based on that.

DR. ROCHE.—You would not be satisfied with taking the other lands in lieu of them?

MR. WOODS.—Well no, because, as we explained by that blue print we gave you in February, that there are no lands to be given outside of those that have been disposed of.

DR. ROCHE.—You mean in that valley?

MR. WOODS.—In that valley, yes.

DR. ROCHE.—Are not there other lands in the Province?

MR. WOODS.—I suppose there are lands in the Province, but we are referring to the Nishga territory at present, and I know there are none in what we call the Nishga territory, unless you go away inland, as we showed you by the blue prints. Of course, that question was never put before the Tribe in that way before. Another thing, we have been advised that the Governor-General, as representing His Majesty, is trustee of Indian interests regarding unsundered lands, and that the Governor in Council, the Government of Canada acts as trustee of reserves. And we have been advised, of course, this is a question that we Indians do not understand very well, but we have been advised that this is

all trust, and it brings in this question whether the Canadian Government is at liberty to help the Nishgas to the extent that we expect them to. We have been advised that the Government is unable to do so as much as they would wish to help the Indians, through this McKenna agreement, passed by an Order-in-Council here in Ottawa. What we ask is that if the Government is unable to protect the interests of the Nishgas to give us, the Indians, liberty to take the responsibility on our own shoulders of carrying this thing right on to a finish, taking the responsibility on ourselves to do it. We have been advised that that is the system generally adopted that when a person acting as a trustee, say, for a body of men here if he is unable to bring some question that is troubling this body of men before a court, why this body of men have the right under British laws to take that question themselves before a court; that is what we are asking for now. Of course, our choice is now that our Petition would be referred directly to the Judicial Committee, but we are willing that the plan stated in our different statements we have presented will be carried out under the conditions stated in these statements, and I want to state, I do not say that you, honourable gentlemen, have the impression that we are deriving pleasure in staying here in Ottawa, away from home, I do not say that, but I do not want you to think it, and I want to show you that Mr. Lincoln and myself, especially Mr. Lincoln, who is in business out there and his business demands his personal attention at the present time on the Naas; I, myself am working for Mr. Lincoln under wages and all the time that I am away from the Naas there is a stop of my pay; and, as a result, we are here at a financial loss to ourselves; but, even at that, if it is necessary, we have decided to stay here, if advised that it is the best stand to take; an indefinite time till something has been accomplished here in Ottawa.

Thanking you for your kind attention, I think that is all that I have to say.

MR. W. J. LINCOLN (Mr. Woods acting as interpreter). —If you will allow me, sirs, I would like to give a little information on the visit of Sir Wilfrid Laurier to Prince Rupert and the effect it had on the Indians that attended the celebration on Sir Wilfrid Laurier's arrival in Prince Rupert. The different Indian agents around that part of the Province sent out notices to the different Indian villages, telling them of Sir Wilfrid Laurier's coming to Prince Rupert, and they said that it was a good time to present something to him when he arrived about this Indian land question; it was an opportunity that should not be missed. The Indians did. There

were hundreds of them gathered there in Prince Rupert and the chief plea was made by a Nishga delegate who took in this whole land question.

Sir Wilfrid after understanding it spoke to the Indians and said that he realized the difficulties that the Indians had met, and he said: "From what I see to-day I do not see any Indians here as I considered Indians. I considered Indians in one way, and I was prepared to meet that kind of an Indian, but I do not see any here to-day, they are all whites as far as I know, and I do not see that the conditions between you and the people that are called whites should be different, and I will say this that I think the only way to settle this question that you have agitated for years is by a decision of the Judicial Committee, and I will take steps to help you, and if there is anything else that you want information on, that you want done, why refer directly to me." He says that the Government of Canada is speaking to you now. "I am that Government."

Well, the Indians, especially all those that took part in that meeting, and, of course, that that did not, heard of it, understood what Sir Wilfrid Laurier meant and to-day they understand that only.

There are a number of Tribes in the Province that do not understand as much about this land question as the Nishgas do, although I admit we understand very little about it ourselves, but we have been interested in the case, we are the prime movers in the question; we understand a little more than the other Tribes do, and when these Orders-in-Council and different explanations are shown and explained to them they would hardly understand the whole thing even after explanations; say if we went around to the Skeena Indians and told them what we had done in Ottawa, here, they would be interested, but hardly understand the whole meaning of it, but would come back to the fact that Sir Wilfrid Laurier, the biggest man in Canada as they see him, had promised that the only way to decide this question was that it should be decided by the Judicial Committee, the only satisfactory way of doing it; they will always bear that in mind; when they have been told that the Government, the present Government, has taken steps to settle this question, I know that is the only thing that they are looking to, because they heard from Sir Wilfrid Laurier himself that this is the only way to settle it. That is all.

MR. O'MEARA.—First of all, let me just furnish a little information that may be of use. The question was asked by yourself how the Nishgas expect to have the decision of the

Judicial Committee carried into effect; may I refer, for a full answer to that, to the statement of the Nishgas, adopted in January, 1913; that matter is there dealt with, and may I just refer to the fact that the main suggestion that was before them, the main proposal that they made by that statement, was that upon a commission that would ultimately deal with the lands the Indians themselves might be represented. The substitute for that as the matter stands now is proposal No. 1, that there should be final appeal to the Secretary of State for the Colonies. Another matter of information is the exact position taken by the interior Tribes in the previous years. The Delegates have brought before you the action taken at the recent meeting. First let me read these words from the statement of the Interior Indians, adopted at Spence's Bridge, on the 23rd of May, 1913:—

"We also assert our agreement with the statement of the Naas Indians made on the 22nd of January, 1913, as their position is the same as ours."

Then let me read two short paragraphs from the statement of the same Interior Indians, adopted at Spence's Bridge on the 5th of June, 1914:—

"It now seems to us that this matter of our rights cannot be settled in Canada, but must come before the great court in England. Therefore, we respectfully urge that you will at an early date have our claims referred to the Judicial Committee of the Privy Council for settlement. Not only our claims, but also those of the Nishga Indians, as stated in their Petition lodged with the Privy Council, as well as those of all other tribes.

"We further respectfully ask that you request the Imperial authorities to take up this matter, so that same may be dealt with by the Judicial Committee as soon as possible, and we will ever pray."

Those, sir, are the concluding paragraphs of the statement of 1914. I also refer in a few words to this fact that these matters, some of them rather grave, that the Nishgas have dealt with since their return to Ottawa have been subject of full consultation with the Rev. Dr. Tucker, Chairman of the Indian Affairs Committee, before the Nishgas finally decided to bring them in their present statement before yourself.

I think from what I learned this morning from Dr. Tucker, himself, I understand he has placed a letter in your hands, and I would respectfully suggest that you might see fit to have that entered upon the record as coming from the Chairman of the Indian Affairs Committee; would that meet with your approval?

DR. ROCHE.—I think it is just a formal letter commend-



ing what the Indians had to say to me, as I made a formal reply this afternoon.

MR. O'MEARA.—In addition, Dr. Roche, I have to say two things and regarding them to speak perhaps strongly; I intend to speak plainly, and I hope it will be thoroughly understood that I am speaking most respectfully. The first is that in the statement of the Nishgas the promise of Canada has been treated as being mainly, at least, the promise of the previous Government of Canada. I think it is quite material that I should give you a little information that shows that practically the same promise was made by the present Government. In the month of May, 1912, the delegates of the Indian Affairs Committee and myself had the honour of having an interview with the Government of Canada at which were present the Prime Minister, the then Minister of Indian Affairs the Hon. Mr. Rogers, and other members of the Cabinet, including, I remember, Mr. Burrell. I have before me the official stenographic report of that interview, from which I will read a short extract. After I had made a statement on behalf of, first of all, the Friends of the Indians, and also specially on behalf of the Nishga Indians at their request, Mr. Rogers spoke as follows:—

"As far as the question of making an inquiry in regard to the different matters affecting the Indians of British Columbia is concerned I may say that we have already taken up and discussed this with Mr. Ross, a member of the Provincial Government, who was here the other day, and I am sending Mr. McKenna, who is here this morning. He will be empowered to investigate all matters that will necessarily arise as affecting the conditions referred to. I do not see that we would have any objection to having the matters undisposed of finally referred to the Judicial Committee of the Privy Council, and I am in hopes that we may be able to arrive at an arrangement whereby a stated case may be agreed upon between the Province and the Dominion. We will, of course, endeavour to find out as quickly as possible whether we can agree upon a case which will be satisfactory to the Province of British Columbia."

On, I think, the following day, Dr. Tucker and myself, desiring to have a most explicit expression of the Minister's mind on the question of a stated case before the Judicial Committee, waited upon Mr. Rogers, and I have before me the notes of the interview, prepared by Dr. Tucker and myself, a copy of which was at the time placed in the Minister's hands. From that I read the following paragraph:—

"The general question of Indian title would unquestionably have a place in the case to be agreed upon for an adjudication between Canada and British Columbia."

I wish on the present occasion to avoid anything in the

nature of an argument, but I wish to point out what seems to us to be the exact result of the adoption of the McKenna agreement, and that is that the whole question of the aboriginal claims of the Indians of British Columbia was the thing that has remained undisposed of finally, and there it has stood since the Fall of 1912.

Now I wish to read a very short extract from the opinion given by the Minister of Justice in December, 1913. In the course of that opinion he said:—

"If the Government do not propose to uphold the claim, I think the inadvisability of making any reference of this Petition should be represented to the Colonial Office."

Now, sir, may I most respectfully ask this question: in view of all that has happened before the year 1912 and in view of the assurance given by the Minister of Indian Affairs in May of that year, how is it conceivable that the Dominion of Canada should send a despatch to the Colonial Office, saying it is not advisable to refer the Nishga Petition to the Judicial Committee.

The next matter is the principle upon which the Nishgas' definite request for practical action has been based. That has to some extent been placed before you, sir, but I feel that it would hardly be fair for me not to add a few words to that. I have advised the Nishgas that there are two matters, one these reserves that have been set aside under Article 13 of the Terms of Union, and the other matter is the territory unsurrendered. With regard to the territory unsurrendered, I have given to them as the best of my judgment that the Sovereign of Great Britain should be considered to be under the Royal Proclamation Trustee of the Indian interest in the unsurrendered lands of the Province. I admit that that is dealing with a very large constitutional matter, but that is the best of my judgment. The other matter is very plain and simple; the words of Article 13 most explicitly make Canada the Trustee of the lands set aside before Confederation, and also under Article 13; and so the whole matter is a matter of trust, and I have advised the Delegates and have advised the Nishgas that the proper position for them to take, the sound position for them to take is not to say to Canada, help us in a complete way, but say to Canada that we recognize that the McKenna agreement must be taken into account; we ask, you, however, to remember that the whole of this matter is one of trust, and we ask you to do those things which if an individual were acting as a trustee those interested could come into court and compel him to do. I am perfectly con-

scious in saying that, that it is a strong thing for the Nishgas to place before this Government, but they do it respectfully and I do it respectfully. We perfectly recognize that what persons can compel an individual to do they cannot expect to compel a government to do, but that is the principle upon which they are deliberately proceeding; and, therefore, they are proceeding most definitely to take all the responsibility and also to take action practically at their own expense, thus complying with what is said in the opinion of the Minister of Justice on that point.

DR. ROCHE.—You made the remark about the Government of Canada sending a despatch to the Home Office.

MR. O'MEARA.—I stopped short in my statement out of, perhaps, excessive respect. To make my meaning quite clear, let me ask you to imagine that the Nishgas come by their counsel before a special committee of His Majesty's Privy Council with their Petition and that there comes, either directly or through the Colonial Office, a communication from Canada stating the inadvisability of referring that Petition to the Judicial Committee, and also imagine that the Nishgas are in a position to quote from the official record of the interview of May, 1912, what is distinctly said that Canada would not object to that question coming before the Judicial Committee.

MR. SCOTT.—Have you a copy of Hon. Mr. Doherty's letter to you, I think it was dated in December last? I think it completely answers your present argument.

DR. ROCHE.—I do not know that I can give any further information than I gave when the gentlemen were here the other day; there is not anything, at least, upon which I could make any recommendation. The only thing I could report to my colleagues is that the Indians are not satisfied to have the reference under the terms of the Order-in-Council. After consulting with their colleagues out at Spence's Bridge they come back and report that they are not satisfied to abide by the decision of the Royal Commission so far as the allotment of land is concerned should the Judicial Committee of the Privy Council decide in their favour.

Now, under these circumstances, I cannot pledge my colleagues that they are going to reverse their decision. I cannot state to these gentlemen that, and I think an intimation was thrown out by Mr. Woods that they were prepared to remain here until they got a satisfactory answer, until this question was cleared up. Now, it is utterly impossible for us to say how soon that can be cleared up. In the event of my colleagues not looking favourably upon any other reference

save under the terms of the Order-in-Council passed, they might stop here a very indefinite time. I presume all they want, though, is either yes or no. Well, it may be that we may be able to give that decision in the very near future, but it would not be necessary for these gentlemen to remain for that purpose. I think they have had a very good opportunity of putting their views before us, and I think we pretty thoroughly understand their viewpoint, and all I can say is that I am prepared to bring it once more before Council with a view of seeing if they are willing to have a reference made on the ground suggested by the Indian Tribes, but, while we have not got the consent of the British Columbia Government to our present method of settlement, we are not having their opposition, and I fear that to give that case to the courts on other terms would mean the opposition of the British Columbia Government, and that was the stumbling block in the way of Sir Wilfrid Laurier carrying out his promise. Sir Wilfrid has been quoted on a number of occasions here as stating it ought to be decided by the Judicial Committee; well, I believe he is quite right, that is what this Government says, but, at the same time, Sir Wilfrid did not devise any plan to have the Judicial Committee of the Privy Council pass upon it; he never got it before them, and the reason he did not, so far as my understanding, is that the British Columbia Government would not consent, and, while he intimated that if it were possible to devise some other method of bringing it before the courts, he would do so, still he never did devise any other method. Now, this Government has devised a method, and, I think, a fair one, and we had hoped the Indians would accept.

MR. O'MEARA.—May I just point out, without going into it, that there are some very practical matters. First of all, when the four delegates were here we came to the point at which we would have naturally gone on to discuss the Nishga proposals. It was thought by the Nishgas that they should reserve that matter completely until they got the hoped-for explanations from the Minister of Justice. Now the Nishga delegates are prepared to have any discussion on their proposals that you think might be of any service.

DR. ROCHE.—In my opinion the great point is, as I have intimated on several occasions, the Indians have been striving for a long time to get their case referred to the Privy Council. This Government has settled that they are willing to have the case go through the courts to the Privy Council, notwithstanding the fact that the British Columbia Government are opposed to it. Now we have an Order-in-Council passed,

stating that we are quite agreeable to have this reference on certain conditions which, in the opinion of the Government, would be proper conditions, and it is a question whether the Indians will be agreeable to accept or reject, apparently they reject those terms. Now, it is up to the Government to say whether they will go further or not.

MR. O'MEARA.—Let me point out the position with regard to the whole of the proposals: the Minister of Justice very explicitly told the delegates in February that the Cabinet would consider their proposals, and also any further suggestions they might make in the future. That is the position in regard to proposals, and yet their proposals have not yet been discussed between Mr. Scott and themselves; it stopped short of that. If the Minister thought that something might be gained by a discussion of the Nishga proposals with Mr. Scott, the delegates are quite prepared to have that discussion, but, of course, it would be part of the record.

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#### INTERVIEW AT THE OFFICE OF THE DEPUTY SUPERINTENDENT GENERAL OF INDIAN AFFAIRS.

OTTAWA, APRIL 6TH, 1915.

BETWEEN THE DEPUTY SUPERINTENDENT GENERAL AND DELEGATES OF THE NISHGA TRIBE.

PRESENT:—

Mr. Duncan C. Scott, Deputy Superintendent General.

Mr. W. J. Lincoln.

Mr. R. S. Woods, Interpreter.

Mr. A. E. O'Meara, Counsel for the Nishgas.

MR. WOODS.—These proposals were got up by the Nishgas. They decided on these proposals after being advised by Mr. O'Meara to try and meet the wishes of the Government as far as possible. Since those proposals were got up by the Nishgas a great deal has happened; in the Province we have managed to get nine Tribes besides the Nishgas to agree on those proposals, so there are ten Tribes together. If, after we have explained and discussed these different proposals to-day, Mr. Scott suggests any modifications in any of these proposals, why we will be very pleased to listen and consider the suggestions, and then we will go back to these other

Tribes that are standing in with the Nishgas and tell them, let them know the modifications suggested, and we will answer them.

In discussing these proposals we would like to look at the matter in this light, that the Judicial Committee has already decided that the Nishgas' claims are correct; if we look at them in this light we can understand these proposals better.

MR. SCOTT.—It might be just as profitable to look at them in the other way, to look at them in the light of the Judicial Committee having decided that the proposals of the Government are correct.

MR. WOODS.—We have already looked into the proposals of the Government in the light that the Judicial Committee would have already passed a decision saying yes, saying that those proposals were correct.

Now, to understand our proposals better we think that in discussing them to-day we would look at it in the light that the Judicial Committee has already passed a decision, saying that the rights that the Nishgas claim are correct. We are only supposing this to explain the matter.

Going into the proposals, we can divide them into two classes; we will take proposal No. 1 and proposal No. 4; those two are the most important.

Nos. 2 and 3 are important, but they are not absolutely necessary. Nos. 1 and 4 might stand alone. Now, we will take proposal No. 1.—That when the findings of the Royal Commission are known, each Tribe that may consider such findings insufficient shall have opportunity of making application for additional lands to be reserved for the use and benefit of the Tribe for reasons to be stated in such application, and every such application which cannot be dealt with by conference between the Tribe and the two Governments shall be decided by His Majesty's Imperial Minister, the Secretary of State for the Colonies, in pursuance of the principle embodied in Article 13 of the "Terms of Union." If we suppose that the Judicial Committee will decide that the claims made by the Nishgas are right, we think that the Nishgas are making a big concession because the Nishgas claim that they hold rights to all this Naas River territory; if there is a decision passed that the Nishgas are right, why the Nishgas have a right to pick out what lands they need themselves and to decide on what lands are to be sold. In these proposals we do not go as far as that; we say that we leave it entirely in the hands of the Secretary of State for the Colonies, and that we think is making a great concession.

Now, we had before us two lines of action when we decided



on making a concession. One we asked for in our statement of 1913, that the Indians be represented on this Royal Commission that is now working in British Columbia, and the other is embodied and set out in Article 13 of the Terms of Union.

We are asking and we decided what we have asked that the Secretary of State for the Colonies would be the one to finally decide what lands were to be set aside for the Indians. We think that if this proposal were adopted it would be the means of settling this question of reserves that the Indians are not satisfied with. We do not see any difficulty in having this proposal work in with what the Royal Commission is now doing in the Province and think that it would not be against the work of the Royal Commission.

Proposal No. 4.—That all the remaining matters including an equitable method of fixing compensation shall be adjusted by enactment of the Parliament of Canada. It says there that the Nishgas are willing that the Parliament of Canada deal with the whole matter of compensation, that the Nishgas are willing to trust the Parliament of Canada; we leave it entirely in their hands; it is up to them to decide what steps to take, and, if that proposal was adopted, a treaty would be unnecessary because negotiations would be held with the various other Tribes of the Province, and, after considering all representations made, the Parliament of Canada would finally deal with the matter; and it also provides for dealing with everything, even the restrictions and disabilities that are mentioned in No. 3 of our proposals.

MR. O'MEARA.—There are some of those restrictions that the Province would have to deal with.

MR. WOODS.—That proposal would deal with everything, these restrictions and disabilities would be included in these proposals.

MR. O'MEARA.—The Parliament of Canada deals with the situation in view of all restrictions; what I meant to point out is that there are some restrictions that Parliament could not remove.

MR. WOODS.—Now, these are the two main proposals, and, as I said before, those two proposals might stand alone without Nos 2 and 3. I think we will take up proposal No. 2.—That in fixing compensation regard shall be had to all the terms and provisions of any Treaty made between the Crown and any Tribe of Indians in Canada. We ask that all provisions of every treaty made with Indians of Canada would be looked at and that the very best of those, the very best for each Tribe, would be adopted.

Proposal No. 3.—That in fixing compensation regard shall also be had to all restrictions and disabilities imposed upon Indians by Provincial laws and those imposed by Canadian regulations relating to the fisheries. This relates to restrictions that are put on the Indians, and these restrictions, as we have mentioned before the Minister of Justice and the Minister of the Interior, were that the Indians were unable to pre-empt land, that they were unable to purchase land, that they were unable to become voters, and also there were restrictions put on them in fishing. The statement got up by the Interior Indians showed that they were strong on that point; they asked that these restrictions be done away with.

MR. O'MEARA.—May I be allowed to point out a few matters that are important to notice. The first is that the basis upon which the Nishgas have based their proposal No. 1 is indeed a part of the Canadian Constitution, being a part of Article 13. I beg to point out that the second is this, what you will find by examining the Order-in-Council passed in November, 1912, that its terms make perfectly clear that lands to be set aside in pursuance of that Order-in-Council are lands upon which Canada and British Columbia will agree.

The matter was specially referred to the Minister of Justice and he reported that all that was done by the Commission came back to the Governments for confirmation, and it must be ultimately a matter for agreement through the Governments.

Mr. Woods referred to the proposal of the Nishgas as being a possible solution of the reserve difficulty; may I just add this word of explanation that for lands that might be so taken from those who had purchased from the Province it would appear clear that Canada, under the McKenna agreement, would be responsible for furnishing compensation.

MR. SCOTT.—I do not quite see that; what do you mean by that?

MR. O'MEARA.—The basis of the greatest difficulty of all is the fact that vast quantities of land in British Columbia have been disposed of by the Province to persons who have bought in good faith. Now, the Nishgas and the other Tribes say that these transactions have been unlawful under Proclamation of King George the Third. The Nishgas are proposing that the difficulty arising from that state of things would be dealt with in this particular way. Now, if the Secretary of State should decide that lands that have already been sold by the Province, should go to the Indians, then, no doubt, some compensation would have to be made to the persons who in good faith had purchased, and, as I pointed

out to the Nishgas, the Province was interested in that question, and also, under the McKenna agreement, the Government of Canada was interested, because the Government had seen fit to undertake special responsibility for the whole matter.

MR. SCOTT.—I understood you to say that the Dominion would have to compensate the owners?

MR. O'MEARA.—In pursuance of the terms of the McKenna agreement.

MR. SCOTT.—Of course I do not agree with that. There is no objection to your making that statement; I cannot agree with it.

MR. O'MEARA.—I am not interested in saying that.

MR. SCOTT.—I do not quite go with you in that argument.

MR. O'MEARA.—The doubt remains.

MR. SCOTT.—The McKenna agreement is designed to settle the difficulties and differences, and, if the two Governments were to fail to agree, it might be possible that Article 13 would come into play; I do not say that it would, but it seems to me that it might.

MR. O'MEARA.—Another matter to be mentioned is that the proposal that Parliament shall in some way deal with the whole matter of making compensation is to be understood in relation to the fact that Parliament has already promised that compensation shall be made for all lands to the Pacific Coast. It is important to bear in mind the historical facts regarding this proposal of the Nishgas. Parliament in the address made by the Senate and the House of Commons, which is referred to in my opening remarks of February, promised that compensation should be made to the Indian Tribes for all lands required for settlement.

MR. SCOTT.—That was at the time the Terms of Union were being fixed. These were steps preliminary to the Union. We must look at Article 13 of the Terms of Union to find out what was finally said about the Indian policy.

MR. WOODS.—We ask you that if there is anything in the way of having these proposals adopted, we would like to hear from you.

MR. SCOTT.—Of course the objection that occurs to me with reference to the first proposal is that the Government of the Dominion and the Government of British Columbia have agreed to deal through a Royal Commission with Indian affairs in British Columbia, and to have a confirmation of the reserves and a final settlement of the reversionary interest

that had given so much trouble in dealing with Indian reserve lands in British Columbia.

The findings of the Commission, as your Counsel points out, have to be confirmed by the two Governments, and I cannot see how this proposal of yours could become operative concurrently with the Commission. That is the reason that I have always urged you to bring your claim for a greater acreage of reserve lands in the Naas River before the Royal Commission, as being the only tribunal at present accredited to deal with these cases. I have been most anxious that you should come before the Commission, which would, I am sure, treat your representations with consideration. I would like to ask whether you had made up your minds as to what you wanted for reserve lands in the Naas Valley. You have constantly stated to us there is no land there for the Indians but you have never said exactly what you wanted in the way of reserves: would it be possible to tell us?

MR. WOODS.—They discussed that often. I do not know what the upper Bands want, but I know pretty well what the Kincolith Band want.

MR. SCOTT.—What do they want?

MR. WOODS.—To show you we need a map of that, the different places; we don't know how much we want at each place. The Kincoliths go in for fishing more than anything else.

(Reference made to maps.)

MR. SCOTT.—This is the information that you should put before the Commission; you might get the lands you want. If the Commission does not have your evidence how can they consider and do you justice?

MR. O'MEARA.—These delegates made most strenuous efforts to get from the Minister of Justice explanations that would help them to deal with that matter.

MR. SCOTT.—The Minister of Justice gave his answer and I have nothing to say about that, but the requirements of the Nishgas ought certainly to be placed before the Commission; it is the only hope that they have to obtain larger reserves. I think the Commission will deal with them in a liberal spirit. I would go so far as to say that we would be willing to give them special directions with reference to their report on the Nishgas, that is to say they would report the needs of the Nishga Indians.

The average acreage in some of the agencies is 35 acres a head, some run higher and some lower, but that I think, is the average, and I will certainly recommend to my Minister that he give the Commission special directions with reference to

hearing the Naas River Indians if the Indians will go before them and state their case.

MR. O'MEARA.—Do you understand that the Commission would act on this instruction without similar instruction from British Columbia?

MR. SCOTT.—British Columbia should have no objection to doing so but I cannot answer for British Columbia. I think British Columbia has dealt fairly in agreeing to this Commission.

MR. WOODS.—Of course, the Naas Indians are in a different position from other Indians of British Columbia. Around Kincolith you would not get 2 acres. From that on you might not come across another piece of land for five or six miles, and then you would get another little bit and so on, and most of it has been taken up by whites, nobody lives on it, but they have squatted on them and we cannot do anything with them. You hear a lot about Indians saying these are our hunting grounds, but I myself know that the day of hunting has practically passed, and that the Indians would have to look forward to something different than hunting, they could own a piece of land themselves and work it, and I think that that is what the Indians want. Of course I do not know of any one piece of land that could be given to the Kincolith Band to satisfy them—one large piece of land that they could live on and stay together. The only way to get them land in that case would be to separate them.

MR. SCOTT.—I could only say with reference to this what I said before that it is most necessary that the Nishgas should go before the Royal Commission and make full representation of their case; the Minister has written, saying that it will not prejudice your larger claim, and now I have gone so far as to say that we will make special representations to the Commission with reference to your claim for reserves; I do not think we can do anything more than that. If after that you fail to make use of the remedy that the Government has devised for settling this reserve question, I do not think that we can be blamed.

I think I have stated my objections to Clause 1, but I will be very glad to bring your representations before the Minister; he will have the opportunity of reading a record of the interview.

Re proposal No. 4.—That all remaining matters including an equitable method of fixing compensation shall be adjusted by enactment of the Parliament of Canada. It seems to me that it would be a cumbersome way of dealing with the matter. Parliament has an immense amount of business to transact.

and it would be difficult to get Parliament to deal with it, and I am not able to say how it could be dealt with by Parliament, but we will give the suggestion consideration too.

MR. O'MEARA.—It is an equitable method of fixing compensation which the Nishgas propose Parliament should decide upon, not all the details.

MR. SCOTT.—With reference to proposal No. 2, I think in one of our first talks we spoke about that, and I think I expressed the opinion that each Tribe in British Columbia, if we ever came to make a treaty with British Columbia Indians, that each Tribe ought to have its special needs looked into carefully and met, at the same time not increasing the obligations of the Government beyond a certain reasonable amount. In so far as I am concerned, I see no difficulty in agreeing with such a proposition.

MR. O'MEARA.—Who would fix the certain amount?

MR. SCOTT.—I have, in my memorandum attached to Order-in-Council of 20 June, 1914, stated how those amounts had always been fixed in the past, and I do not think we will go over that again. I cannot conceive of a treaty being made and an arrangement come to under any other condition. As for the third proposal I see no great objection to it. We cannot alter Provincial laws; the Provincial Parliament is supreme in the Province, but something might be done, perhaps, to remove certain restrictions.

MR. O'MEARA.—It is not primarily a matter of removing restrictions; compensation should be fixed in view of the restrictions.

MR. SCOTT.—Yes, if the restrictions might be removed; if the restrictions could be removed the compensation need not be affected either one way or the other. The fisheries are, of course, administered by the Department of Fisheries for the Dominion, and they have already said that they would give every heed to representations made on behalf of the Indians.

I may say again that I will have pleasure in bringing these matters to the attention of the Minister and ask him for his decision.



REPORT OF INTERVIEW WITH HON. DR. ROCHE  
AND MR. SCOTT.

PRESENT:—

Rev. Canon Tucker.  
Mr. A. E. O'Meara, and  
Delegates of the Nishga Tribe.

OTTAWA, 27TH APRIL, 1915.

CANON TUCKER.—There are just two or three questions that I would like to mention now, questions that have been, I think, before the Department on previous occasions. One is in regard to the diffusion of information. I think the cause cannot possibly lose anything and can only gain by the spread of accurate and useful information. This question was up, I think, on a previous occasion, when it was proposed that some statement should be printed and sent out, giving the proposals of the Government and of the Indians, so that the question would be open to the study of anyone who cared to study it, and more especially that it would give us an opportunity of placing before the Indians the purpose of the Government.

I am here to ask this morning if it would be reasonably possible that the matter should be proceeded with and that the documents should be proceeded with as soon as possible.

Then there is the question of the Commission appearing in the Naas Valley; I think the intention is that in the course of a few months, perhaps this summer or autumn, that the Commission should sit at Aiyaush or in some other part of the Naas Valley.

Now, according to the best of our judgment we have come to the conclusion, the Social Service Council of Canada have come to the conclusion that under present circumstances it would be inadvisable that the Nishgas should appear before the Commission until the questions that are now under discussion with the Government should be, at any rate in some measure, settled. We understand, we may be mistaken, that the Commission can only deal with the reserves, and these Indians of the Naas Valley are standing upon a broader platform, namely, the claims of the Indians in regard to all the lands, whatever those claims may be, however shadowy they may be, and we feel that it might prejudice their case, it might be giving away their case if they appeared before a Commission whose authority absolutely did not extend beyond the reserves. Now, the Nishgas are extremely anxious not to prejudice their own case, very naturally, and they are also extremely anxious to work, in as far as possible, with the Gov-

ernment of Canada. They should not like to be under the necessity of refusing to appear before the Commission. I do not say that they would refuse, but they would be extremely loath to seem to do anything that would seem to be in open opposition to the Government of Canada. Therefore, for that reason we have thought it well to submit to the Government the desirability of not sending the Commission to the Naas Valley for the present; at least until more light is thrown on these outstanding questions that are under discussion to-day.

Thirdly: The question of finance. I know that has been before the Department once before, but I should like, because I have been asked by the Nishgas themselves, to present a case whether it would not be possible to utilize some of the money that has been set apart by the Government for the use of the Indians in this connection.

I believe, if I am well informed, that it was the suggestion of the Friends of the Indians originally that this appropriation was placed in the estimates, some \$5,000.00, for use in this connection if need be, but apparently the need has not arisen and the money has not been used, but now it would seem as though the need had arisen, and, therefore, the application is now before the Department to use the whole or a portion of that money to help out the present difficult situation in which the Nishgas are placed. We make this application because we feel that all along we have been acting in consonance with the wishes of the Government of Canada until, at least, quite recently. To my certain knowledge, in an interview with the head of the late Government, Sir Wilfrid Laurier, he told us distinctly: "Go to British Columbia and see what you can do with the Government of British Columbia, use all your influence with them, and then come back to me." Well, a six months' job was undertaken in this connection to array the Indians in a deputation and carry them to Victoria and interview the Government. At the end of that laborious piece of work we came back to the Dominion Government. In like manner in England when the Colonial Minister had the question before him he was extremely loath to interfere and he said to us:—"Go back to Canada and go back to British Columbia and when you have used every influence and exhausted every effort, then come back to me." It was in keeping with the express desire of the Government of Canada and of the Colonial Minister in England that these steps were taken, and all along the line we have endeavoured to keep ourselves in touch with the Government of Canada, and, as far as possible, to act in concert with them, and, in any case, even if we do not see eye to eye with the Government of Canada, it is

not, perhaps, to be expected that we should; it is a great national question and the money at stake is national money, and we do not feel that there is any real objection to the application of a portion of this money, which has been placed in the estimates for such a purpose, that it should be applied at the present time. At the request of the Nishgas I would make an application this morning that a certain portion of that appropriation be used for the purposes of the work that is now being carried on. It is perfectly evident to anyone who thinks about it that such large works as are now being carried on cannot be carried on without considerable expense, and this expense has been provided in the past entirely by voluntary help, which is an exceedingly difficult thing to obtain when one's mind is taken up with other aspects of the question, and I think it would be using the money in a perfectly legitimate way if it were used in that way.

Before I sit down I would like to make a few general remarks in regard to the Indian land question in British Columbia. Personally, as a minister of the Church of England, I am chiefly interested in the moral and ethical and social aspects of this question. The moral and spiritual welfare of the Indians is what I have chiefly at heart, and the Social Service Council of Canada has always taken that stand also. We are not so much interested in legal questions or legal aspects of the question as in the moral and the social and the religious uplift of the Indians of British Columbia, and I have the assurance, knowing the personnel of the present Government of Canada, that the moral and social aspect will have very great weight with them. I think, knowing as I do the Prime Minister of Canada and other members of his Cabinet, that they realize that national issues are not at all material, but that the moral and religious and the spiritual are the basis of all national progress and stability, and, in fact, governments are, as the old book says, ordained of God, and there is a ministry, a sacred ministry attached to every Minister of the Crown, and, therefore, I have no hesitation in presenting the subject of this morning on that basis. It has also struck me and it strikes me now, and I feel moved to mention it because I may not have, perhaps, another opportunity of appearing before the Government of Canada in connection with this question, the Indians of the Naas Valley from time immemorial have occupied that valley, have hunted in its woods and fished in its streams, pitched their tents on its hillsides and buried their dead there from time immemorial. Now, it has always seemed to me that this constitutes a certain claim to the land which they have thus occupied as far as the memory of man goes. I

do not define the claim, but it certainly to my mind constitutes a certain claim that must be considered and must be respected. Well, then, when the British Government acquired possession of Canada, they at once set to work to organize the government in Quebec, in the east, and at the same time they felt it necessary to make provision for the regions beyond that were inhabited by the Indians, and, so, in 1763, at the peace that was made between France and England, the Government of England issued a Proclamation in regard to the Indian territories, which Proclamation was meant to protect the rights of the Indians, whatever those rights might be, and its provisions are that no loyal subject must encroach upon this Indian territory without the special sanction of the British Crown. Well, it is just a question as to whether this Proclamation extends to British Columbia or not; I think that is one of the points that would have to be decided by the courts, but, at any rate, there is a Proclamation, there are the rights of the Indians acknowledged and there is a prohibition set upon the infringement of those rights by any loyal white man.

As soon as the Indians of British Columbia came under the Crown of England, they claim to have come under the provisions of that Proclamation, that has been their understanding from the very beginning and they have made that claim all along. They claim that it is theirs, Indian territory, and that the provisions of the Proclamation extend to them, and that their claims, their rights as occupants of the country, whatever those rights may be, are recognized by the Proclamation and that no one has a right to infringe upon their territory without the express permission of the Crown of England.

One step further—when the question arose of British Columbia coming into the Dominion of Canada, the Government of Canada, in the most explicit manner, stated the terms and conditions on which they would deal with the Indians, that is before Confederation, and that, in my judgment, is something of the nature of a treaty. Before the thing was decided upon the Government of Canada stated that the Indians would be dealt with along certain lines, and that equitable compensation would be given them for any infringement of their rights, that adequate compensation would be given. Now, this was before, I believe, or just about the time of Confederation. Then, no sooner had British Columbia come into the Confederation than the line of cleavage arose between Canada and British Columbia. We know that British Columbia has claimed for many years, not from the beginning, but for many years, that the land of the Province belonged to

them, that the Indians have practically no rights. Now, with the best wish to be conciliatory, we have never been able to look upon that attitude in any way but as being an immoral attitude; what rights have the white men in British Columbia, simply the right of greater wealth and power, it is simply the mailed fist, nothing else; white men come in and find thousands of Indians in occupation of the land and they say those Indians have no right to the land whatever, that land belongs to us; that, in our opinion, is an immoral attitude, and we do not see how any government can profit in the end if that policy is carried out; it is found even in this great war that rages in Europe at the present time, that it is moral and ethical questions that rule and in the end that bring nations to ruin or to triumph.

No sooner had British Columbia entered the Confederation than a line of cleavage arose between the Provincial Government and the Dominion Government; the Provincial Government stated that the Indians had no rights; the Dominion Government, I believe, emphatically taking the stand that the Indians were justified in their claims, without defining the claims.

Both the Governor-General of Canada, the Minister of Justice, other Ministers, I believe the Minister of the Interior, distinctly stated in state documents that they stood behind the Indians in the claims they were making; that is in the early days of Confederation, and so the question stood for many years during which very few white people found their way into the Province, and during which the question was in abeyance. No sooner did white people begin to enter the Province in any numbers than the question again came to the surface, and it is then that I, for one, came into contact with it. As Mr. Scott knows, I have been connected with this Indian question, not the land question, but the Indian question, long before the Friends of the Indians came into existence or even the Social Service Council of Canada came into existence, with the Indian schools, day schools, boarding schools and industrial schools, in the effort to uplift the Indians in the West by education and otherwise, before this question came to the fore. Naturally when the question came to the fore, as one interested in Indian affairs, I became interested in it, in the Social Service Council of Canada, with its Indian section, namely, that there was practically antagonism between the policy of Canada on one side and British Columbia on the other, and I can remember distinctly Sir Wilfrid Laurier telling us on the occasion of a deputation waiting upon him that courts existed for this very purpose. He said, when there is disagreement

between parties, whether it be the Indians and the Provincial Government or the Provincial Government and the Dominion Government, if there is disagreement between parties, courts exist for the very purpose of settling those disagreements, and, therefore, I am in favour of sending this case to the courts; the only difficulty in the way, as he stated, was the opposition of the Government of British Columbia. Then he told us in the most emphatic terms that he would do his utmost to bring this question before the highest courts in the land, not only that, but, on a visit to the coast, he saw some of those Indians at different places and told them distinctly, if my memory serves me right, that he would do his utmost to submit their case to the courts, and word was sent down to the Indians at that time through the Indian Agent or otherwise to the same effect.

Well, now, you can see the attitude of the Indians for half a century and more, which has been consistent; it has been on a basis of natural right, natural occupation, which has been under the provisions of the Proclamation of King George, it has been under the provisions of the Government of Canada when British Columbia entered Confederation, it has been in keeping with the statements of Cabinet Ministers and governments forty years ago and five or six years ago; it has been consistently throughout that the Indians had a claim that ought to be submitted to the courts for adjudication.

Well, now, the present Government, as we understand it, they themselves admit, have made somewhat of a departure from the policy of the past. If I remember rightly, the Minister of Justice admits that in a written statement. Well, all along the Indians themselves and the Social Service Council of Canada have sought to work in entire agreement with the Government of Canada, they sought to support them in every way and to carry out their policy in every way, but I do not think we can fairly be accused of not backing up the Government of Canada if we find that they, for reasons that may, no doubt, be adequate in their own judgment, if they see fit to depart from the policy of the Government of the past, of the Government of Canada for half a century.

We can scarcely be accused of unfairness in our attitude if we are not able just at a moment's notice to depart from our own position, in order to take our stand by the side of the Government of Canada. It will be, I am sure in the recollection of the Superintendent General of Indian Affairs, yourself, Dr. Roche, that we had an interview with you just about the time when the agreement between the Dominion of Canada and the Province was being consummated; we did now know



anything about the terms of that agreement directly, but we had information indirectly that practically, this is the way the information came to us, that practically the Government of British Columbia had secured in that agreement all its own contentions, and we heard further that the Government of British Columbia, as represented by Sir Richard McBride, and I think, Mr. Bowser, were coming down, as the statement was, in triumph, to secure from the Government of Canada the signature of that agreement, and I had the honour of mentioning that to you at the time before the agreement was signed, merely as a rumor that had reached us, that practically the agreement conceded all the main contentions of the Government of British Columbia.

Well, now, the Ministers of British Columbia came down and the agreement was signed and a Commission was appointed to carry out that agreement, omitting entirely the contention for which the Indians have pleaded for fifty years, the contention behind which the Government of Canada stood for fifty years, the contention behind which the Social Service Council of Canada has stood all along, namely, these claims of the Indians and submission to the courts, and now the question is being settled or attempted to be settled along those other lines.

All I can say before sitting down is this, that as representing the Social Service Council of Canada Sir Wilfrid Laurier told us at that memorable interview that not only did courts exist for settling differences between parties and governments, but that it was the part of good government to see that the people whom it was governing was satisfied and had reason to be satisfied in the premises.

Well, now, it may be in the power of the Government of Canada to impose its conditions upon the Indians of the Province, it may be in their power; governments are very powerful and the Indians are very few, very weak, very poor, not even citizens, they have not even got a vote, and we know how votes tell in connection with all government matters, they have not even got a vote. It may be quite possible for the Government of Canada to impose its conditions upon the Indians of the Province, but it does not seem to me, and I am sure it will so appear to the Social Service Council of Canada, which I represent, and which is interested mainly, as I said before, in the moral and social aspects of these questions, that no solution is a proper solution that is not a right solution, and, as Lincoln said, no question is settled that is not rightly settled, and, on that basis, the land question in British Columbia will not be rightly settled, as it will not satisfy the

Indians of that Province, nor will it be a settlement upon which our children will look back with satisfaction and pride, nor will it be a settlement that will contribute to the stability of the Government and the nation of Canada.

MR. O'MEARA.—Dr. Roche, there are a few matters that the Delegates asked me to bring before you before we close this interview; first, let me attempt to state what seem to be some of the main practical results of the interviews that have been had between the Government of Canada and the Delegates of the Nishgas since the 3rd day of February. First, it has been brought out into the clearest light, we think, that there is a great practical issue regarding lands which have been disposed of by the Province, a great practical issue between the Indian tribes and the Government of the Province, and this issue is not dealt with by the McKenna agreement. I wish to emphasize that I did not say that it is not rightly dealt with or that it is not equitably dealt with, I say more than that, it is not dealt with at all, so that all through these great valleys of British Columbia we have to face the fact that there are vast quantities of land that the Province has disposed of. The Indians say the Province has no right to dispose of them and that the disposition of those lands has been a breach of the Royal Proclamation, but the McKenna agreement does not deal with these lands.

Second: A result that I would mention is that the Nishgas have asked for certain explanations from the Minister of Justice with which you are familiar, and they thought that these explanations might be helpful to them, more especially in dealing with the question of their appearing before and dealing with the Royal Commission. The Minister of Justice, in his wisdom, has decided not to give those explanations.

Third: Another result is that the Nishga proposals are shown to be founded upon what is contained now in the constitution of Canada.

Proposal No. 1 you are familiar with as dealing with the power of the Secretary of State for the Colonies, and the other three proposals relate to the settlement of compensation. The first of those proposals is based upon Article 13 of the Terms of Union, the other three proposals are based upon the principle laid down by Parliament in 1869 in the address then presented to Her late Majesty Queen Victoria.

The fourth outstanding result that I wish to refer to is that the only objection that seems to be seriously urged against the acceptance of the Nishga proposals is that British Columbia would not consent to a reference based upon them.

From that I go on to say a few words about what you yourself, sir, said on the 25th of March. Let me read:—

"I fear that to give that case to the courts on other terms we would meet the opposition of the British Columbia Government."

Now, I am asked to place before you, sir, the mind of the Nishgas upon that very important matter. First, they are taking their stand upon the provisions of the Terms of Union regarding the power of the Secretary of State for the Colonies, and, as they understand their proposal they are simply asking that these provisions be carried practically out in a fair and reasonable way. Then, with regard to the whole matter of compensation for lands to be surrendered, the Nishgas are taking their stand upon the principle laid down in the address of Parliament, made in the year 1869. You will find, sir, that the principle there laid down was that for all lands required for settlement the Indians should have compensation, to be equitably settled.

I use the word principle advisedly. So far as regards the territory that was then immediately taken over by Canada, it was a positive promise, but the fact is that at that time the territory known as British Columbia was not taken over, but the address refers to the advisability of extending the limits of Canada to the Pacific Ocean and lays down the principle that there should be compensation to be equitably settled. Now, the Nishgas say, they think they are saying we propose that the Government of Canada carry that out in an equitable, in a reasonable way. From that I respectfully submit to you, sir, that British Columbia would not be justified in objecting to a reference upon the basis of these proposals. The fact is that, so far as we can see, it is only in respect of proposal No. 1 that British Columbia would have any interest in offering opposition. Then, if you will look at the interview of the 4th of February, page 19, you will find that the Minister of Justice spoke of the powers of the Secretary of State for the Colonies as if they still continued. That is all I need to say at the present time.

DR. ROCHE.—Do the other gentlemen desire to make any statement?

DELEGATES.—No.

DR. ROCHE.—I do not know that it is necessary for me to add anything to what has already been said by my colleague, the Minister of Justice, and myself. I thought, perhaps, the present interview was asked by reason of something new arising out of the meeting in Toronto a week or so ago, but practically everything you have told us to-day has been

along the lines, at any rate, of that which we have had presented to us in the interviews from time to time.

I may say, Canon Tucker, in reference to your remarks about the documents, which you expressed some disappointment at not being placed in possession of, I presume you refer to this historical resume to be printed, and which Mr. Scott has in charge or is to submit to the Justice Department prior to having it printed.

CANON TUCKER.—I did not mean to express disappointment, but to bring the matter up and express a hope that it would be brought to a decision.

DR. ROCHE.—Now, I think you are making a mistake in advising the Nishgas not to appear before the Commission this year and give what information and what evidence they can to aid the Commission in the performance of their duties that have been assigned to them. Personally, I do not think at all that it would in any respect prejudice their case to impart all information which the Commission might require. I think it would be very unfortunate that the Commission should dissolve without securing the information which they are securing from other tribes, and you know that this Commission is pretty expensive; we do not desire to have it continue any longer than is absolutely necessary. We were in hopes it would wind up its labours this year. We certainly do not want to have it run over to another year, adding additional expense, if we can possibly avoid it, and, therefore, I think the Nishgas would be very wrongly advised by anybody to not appear before the Commission and give the information which the Commission may require from them, just as all the other tribes in British Columbia are giving, and, in doing so they may rest assured it is not going to prejudice their case, which is now engaging the attention of the Government.

CANON TUCKER.—We have, as far as I am concerned, offered that advice on the grounds that we were afraid they would prejudice their case by appearing before this Commission, which has only authority to deal with reserves. If we were given assurance that it would not prejudice their case, I do not see what harm would be done if they appeared before the Commission and gave their information if they have assurance that it will not prejudice their case.

DR. ROCHE.—As far as that is concerned they could have that appear on the record that it is not to prejudice their case.

(Discussion between the Minister and Canon Tucker on this point.)

DR. ROCHE.—In regard to the financial consideration I

presume Canon Tucker you refer to the \$5,000.00 that had been in the estimates; of course, as I informed you the last day you were here, that \$5,000.00 is not appearing in the estimates of this year or last year either; it lapsed some time ago, so that that appropriation cannot be utilized for the reason that there is no appropriation of that character, but, at the same time, I think it was explained on the occasion of your last visit that for all the expenses of the prosecution of the case before the Privy Council money would be forthcoming from the Government, but I gleaned from your remarks that the principal expenses you refer to are not the expenses in connection with prosecuting the case before Council, but it is these preliminaries that are going on now and may hang on no one knows how long.

CANON TUCKER.—As I take it, we have been working until quite recently entirely in accord with the Government of Canada in trying to carry out their policy and following out their suggestions, doing work and undertaking expense that we would not otherwise have done, and it is all maturing the question for a final settlement. Of course, it may in some respects be against the present intentions of the Government of Canada, but, all the same, there can be no reasonable desire to have the question settled in a one-sided way, and we consider this to be a national question, and I, at least, am acting, as far as we represent the nation, in the name of the nation, but indirectly through the churches and other organizations, and we think that anything that tends to bring this question to an issue is a national work, and I believe that the present action of the Government of Canada is due in a measure to the work that has been done both by the Friends of the Indians and by the Social Service Council of Canada; it might have been dormant still but for the work we have been doing; and we have always tried to act upon constitutional lines; we have always frowned down upon anything in the form of illegality or anything of that kind, and we have tried in every possible way to seek a solution of the question on broad national lines, and, in maturing the question for final solution, we may be doing as good work as in preparing the case for the courts.

DR. ROCHE.—The only effective answer to that is that we have no appropriation and therefore cannot hold out any promise.

CANON TUCKER.—The difficulty of securing money in a private way when your mind is taken up with the larger aspect of the question is very great, and a small sum from the Government of Canada, which they would never feel and

which they could conscientiously apply in a case like this, would be an immense help to those who are struggling to promote a solution of the question.

MR. O'MEARA.—I would rather not say anything on this matter, but I feel I should remind you of what happened some weeks ago when the Parliament was in session, that you said then: "I assure you that no financial difficulty will stand in the way, because we can get it by warrant of the Governor-General." Now, that was brought before you then when Parliament was sitting. It was pointed out to you that it might be necessary.

DR. ROCHE.—I had it in my mind, the financial expenses in connection with the presentation of the case to the courts; it was simply and solely the question of having money provided for taking the case to the Privy Council; but to promise that I would recommend to my colleagues the expenditure of an unlimited or uncertain, at least, quantity of money to pay legal expenses and other expenses in connection with conference after conference, many of which, in my judgment, might not be necessary at all, is something that I certainly would not undertake, and, so far as the other expenses are concerned, I am quite willing to stand by what I had in mind at that time, that the Government will undoubtedly be willing if there is a reference to the Privy Council, to stand all the expenditures.

The history of the case that has been presented here to-day is something that I need not discuss myself, I am quite willing to submit this in conjunction with the result of other interviews to my colleagues, and one thing I would like to say, though, is that I think it entirely unnecessary for the Nishga delegation to remain longer in Ottawa, because it is only simply running unnecessary expenses, and the Government have been exceedingly busy and have not had time to take up their propositions, and this war has thrown a very great deal of unavoidable trouble and work upon them, and, therefore, it would be unnecessary, in my judgment, for them to remain for any definite word from the Government, but, speaking for myself and the Minister of Justice, as well, we are both anxious to have their case finally disposed of, and we will submit to our colleagues those alternative propositions that have been placed before us and get the views of the Council as a whole as to whether they can see their way clear to accepting those proposals, without myself holding out any definite promise of their doing so.

MR. O'MEARA.—I feel I should speak of one other matter, that is the matter of this pamphlet, about which there



is a certain amount of doubt and difficulty. We do not see the position. First of all, as we understand it, it is not the historical review that you seem once or twice to indicate, it is a publication of a record of the interviews that have taken place in Ottawa from the 3rd of February in connection with the Nishga Petition and the papers in connection with it, a full record of it, but not necessarily going beyond that, has been our desire from the first. The matter has been held over for some length of time; we were anxious that action should be taken and also I may say frankly there seems to the Nishgas and myself a certain amount of mystery over it; it has been suggested that there are certain matters to go in about which we have no information, and now it is suggested that the matter is to be submitted to the Minister of Justice, about which it is not explained. This seems to us an extremely practical matter, that is the full record of these interviews.

DR. ROCHE.—I do not know that there would be any stumbling block about the record, there may be some difficulty about the accompanying papers you speak of as to what papers should be included.

MR. O'MEARA.—I have before me what Mr. Scott and I went over weeks ago, and we thought had arrived at a finality, but it has not gone forward, and now we have the suggestion that it should be submitted to the Department of Justice. As I understand Mr. Scott now, he raises the whole question as to whether the pamphlet should be printed.

MR. SCOTT.—Yes.

MR. O'MEARA.—I understood weeks ago that he would publish that pamphlet.

MR. SCOTT.—If it is proper to publish it; I cannot advise the Minister to publish anything without submission to the Minister of Justice.

MR. O'MEARA.—In these interviews, right from the beginning to the end, there are two matters, the Government's proposals and the discussion of the whole of them and all explanations given, and, on the other hand, the Nishga proposals and their explanation and discussion.

DR. ROCHE.—You are hardly correct in stating that, inasmuch as there is a great deal said here to-day that I do not consider it necessary to reply to. Now, if you have been having these interviews with the idea of each time entering into more or less of an argument in setting forth the Indian side of the case, with the idea of building up a record to go to the public and make as great a case as possible, which we have not answered, I do not answer because I do not think it neces-

sary to-day, to take up time in going over ground which I think if at all in the purview of anybody it is the Minister of Justice.

About the Proclamation, whether it applies to British Columbia or not, these are questions that I do not feel competent to discuss as a layman. It looks to me as if you adopted that practice as if you were starting out in the capacity of a Sherlock Holmes to work up a case upon which you can appeal to the public on a one-sided presentation of the case.

MR. O'MEARA.—Can it be considered to be one-sided when there has been the amplest discussion between Mr. Scott on one side and the Nishgas on the other?

CANON TUCKER.—Would it not be possible to boil it down?

MR. SCOTT.—That is the very question I want to get before the Minister of Justice; the record as it stands is full of statements; if they are set forth you must say something about it; there is a fact; legal opinions Mr. O'Meara's views on all sorts of things. The Minister of Justice has refused to answer certain questions because he says they are for the courts to decide, but Mr. O'Meara is deciding them all the time, and there they are on record; as soon as you begin to read the record you see that.

DR. ROCHE.—I do not see any objection to having the Minister of Justice revise those papers, and there may not be much difference of opinion in the finality as to what should be printed and what should not. I am quite agreeable to have printed what the Minister of Justice may decide; he is in a better position to decide than I am.

CANON TUCKER.—I am personally very much obliged for your very patient hearing.

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#### ORDER-IN-COUNCIL.

19TH JUNE, 1915.

CERTIFIED COPY OF A REPORT OF THE COMMITTEE OF THE PRIVY COUNCIL APPROVED BY HIS ROYAL HIGHNESS THE GOVERNOR-GENERAL ON THE 19TH JUNE, 1915.

The Committee of the Privy Council have had before them a joint memorandum, dated 17th June, 1915, from the Min-

ister of Justice and the Superintendent General of Indian Affairs, submitting that—with reference to an Order-in-Council, dated 20th June, 1914, by which it was provided that the claims of the Indians of British Columbia to the lands of that province be referred to the Exchequer Court in Canada with right of appeal to the Privy Council under certain conditions—the Nishga Tribe of Indians, resident on the Naas River, had previously urged their claims independently and had proceeded so far as to petition His Majesty's Imperial Privy Council. As the Order-in-Council above referred to set forth the conditions under which there might be submission to the Courts, the Nishga Indians asked the Government to consider counter proposals, and representatives from the Tribe were sent to Ottawa to confer with the Superintendent General of Indian Affairs. Ample opportunity was accorded them for discussion and the question was thoroughly debated.

The proposals which were made by the Indians and in which it is understood they are supported by certain other Tribes in British Columbia, are as follows:—

1. That when the findings of the Royal Commission on Indian Affairs for the Province of British Columbia are known, each Tribe that may consider such findings insufficient shall have opportunity of making application for additional lands to be reserved for the use and benefit of the Tribe for reasons to be stated in such application, and every such application which cannot be dealt with by conference between the Tribe and the two Governments shall be decided by His Majesty's Imperial Minister, the Secretary of State for the Colonies, in pursuance of the principle embodied in Article 13 of the "Terms of Union."

2. That in fixing compensation regard shall be had to all the terms and provisions of any Treaty made between the Crown and any Tribe of Indians in Canada.

3. That in fixing compensation regard shall also be had to all restrictions and disabilities imposed upon Indians by Provincial Laws and those imposed by Canadian regulations relating to the Fisheries.

4. That all remaining matters including an equitable method of fixing compensation shall be adjusted by enactment of the Parliament of Canada.

The Ministers state, with reference to the first proposal, that the Royal Commission on Indian Affairs for the Province of British Columbia is a joint commission appointed to carry out an agreement between the Dominion and the Provincial Governments with reference to Indian Reserves in British Columbia, and that when the Governments confirm the find-

ings of the Commission they are to be considered as a final settlement. It is thought inadvisable to agree to any proposals which would reopen the question of Indian reserves in British Columbia.

The Ministers further state, as regards the Second, Third and Fourth proposals, that the Order-in-Council of the 20th June, 1914, provides that if by judicial decision the Indians are found to have a title in the lands of the Province, they are to surrender such title receiving "from the Dominion benefits to be granted for extinguishment of title in accordance with past usage of the Crown in satisfying the Indian claim to unsurrendered territories." This arrangement to which the Indians of British Columbia must agree, before the case is presented to the Exchequer Court, fully provides for the method of compensation according to well-established principles. It is thought inadvisable to accept these proposals which, if adopted, would not promote a satisfactory settlement of the question.

The Ministers, therefore, recommend, after due and careful consideration, that the terms of the Order-in-Council of 20th June, 1914, be not modified or altered.

The Committee concur in the foregoing and submit the same for approval.

RODOLPHE BOUDREAU,

Clerk of the Privy Council.



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