

Those words were quoted from my letter of August, 1915, addressed to the Minister of Justice.

Then my concluding paragraph is this:—

“The offer then made which was placed before the Parliament by paragraph 22 of the petition—that is the petition of June last—still stands. When action having been decided upon and a special committee or special committees of the two Houses shall have been appointed, I shall be prepared to bring before the special committee or special committees, particulars of the common ground to which I made reference.”

Hon. Mr. BENNETT: What are the particulars of the common ground?

Mr. O'MEARA: When the committee has permitted me to sufficiently present this petition of the Allied Tribes, sufficiently prove it and sufficiently satisfy the Committee of the real claims of the Tribes, I shall be prepared to put upon this table the exact particulars of the common ground which I shall submit to the Dominion of Canada, that the Dominion and the Allied Indian Tribes of British Columbia can stand upon with a view to bringing about as rapidly as possible an equitable settlement of the whole controversy satisfactory to the Government as well as to the Indian Tribes.

Hon. Mr. GREEN: Mr. Chairman, I think we have heard enough of this piffle, of a man telling us that he will do something if we will allow him to do something else. I think we have heard all we want to hear from Mr. O'Meara.

Hon. Mr. MURPHY: The five minutes have been expanded into fifty.

Hon. Mr. STEVENS: And now he comes to the point where he wants to commence.

Hon. Mr. GREEN: And after that he will come to something else. If the Committee will permit it, he will go on for two weeks with this kind of rubbish.

The CHAIRMAN: If you have finished that statement, Mr. O'Meara, we want the document handed in to the Clerk of the Committee.

Mr. O'MEARA: I am now ready to present the petition.

Hon. Mr. STEVENS: We do not need the petition. We have been pleading with you to give us something in support of that petition, and you have up to this moment persistently refused.

Mr. O'MEARA: No, pardon me, I have been endeavouring to reach that point.

Hon. Mr. STEVENS: You have not even reached a beginning. I think this is an exhibition of what the Indian Tribes have been obliged to put up with.

Hon. Mr. GREEN: It is what they have had to put up with.

Hon. Mr. STEVENS: Yes, it is what they have had to put up with, and the manner in which they have been deluded and deceived by this man for nineteen years to my knowledge is plain. I remember the first meeting in Vancouver; I presided over it as acting Mayor and I took the stand then that his attitude was inimical to the interests of the Indians. I have been in touch with him ever since, and this is an exhibition of what these tribes have been up against for nineteen years.

Hon. Mr. MURPHY: And now he wants to do to the committee what he has been doing to the Indians.

Hon. Mr. STEVENS: I think it is an outrage myself, just an outrage.

The CHAIRMAN: Have you any further evidence you want to put in Mr. O'Meara?

Mr. O'MEARA: I beg to say that it is not an outrage at all.

The CHAIRMAN: We do not want any argument. Have you any further evidence that you want to put in in answer?

[A. E. O'Meara.]

O'Meara & the Commission

Q. And is not that the very reason why you have to arrive at what the value of the land was?—A. Well, give us a negotiating committee, and we will meet you, and I think we can arrive at some valuation of what we are claiming. You have not been able to do that, or at least you have not been willing to do that in the past. We have asked for that, but we have not been able to receive it.

By Hon. Mr. Murphy:

Q. As I understand it, Mr. Kelly, you take the position that what you have received up to the present time has been given as a matter of grace, and not in satisfaction of this aboriginal title?—A. Exactly. It has been so stated officially.

Q. Therefore, if you were to sit down and negotiate now, all that has been given would be wiped out of consideration? The new consideration would be an amount over and above all that you have already received?—A. Something like that. We would not forget what has been received.

Q. Would you take it into account though?—A. That is a matter of negotiation, I would say.

By Hon. Mr. Barnard:

Q. Would you suggest, Mr. Kelly, that the basis of negotiation should be on the values as they were, at the time of occupation, or the present day values?—A. We have two extreme views on that of course. I might say that the Indian department has officially stated that progress means nothing at all to the value of the aboriginal title.

By the Chairman:

Q. Do you dispute that?—A. Yes, somewhat, we do. And once again I say that is a matter of negotiation, and if it cannot be negotiated, it is because of that that we thought the court decision would be a remedy. Then we would either gain our point, or we would lose out on it. That was the point, and that was the reason why we have pressed for a judicial decision of the matter. We realized the complications of it. Just as the Minister of the Interior said in Vancouver, it is a tremendously complicated affair; we realize that, and we cannot say that this matter can be settled by a mere wave of the hand.

By Hon. Mr. Stevens:

Kelly
Q. Supposing the aboriginal title is not recognized? Suppose recognition is refused, what position do you take then?—A. Then the position that we would have to take would be this: that we are simply dependent people. Then we would have to accept from you, just as an act of grace, whatever you saw fit to give us. Now that is putting it in plain language. The Indians have no voice in the affairs of this country. They have not a solitary way of bringing anything before the Parliament of this country, except as we have done last year by petition, and it is a mighty hard thing. If we press for that, we are called agitators, simply agitators, trouble makers, when we try to get what we consider to be our rights. It is a mighty hard thing, and as I have said, it has taken us between forty and fifty years to get to where we are to-day. And, perhaps, if we are turned down now, if this Committee see fit to turn down what we are pressing for, it might be another century before a new generation will rise up and begin to press this claim. If this question is not settled, in a proper way on a sound basis, it will not be settled properly. Now, that is the point that we want to stress. I said to the Hon. Mr. Stevens last year, when he was Acting Minister of the Interior,—I think these are the words I used: "Why not keep unblemished the record of British fair dealing with native races? Why refuse to recognize the claim of certain tribes of Indians in one corner of the British Dominions, when it has been accorded to others in another part of the same Dominion."

[Rev. P. R. Kelly.]

Hon. Mr. STEVENS: That, I think, is not quite a fair way of putting it, Mr. Kelly. As I have already told you—

WITNESS: At that time, I think you agreed with me.

Hon. Mr. STEVENS: No, that is one thing I never did agree to in the last twenty years, or the nineteen years since I heard Mr. O'Meara first moot this claim for an aboriginal title. I never admitted it, and I never could bring my mind to see any solid ground for the aboriginal title. I do say this, that the Indians deserve, and we ought to accord them, the most generous treatment that we possibly can, and I have always advocated that we should try to bring the Indians to the position of independent citizenship as quickly as we can. That is my position, and has been throughout my whole life in British Columbia; but I have never yet been able to see any sound ground for admitting the existence of an aboriginal title, and the evidence we have received here up to the moment, has only confirmed my views.

WITNESS: It seems to me that the view taken by the Hon. Mr. Stevens confirms our contention that it must necessarily be settled by a judicial decision. We can argue on both sides of the table until we are black in the face, and we cannot get very far.

The CHAIRMAN: Just at that point, Mr. Kelly, I would like to read to you from page 54, of 1883 Law Reports Appeal Cases, the St. Catherine's Milling Company, vs. the Queen. Beginning at the bottom of the page:—

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 and the land remained with them.

That is practically your contention.

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 goodwill of the Sovereign.

There is a good deal more that I could read, but I think that covers the point.

WITNESS: Well, I would say, Mr. Chairman, the goodwill of the Sovereign has been to recognize whatever the aboriginal title of the Indian was in the past. It has always been so, and that has been very forcibly brought out in the report of the Minister of Justice in 1875, wherein he points out that very thing that the obligation of that goodwill was denied to the Indians of British Columbia.

By Hon. Mr. Murphy:

Q. Mr. Kelly, just before the Chairman read that extract, you said that the only way in which that question that you are submitting to this Committee can be settled, is by a judicial decision. Is that correct?—A. Yes, I said that.

Q. Do I understand you to take the position that that judicial decision should be rendered, not by the courts of Canada, but by the Imperial Privy Council?—A. We have been advised of that, but it seems to me, Mr. Chairman, that that is a matter of procedure.

Q. Have you any objection to submitting this question to the courts in Canada?—A. Not at all. Providing they are proper courts, not at all.

Q. I mean, the ordinary courts, to which all citizens have recourse. Do you object to go there?—A. Not at all. We do not object to that at all. The proper procedure is what we want. We do not want any unheard of procedure.

Q. No, you want the ordinary procedure?—A. Yes.

Commissioner's demand?