5. In the month of August, 1910, Sir Wilfrid Laurier, having been advised by the Department of Justice that the Indian land controversy should be judicially decided, met the Indian Tribes of Northern British Columbia at Prince Rupert and speaking on behalf of Canada said—"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."

6. By agreement which was entered into by the late Mr. J. A. J. McKenna, Special Commissioner on behalf of the Dominion of Canada and the late Premier Sir Richard McBride on behalf of the Province of British Columbia in the month of September, 1912, and before the end of that year was adopted by both Governments, it was stipulated that by means of a Joint Commission to be appointed, lands should be added to Indian Reserves and lands should be cut off from Indian Reserves. By that agreement it was provided that the carrying out of its stipulations should be a "final adjustment of all matters relating to Indian affairs in the Province of British Columbia."

7. On the 30th day of June, 1916, the Royal Commission on Indian Affairs for the Province of British Columbia appointed in pursuance of the agreement above mentioned issued Report which was placed in the hands of both Governments.

8. In the month of September, 1916, the Duke of Connaught, acting as His Majesty's Representative in Canada and in response to letter which had been addressed to him on behalf of the Nishga Tribes and the Interior Tribes, gave assurances communicated by His Secretary to the General Counsel of allied Tribes in the following words:—

"His Royal Highness has interviewed the Honourable Dr. Roche with reference to your letter of the 29th May and your interview with me and I am commanded by His Royal Highness to state that he considers it is the duty of the Nishga Tribe of Indians to await the decision of the Commission, after which, if they do not agree to the conditions set forth by that Commission, they can appeal to the Privy Council in England, when their case will have every consideration. As their contentions will be duly considered by the Privy Council in the event of the Indians being dissatisfied with the decision of the Commission, His Royal Highness is not prepared to interfere in the matter at present and he hopes that you will advise the Indians to await the decision of this Commission."

9. The allied Tribes have always been and still are unwilling to be bound by the agreement above mentioned and have always been and still are unwilling to accept as final settlement the findings contained in the Report of the Royal Commission.

10. In the year 1920 the Parliament of Canada enacted the law known as Bill 13 being Chapter 51 of the Statutes of that year authorizing the Governor-General in Council to carry out the agreement above mentioned by adopting the Report of the Royal Commission. From the preamble and the enacting words the professed purpose of the Bill appeared to be that of effecting settlement by actually adjusting all matters.

11. In course of debate regarding Bill 13 had in the Senate on 2nd June, 1920, Sir James Lougheed, leader of the then Government in the Senate, answering remarks of Senator Bostock by which was expressed the fear that if the Bill should become law the Indians might "be entirely put out of Court and be unable to proceed on any question of title," gave the following assurance (Debates of Senate—1920 p. 475 col. 2):—

"I might say further, honourable gentlemen, that we do not propose to exclude the claims of Indians. It will be manifest to every honourable gentleman that if the Indians have claims anterior to Confederation or anterior to the creation of the two Crown Colonies in the Province of British Columbia they could be adjusted or settled by the Imperial Authorities. Those claims are still

After the weighty language of the Memorandum to Council of 18th January, 1875, the final action seems inconsequent. It would hardly be possible to draft a stronger document in support of the claim for an aboriginal title than this memorandum. Its force is somewhat lessened by the remark 'that the policy of obtaining surrenders at this lapse of time and under the altered circumstances of the province, may be questionable, yet the undersigned feels it his duty to assert such legal or equitable claim as may be found to exist on the part of the Indians. But the antithesis is striking; on the one hand a statement of great import: 'The undersigned feels that he cannot do otherwise than advise that the Act in question is objectionable, as tending to deal with lands which are assumed to be the absolute property of the province, an assumption which completely ignores, as applicable to the Indians of British Columbia, the honour and good faith with which the Crown has, in all other cases, since its sovereignty of the territories in North America, dealt with their various Indian tribes.' And on the other hand, the virtual acceptance of the Thirteenth Clause of the "Terms of Union" as an adequate settlement of the Indian Claims.

I hope the committee finds all this useful, and that I am not going too much into detail. This is the way the administration is carried on (Continuing reading):

In order to present a clear view of action subsequent to the agreement between the Governments as to the best method of carrying out the provisions of the Thirteenth Clause, it is, I think, necessary to separate the facts into two main divisions: (1) the administration by the Dominion Government of Indian Affairs in British Columbia; (2) the presentation of the aboriginal claim of the Indians.

When once the governments had appointed the Commission to select reserves, the action proceeded, and lands were set apart for the use of the Indians, at first by a Joint Commission, and later by a single Dominion Commissioner, the last being Mr. A. W. Powell who retired on 31st March, 1911.

In 1912 the Dominion Government decided to approach the government of British Columbia and endeavour to obtain a settlement of the Indian question, and by Order in Council of 24th May, 1912, Mr. J. A. J. McKenna was appointed a Commissioner 'to investigate claims put forth by and on behalf of the Indians of British Columbia, as to lands and rights, and all questions at issue between the Dominion and Provincial governments and the Indians in respect thereto, and to represent the government of Canada in negotiating with the government of British Columbia a settlement of such questions.'

The claim for aboriginal title came within the scope of his commission, but the Prime Minister of British Columbia refused to discuss the question.

Hon. Mr. STEVENS: The provincial government refused to discuss the aboriginal title?

Dr. SCOTT: Yes.

Hon. Mr. STEVENS: But not the other?

Dr. SCOTT: No, they went on, as I will show. Mr. McKenna made an exhaustive memorandum to Sir Richard on that subject, and endeavoured to get him to consent to that, but he would not. His report is as follows; under date of 29th July, 1912:

Adverting to our conversations, let me say that I understand that the claims made on behalf of the Indians are:—(1) That the various nations

or tribes have aborignal title to certain territories within the province, which, to perfect the Crown title in the right of the province, should be extinguished by treaty providing for compensation for such extinguishment;

As to the first claim, I understand that you will not deviate from the positon which you have so clearly taken and frequently defined, i.e., that the province's title to its land is unburdened by any Indian title, and that your government will not be a party, directly or indirectly, to a reference to the Courts of the claim set up. You take it that the public interest, which must be regarded as paramount, would be injuriously affected by such reference in that it would throw doubt upon the validity of titles to land in the province. As stated at our conversations, I agree with you as to the seriousness of now raising the question, and, as far as the present negotiations go, it is dropped.

Mr. McKenna then directed his efforts to negotiating for the abandonment by the Province of the claim to a reversionary interest in the Indian Reserves. In his interim report on his mission, dated 26th October, 1912, Mr. McKenna states that:—

During intervals in the negotiations he visited different parts of the province and met many representative Indians. His investigations confirmed the opinion, which he had formed from a study of the records, that the great source of Indian disaffection was the provincial interest in lands reserved for Indians, recognized by the joint agreement of 1875-6, and, as the country developed and Indian reserves in certain districts increased enormously in value, asserted more clearly and largely by the province through legislative acts and otherwise. That agreement was the outcome of discussion respecting Article Thirteen of the "Terms of Union" which determines the respective obligations of the Dominion and the province as to the Indians of British Columbia. The position taken by the province was that the title of Indians to lands reserved for them was a mere right of use and occupancy; that under said Article no beneficial interest in such lands was to be taken by the Dominion as guardian of the Indians; and that, whenever the Indian Right to any such lands or to any portion or portions thereof became extinguished through surrender or cessation of use or occupation, or diminishment of numbers, the land reverted, unburdened, to the province. The Indians as they advanced in knowledge, became aware that they were not regarded as having the same right in reserved lands as Indians in other parts of Canada were recognized as having in lands set apart for them; and without clearly understanding the situation, became in the measure of their advancement disaffected by the consequences of the unsatisfactory nature of the Dominion's tenure of their reserves. The undersigned, therefore, concentrated his efforts to the extinction of the interest in reserves claimed by the province, and to securing for the Indians of British Columbia lands by the same title as that under which lands are held by the Dominion for Indians in the other parts of Canada.

The result of the negotiations between Sir Richard McBride and Mr. McKenna was the appointment of a Royal Commission to adjust the acreage of Indian Reserves in British Columbia, and to set apart new lands for reserves. The reserves finally fixed by the Commissioners were to be conveyed by the province to the Dominion free of any provincial reversionary interest therein. There were other provisions of the agreement, unimportant to this report. The Commission was appointed on March 31, 1913, and dissolved on June 30, 1916, having made a voluminous report. The governments obtained statutory authority

to accept the report, and after a final revision by officers of both governments, assisted by representatives of the Indians, the report was confirmed by Orders in Council of both governments, by British Columbia on July 26, 1923 and by the Dominion on July 19, 1924. This is a final adjustment of all Indian questions between the Dominion and the Province and therefore excludes the possibility of reference to the Secretary of State for the Colonies.

Upon this point it might be well here to quote the answer given by the Honourable Mr. Justice Newcombe, who was then Deputy Minister of Justice to a question asked the government by the Indians. The question was: "The effect of the McKenna-McBride Agreement and in particular the words 'final adjustment of all matters relating to Indian affairs in the Province of British Columbia.'" The answer was: "I am of opinion that as between the two Governments the agreement and the action of the Commissioners thereunder, if approved by both Governments, operate as a final adjustment of all matters relating to Indian affairs in the Province of British Columbia. These are the words of the agreement, and would I should think be interpreted to exclude claims by either government for better or additional terms."

During the years after British Columbia came into Confederation, and while the Dominion Government was active in obtaining reserves for the Indians, it was also extending to them the benefits of an Indian policy that obtained generally east of the mountains in regions where there had been a cession of the Indian title. The special mark of a treaty with Indians is the payment of annuity. This has been absent in British Columbia, but in all other respects like expenditures arising from similar motives will be found in all the provinces. There has been no discrimination against the Indians of British Columbia. As their needs became apparent, they have been satisfied and the Dominion Parliament has granted this Department funds to develop a progressive policy. (In Appendix D will be found a schedule of the expenditure aggregating $10,800,300.37 since Confederation.) It is clear that the guardianship of the Indians of British Columbia by the Dominion has been conducted with the same care, governed by the same principles as the general trust, and that the non-recognition of an aboriginal title has not prejudicially affected the interests of these Indians.

Hon. Mr. BENNETT: Is that ten million dollars without interest?

Dr. SCOTT: Yes.

Hon. Mr. BENNETT: The ordinary year to year expenditure?

Dr. SCOTT: Yes, the ordinary grants. Nearly eleven million dollars.

Hon. Mr. STEVENS: In how long a period?

Dr. SCOTT: Since Confederation.

Hon. Mr. BELCOURT: What is the proportion of that as compared with the other provinces?

Dr. SCOTT: I did not work that out, Senator Belcourt, but it might be readily worked out.

Then I deal with the presentation of the aboriginal claim.

It is perhaps unimportant to note each incident of the many which have led up to the present position of this question. However, it is well at the outset to note the statement made by Lord Dufferin, when he was Governor General of Canada, in a speech in the city of Victoria in September, 1876. His Excellency strongly supported the advisability of recognition of an aboriginal title in the provincial lands.

It was not until about ten years after that date that there was any active discussion as between the Indians and the Government of British Columbia. This agitation amongst the Indians led to the visit to England of three important Indian Chiefs in the year 1906, the purpose being to lay their grievances

is impossible to deny them, and that the Act under consideration not only ignores those rights, but expressly prohibits the Indians from enjoying the rights of recording or preëmpting land, except by consent of the Lieutenant-Governor, the undersigned feel that he cannot do otherwise than advise that the Act in question is objectionable as tending to deal with lands which are assumed to be the absolute property of the province, an assumption which completely ignores as applicable to the Indians of British Columbia, the honour and good faith with which the Crown has in all other cases since its sovereignty of the territories in North America dealt with their various Indian tribes.

The undersigned would also refer to the British North America Act, 1867, section 109, applicable to British Columbia, which enacts in effect that all lands belonging to the province, shall belong to the province, 'subject to any trust existing in respect thereof, and to any interest other than that of the province in the same.'

That which has been ordinarily spoken of as the 'Indian title' must of necessity consist of some species of interest in the lands of British Columbia.

If it is conceded that they have not a freehold in the soil, but that they have an usufruct, a right of occupation or possession of the same for their own use, then it would seem that these lands of British Columbia are subject, if not to a 'trust existing in respect thereof,' at least 'to an interest other than that of the Province herein.'

Since the year 1875, however, notwithstanding the report of the Minister of Justice then presented and approved, local governments have been unwilling to recognize the land rights which were then recognized by Canada, and the two governments that entered into the McKenna-McBride Agreement failed to recognize those land rights.

If now the two governments should be willing to accept the report and Order in Council of the year 1875 as deciding the land controversy, they would thereby provide what we regard as the only possible general basis of settlement other than a judgment of the Judicial Committee of His Majesty's Privy Council.

By means of the direct and independent petition of the Nishga Tribe, we now have our case before His Majesty's Privy Council. We claim that we have a right to a hearing, a right which has now been made clear beyond any possibility of doubt. Sir Wilfrid Laurier, when Prime Minister, on behalf of Canada, met the Indian Tribes of Northern British Columbia, and promised without any condition whatever that the land controversy would be brought before the Judicial Committee. Moreover, the Duke of Connaught, acting as His Majesty's representative in Canada, gave positive written assurances that if the Nishga Tribe should not be willing to agree to the findings of the Royal Commission, His Majesty's Privy Council will consider the Nishga petition. In view of Sir Wilfrid Laurier's promise, and the Duke of Connaught's assurances, both of which confirm what we regard as our clear constitutional right, we confidently expect an early hearing of our case.

Before concluding these introductory remarks, we wish to speak of one other matter which we think very important. No settlement would, we are very sure, be real and lasting unless it should be a complete settlement. The so-called settlement which the two governments that entered into the McKenna-McBride Agreement, have made up is very far indeed from being complete. The report of the Royal Commission deals only with lands to be reserved. The reversionary title claimed by the Province is not extinguished, as Special Commissioner McKenna said it would be. Foreshores have not been dealt with. No attempt is made to adjust our general rights, such as fishing rights, hunting rights and water rights. With regard to fishing rights and water rights, the

Commissioners admit that they can make nothing sure. It is clear to us that all our general rights, instead of being taken from us as the McKenna-McBride Agreement attempts to do by describing the so-called settlement thereby arranged as a "final adjustment of all matters relating to Indian affairs in British Columbia" should be preserved and adjusted. Also we think that a complete settlement should deal with the restrictions imposed upon Indians by Provincial Statutes and should include a revision of the Indian Act.

Now, having as we hope made clear the position in which we stand, and from which we look at the whole subject, we proceed to comply with the desire of the government of British Columbia.

PART II—REPORT OF THE ROYAL COMMISSION

Introductory Remarks

The general view held by us with regard to the report of the Royal Commission was correctly stated in the communication sent by the Agents of the Nishga Tribe to the Lord President of His Majesty's Privy Council on 27th May, 1918.

We now have before us the report of the Royal Commission, and are fully informed of its contents, so far as material for the purposes of this statement. The report has been carefully considered by the Allied Tribes, upon occasion of several meetings, and subsequently by the Executive Committee of the Allied Tribes.

Two general features of the report which we consider very unsatisfactory are the following:—

1. The additional lands set aside are to a large extent of inferior quality, and their total value is much smaller than that of the lands which the Commissioners recommend shall be cut off.

2. In recommending that reserves confirmed and additional lands set aside be held for the benefit of bands, the Commissioners proceeded upon a principle which we consider erroneous, as all reserved lands should be held for the benefit of the Tribes.

Grounds of Refusal to Accept

In addition to the grounds shown by our general introductory remarks, we mention the following as the principle grounds upon which we refuse to accept as a settlement the findings of the Royal Commission:—

1. We think it clear that fundamental matters such as tribal ownership of our territories require to be dealt with, either by concession of the governments, or by decision of the Judicial Committee, before subsidiary matters such as the findings of the Royal Commission can be equitably dealt with.

2. We are unwilling to be bound by the McKenna-McBride Agreement, under which the findings of the Royal Commission have been made.

3. The whole work of the Royal Commission has been based upon the assumption that Article 13 of the Terms of Union contains all obligations of the two governments towards the Indian Tribes of British Columbia, which assumption we cannot admit to be correct.

4. The McKenna-McBride Agreement, and the report of the Royal Commission ignore not only our land rights, but also the power conferred by Article 13 upon the Secretary of State for the Colonies.

5. The additional reserved lands recommended by the report of the Royal Commission, we consider to be utterly inadequate for meeting the present and future requirements of the Tribes.

6. The Commissioners have wholly failed to adjust the inequalities between Tribes, in respect of both area and value of reserved lands, which Special Commissioner McKenna, in his report, pointed out and which the report of the Royal Commission has proved to exist.

7. Notwithstanding the assurance contained in the report of Special Commissioner McKenna, that "such further lands as are required will be provided by the Province, in so far as Crown lands are available." The Province, by Act passed in the spring of the year 1916, took back two million acres of land, no part of which, as we understand, was set aside for the Indians by the Commissioners, whose report was soon thereafter presented to the governments.

8. The Commissioners have failed to make any adjustment of water-rights which in the case of lands situated within the Dry Belt, is indispensable.

9. We regard as manifestly unfair and wholly unsatisfactory the provisions of the McKenna-McBride Agreement relating to the cutting-off and reduction of reserved lands, under which one-half of the proceeds of sale of any such lands would go to the Province, and the other half of such proceeds, instead of going into the hands or being held for the benefit of the Tribe, would be held by the Government of Canada for the benefit of all the Indians of British Columbia.

PART III.—NECESSARY CONDITIONS OF EQUITABLE SETTLEMENT

Introductory Remarks

1. In the year 1915, the Nishga Tribe and the Interior Tribes allied with them, made proposals regarding settlement, suggesting that the matter of lands to be reserved be finally dealt with by the Secretary of State for the Colonies, and that all other matters requiring to be adjusted, including compensation for lands to be surrendered, be dealt with by the Parliament of Canada. Those proposals the Government of Canada rejected by Order in Council, passed in June, 1915, mainly upon the ground that the Government was precluded by the McKenna-McBride Agreement from accepting them. For particulars we refer to "Record of Interviews," published in July, 1915, at pages 21 and 105. It will be found that to some extent these proposals are incorporated in this statement.

2. Some facts and considerations which, in considering the matter of additional lands, it is, we think, specially important to take into account, are the following:—

(1) In the three States of Washington, Idaho and Montana, all adjoining British Columbia, Indian title has been recognized, and treaties have been made with the Indian tribes of those States. Under those treaties, very large areas of land have been set aside. The total lands set aside in those three States considerably exceeds 10,000,000 acres, and the per capita area varies from about 200 acres to about 600 acres.

(2) Portions of the tribal territories of four tribes of the Interior of British Columbia extend into the States above-mentioned, and thus portions of those tribes hold lands in the Colville Reservation, situated in the State of Washington, and the Flathead Reservation, situated in the State of Montana.

(3) By treaties made with the Indian Tribes of the Provinces of Saskatchewan and Alberta, there has been set aside an average per capita area of about 180 acres.

(4) For the five Tribes of Alberta that entered into Treaty No. 7, whose tribal territories all adjoin British Columbia having now a total Indian population of about 3,500, there was set aside a total area of about 762,000 acres, giving a per capita area of 212 acres.

(5) The facts regarding the Indian Tribes inhabiting that part of Northern British Columbia lying to the East of the Rocky Mountains shown in Interim Report No. 91 of the Royal Commission at pages 126, 127 and 128 of the Report show that the Royal Commission approved and adopted as a standard for the Indians of that part of the Province occupying Provincial lands the per capita area of 160 acres of agricultural land per individual, or 640 acres per family of five, set aside under Treaty No. 8.

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 both 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 so many 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 sure that he did not find out our mind or the real cause of the trouble.

We are also 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 doing so 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

point will be found on pages 250-251. It had become clear that they did not think the report of the Royal Commission was a satisfactory settlement of the Indian reserve question, but I pointed out that they had not stated definitely that they would recommend that the report be not confirmed by the Dominion Government. The other point that I pressed home was our desire to obtain an expression of their wish as to a judicial decision on the general question of title. This brought forth a very emphatic declaration from the Chairman; he said: "We launch an emphatic negative to the passing of any Order in Council, if that Order in Council is going to be the final adjustment of all matters relating to Indian affairs in this Province. We claim that Indian lands and Indian rights generally are just part of one big question, and, therefore, we refuse to have Orders in Council dealing with just one matter when that matter cuts away from under our feet, as it were, our constitutional stand."

With reference to the question of litigation, they wish to be considered as willing to have a settlement out of court, but if it seems impossible to get a fair and equitable settlement they wish to "press on to the Judicial Committee of the Privy Council."

In spite of this vigorous protest from the Indians as to the acceptance of the report of the Royal Commission, I cannot, with a due sense of responsibility and having the best interests of these people at heart, recommend any other action but the adoption of the report. The Indians will receive in the aggregate a large acreage of reserve lands free from any vexatious claims of the Province, such as the so-called "reversionary interest" has been in the past. While it is true that in some districts it would have been more satisfactory if larger reserves could have been set aside for them, conditions peculiar to British Columbia rendered that almost impossible, but the report of the Royal Commission provides reserves for these Indians which can be developed and utilized by them. Over against their complaint that they have not sufficient lands, we must set the statement, often well founded on fact, that they are not making good use of the lands provided for them.

If our Government refuses to further consider the report of the Royal Commission and fails to use the statutory power to confirm the report, I am afraid the future welfare of the British Columbia Indians will be jeopardized. The report is the outcome of long negotiations between the Governments, of an examination into the needs of the Indians on the ground, during which the evidence of Indians was taken and their advice and coöperation sought, and finally, there was a resurvey of the whole report by officers of the Governments and representatives of the Indians. I would recommend that the "cut offs" in the Railway Belt be cancelled and the reserves as originally set apart in the Railway Belt be confirmed. With the reserve question finally disposed of I had expected that the Indians would realize that their aboriginal title was in part already annually compensated for by the generous grants that the Dominion Parliament is making on their behalf, and would wish to add to those obligations of the Dominion an extension of the educational system and some better provision for hospitals and medical attendance. Such is not the case, and I have to submit the facts for your consideration.

DUNCAN C. SCOTT,
Deputy Superintendent General.

the Dominion and Mr. McBride's government, the government of British Columbia, which purported to be a final settlement of the differences.

A. The intention of the two governments was that it was to be a final settlement, but it was not a final settlement.

By Hon. Mr. Murphy:

Q. Why?—A. Because it only dealt with Indian Reserves, and did not deal with the fore-shores, the hunting rights, the fishing rights and a number of other things. To put it squarely before you, the agreement thinks that it is to be a final settlement. I will read the very words of the agreement:—

> Whereas it is desirable to settle all differences between the governments of the Dominion and the province respecting Indian lands and Indian affairs generally in the province of British Columbia;

Therefore the parties above named have, subject to the approval of the governments of the Dominion and of the province, agreed upon the following proposals as a final adjustment of all matters relating to Indians affairs in the Province of British Columbia.

By Hon. Mr. Murphy:

Q. That is the preamble is it to the McKenna agreement?—A. No, that is the agreement.

By Hon. Mr. Bennett:

Q. What is the date?—A. The 24th day of September, 1912.

Q. And that was in consequence of Mr. McKenna having gone out with a commission and investigated the matter on the ground, and I am informed that your people had an opportunity to be heard?—A. That is correct.

Q. And they did, in fact, make representations to Mr. McKenna?—A. And his co-commissioners, yes.

Q. And as a result an agreement was arrived at which was adopted, between the province and the Dominion?—A. That is correct.

Q. And that purports to be a final settlement?—A. It did purport to be a final settlement.

Q. Now your people knew what Mr. McKenna and his associates were there for and you presented your case to him as best you could?—A. Yes, from time to time. Yes.

Q. Now you knew the settlement was being made?—A. We were told. We were not in possession of the actual Order in Council or the actual agreement.

Q. No, but you got the agreement afterwards?—A. Afterwards, yes. I can speak with some knowledge of this because I was one of the interpreters.

Q. You were a young man of 21 at that time?—A. Yes, I was an interpreter.

Hon. Mr. STEVENS: He was active. I recall him very well at that time.

WITNESS: Now, in justice to the commission I must say that they said they could not deal with the Indian title, and they had no power to deal with fisheries.

By Hon. Mr. Stevens:

Q. That is what the commission said?—A. Yes, the commission so reports. Now that is an illustration of one of the failures of the commission.

To prove my contention, I will read from Volume III of a report of the commission in connection with fishing rights in British Columbia, a minute and resolution of the 6th June, 1916:—

> Whereas former Indian Reserve Commissioners, acting under joint government agreements, allotted defined fishing rights to certain Tribes or bands of Indians in British Columbia;

And whereas this Commission has been unable to obtain any advice from the law officers of the Crown in right of the Dominion of Canada, as to the authorities of the said former Commissioners to allot such fishery rights;

And whereas this Commission desires that any right or title which Indians may have to such allotted fisheries may not be adversely affected by the action of this board;

Be it resolved that the expense to which the allotting Commissioners have authority to allot such fishery rights, this Commission in so far as the power may lie in it so to do, confirms all such allotted fishery rights as set forth in the schedule hereto.

Now that is conclusive that the 1912 commission was aware that it did not have power to deal with it.

By Hon. Mr. Bennett:

Q. Not to deal with it? They had no power to create new allotments, but they confirmed the existing fishing allotments as made by the original Allotment Commission; that is so is it not?—A. May I answer that in this way?

Q. But that is so, they did confirm the allotments of the original Allotment Commission with respect to the fisheries?—A. Yes.

Q. But they declined for the reasons given, to make any new allotments?—A. They did.

Q. Now you complained that you should have more fishing allotments, and the government of British Columbia would not become a party to granting any further allotments.—A. Yes, we do contend that we should have more fishing places. More fishing stations; and our fishing rights should be explicitly defined so that there would be no question.

Q. Meaning what? That your fishing rights should be exclusively defined, meaning what?—A. Meaning that we have an absolute right to take fish for food wherever and whenever we want to.

By Hon. Mr. Stevens:

In other words, Mr. Paull—this I think is the point, Mr. Bennett—your people claim that in disregard of any provincial law preserving fisheries on any stream, you should have the right to take fish from that stream for your own purposes.—A. Certainly.

Q. Irrespective of place, time, or circumstance?—A. Yes, as we had from time immemorial. Because the amount of fish that the Indian takes is so negligible in comparison with what the big canneries take. It is hardly noticeable. The amount of fish that the Indians in British Columbia take for their own use—

By Hon. Mr. Bennett:

Q. But, Mr. Paull—I can see that you are a man of more than ordinary understanding—A. I thank you.

Q. If the province makes allotments, or if they issue licenses and then they allow twenty thousand people to disregard the licensed area, that would create chaos. You see that yourself, do you not?—A. Yes.

By Hon. Mr. Stevens:

Q. You would not insist upon the absolute right in disregard of all other regulations or practices to the full limit of what you have stated, would you?—A. I think we are civilized enough to come to some kind of an agreement, but we do object to being out at the mercy or at the dictates of an official, an inspector.

By Hon. Mr. Stevens:

Q. What is the point you want to make in regard to that report?—A. The points I want to make are these: The 13th Article was inadequate to satisfy the requirements of the Indians insofar as the obligation to establish Indian reserves were concerned.

Hon. Mr. STEVENS: I think with the Chairman's permission, I would draw the attention of the Committee, and of Mr. Paull and his associates, to the following facts; I think I have them collected accurately, but the Deputy Superintendent General will correct me if my figures are not approximately correct.

The complaint at this time was that twenty acres per family was altogether inadequate. Now, the acreage to-day is 756,000 acres of Indian reserves, allocated to Indian use. Roughly, that amounts to 132 acres to a family of four, taking four as a normal family, which I think perhaps would be reasonable.

Hon. Mr. MURPHY: And what is the total population?

Hon. Mr. STEVENS: I have taken it as 23,000. Now, that means, that instead of a grievance based upon an allotment of 20 acres, you have a situation where there are 132 acres per family. It was pointed out that there was an inadequate expenditure of public money in the interests of the Indians. At that time I think there were 50,000 or 60,000 Indians, something like that, and the figure mentioned is $50,000, in that memorandum. Last year I think we spent $600,000 for 23,000 Indians as against, at the time of this grievance, $50,000 for some 50,000 Indians. I merely draw attention to the changed situation. Apparently the chief grievances set out in that memorandum have been well taken care of by the action of both Governments.

Hon. Mr. MURPHY: Does Dr. Scott say that the Hon. Mr. Stevens' summary is a correct one?

Dr. SCOTT: Yes, it is correct. I might point out to the Committee that on page 46 of the proceedings of March 30th you will find the printed Order in Council which put into operation the selection of reserves.—That was a preliminary memorandum to the Council that was drafted by the Hon. David Laird. You will notice that this is signed by the Hon. R. W. Scott, Acting Minister of the Interior. I think that Mr. Laird had gone west, at least he was not on duty then. I thought that there would be no purpose in burdening the record with the first Order in Council, because that is the operative Order in Council on which the Commission set out the reserves.

Hon. Mr. MURPHY: It superseded what went before?

Dr. SCOTT: Yes.

Hon. Mr. MCLENNAN: The one that has just been read was preparatory to the one that is in the Minutes?

Dr. SCOTT: Yes, it was a preparatory Order.

Mr. PAULL: My purpose in reading the Hon. David Laird's memorandum was to show to this Committee the conditions that obtained. I would just like to answer the statement that was read by the Hon. Mr. Stevens, as to the area of reserves. It is true, perhaps, that the area of reserves now allocated to the Indians is in excess of what they were in the past but that condition was brought about in an arbitrary way by both governments. To illustrate that; the 1912 Commission took away from the Indians 47,058 acres, cut it out from their reserves. The value of that 47,000 acres is $1,522,704. When the Commission, under their powers, cut off that area from the existing reserves, they allocated to the Indians an acreage far in excess of what they took away. Probably, that is why that statement is brought about. The new reserves comprise an area of 87,292 acres, valued at $444,853. Now, that shows that the Commission took

away good land from the Indians and gave them bad land. I can mention a few cases from my knowledge, but I would not take the time of this Committee.

Hon. Mr. STEWART: That is very important evidence for this Committee, and if you will just confine yourself to things of that character we will get somewhere. When you make the statement that there were 44,000 acres of land sold, which was valuable land, and you got in lieu of that more acreage of less value, then that is important for us. I merely mention that so that you will confine yourself to evidence of that kind; it is very important to the Committee.

Dr. SCOTT: I want to point out to the Committee that the Indians will get 50 per cent of the value of these lands when they are sold.

Hon. Mr. MCLENNAN: That was carried out?

Dr. SCOTT: It will be carried out.

Mr. PAULL: I would like to point out the possibilities of that regulation. The Provincial Government can sell any of this cut-off land to friends of theirs for a dollar, and the Indians will get 50 cents of that. There is no provision protecting the Indians at all.

Hon. Mr. MCLENNAN: Have you information of any case where that has happened, Mr. Paull?

Mr. PAULL: No, but there is no provision protecting us. I have no vote and I am not criticising anybody's policy. I am glad that Mr. Stewart pointed that out to me, and in that connection I think I had better deal with the McKenna-McBride agreement. The agreement is that this shall be a final settlement. Now, we have always contended that conditions would be brought about just as the agreement says.

Hon. Mr. STEWART: It would be better for you to say that it is contended it was a final settlement of the reserve lands.

Mr. PAULL: No, I cannot say that, Mr. Stewart.

Hon. Mr. STEWART: There is no final settlement by the Federal Government for such other matters as educational matters, and otherwise?

Mr. PAULL: The Deputy Minister of Justice gave an opinion that it was a final settlement.

Hon. Mr. STEWART: So far as lands for the reserves were concerned?

Mr. PAULL: All matters in British Columbia.

Hon. Mr. STEVENS: What is your objection to that? Let us know why you object to that term being used?

Mr. PAULL: Because, by the actions of the Dominion and Provincial Governments, they have put to an end one of the provisions of the British North America Act; that is, article 13.

Hon. Mr. STEVENS: That is not what I mean. Do you claim that this final settlement has injured you or injured your people?

Mr. PAULL: Because they have not dealt with other matters that are of more concern to the Indians, such as foreshores, hunting, water-rights, and so forth.

Hon. Mr. STEVENS: I think it is generally recognized that this does not deal with foreshores, water-rights and fisheries?

Mr. PAULL: The agreement says that this shall be the final settlement of all matters pertaining to Indian Affairs, yet they do not touch upon matters that concern us.

Dr. SCOTT: It is only contended that it is a final settlement as between the Dominion and the Province.

Hon. Mr. STEWART: The point I want to make, Mr. Paull, is that there is no final settlement of definite amounts, either per capita or otherwise, for Indians from the Federal Government; that may be raised from time to time.

Mr. PAULL: Do I understand you, then, even after the passing of the adoption of the report of this Commission, that the Dominion Government could go to the Provincial Government and operate the conditions of Article 13; that is, secure from the Province additional lands?

Hon. Mr. STEWART: When you confine it to the land question, I say yes. I want to make it clear that it is not final, so far as the responsibility of the Federal Government to the Indians is concerned. On the land question, yes.

Mr. PAULL: But the trouble is this; that the Indians require other things that are only held by the Province and not by the Dominion.

Hon. Mr. STEWART: That is all right; go on with that.

Mr. PAULL: How can the Dominion procure from the Provincial Government things that we will require in the future when the Dominion and the Province has agreed that this is final?

Hon. Mr. STEWART: So far as lands are concerned.

Mr. PAULL: Not only lands, but everything.

Hon. Mr. STEWART: You are right in that respect. The Province of British Columbia say, "We are through now, there is nothing more we are going to do."

Hon. Mr. STEVENS: Tell us what your claim is; let us get some idea of what you want; fisheries, hunting, foreshores, and so on. Set them all out so that this Committee can have some idea of what your claims are.

Mr. PAULL: The claims that are not being dealt with by this Commission, as I said; foreshores. Perhaps I might condense my statement if I read a statement prepared and presented by James Teit, a white man who was associated with the Indians of British Columbia.

Hon. Mr. STEVENS: What is the date of that?

Mr. PAULL: 25th of July, 1920.

Hon. Mr. STEVENS: Presented to whom?

Mr. PAULL: Presented to the Banking and Commerce Committee of the Senate in the year 1920.

The CHAIRMAN: That includes all the claims you are now making?

Mr. PAULL: That includes our objection to this Commission of 1912. Shall I read the material parts of this?

Hon. Mr. MCLENNAN: Would it not save time to have it handed in?

Mr. PAULL: I would willingly do that.

Hon. Mr. STEVENS: Summarize it briefly.

Mr. O'MEARA: It is very short.

Mr. PAULL: The Indians claim all foreshores fronting on Indian reserves. Is that what the Committee wants?

Hon. Mr. MCLENNAN: Yes, that is exactly what we want.

Mr. PAULL: That statement is briefly just what I am about to say. It is a carefully prepared statement.

Hon. Mr. MURPHY: Could you not put it in this way? The Indians claim all foreshore in front of Indian reserves; the reasons for that claim are to be found in this statement at pages so and so.

Hon. Mr. STEVENS: On pages 30, 31 and 32.

Statement of James Teit filed as follows:—

> I want to read a statement here which was prepared by our late friend, Mr. J. A. Teit, in the spring of 1920, in Ottawa, to be presented to

the Senate, but it was never delivered. The document has been preserved. I would like to just read parts of that. This applies to conditions which existed at that time, and refers to the conditions which exist now. "The Indians see nothing of real value for them in the work of the Royal Commission. Their crying needs have not been met. The Commissioners did not fix up their hunting rights, fishing rights, water rights, and land rights, nor did they deal with the matter of reserves in a satisfactory manner. Their dealing with reserves has been a kind of manipulation to suit the whites and not the Indians. All they have done is to recommend that about 47,000 acres of generally speaking good lands be taken from the Indians, and about 80,000 acres of generally speaking poor lands, be given in their place. A lot of the land recommended to be taken from the reserves has been coveted by whites for a number of years. Most of the 80,000 acres additional lands is to be provided by the Province, but it seems the Indians are really paying for these lands. Fifty per cent of the value of the 47,000 acres to be taken from the Indians is to go to the Province, and it seems this amount will come to more than the value of the land the Province is to give the Indians. The Province loses nothing, the Dominion loses nothing, and the Indians are the losers. They get fifty per cent and lose fifty per cent on the 47,000 acres, but, as the 47,000 acres is much more valuable land than the 80,000 they are actually losers by the work of the Commission."

Now, this was the opinion arrived at by our late friend, and we attach a great deal of importance to statements that he prepared carefully. It is not a statement prepared by our general counsel, but by one who went carefully into the matter, and who strived to interpret the whole thing as he saw it, and that was his conclusion. Perhaps it is educational to read some more from this same document. There is another reference to Bill 13, and I will read that. It will speak for itself, and I think it expresses the Indians' viewpoint very accurately.

"Bill 13 is to empower the Government of Canada to adopt the findings of Royal Commission as a final adjustment of all lands to be reserved for the Indians. The McKenna-McBride Agreement, the Order in Council, the findings of the Royal Commission, and Bill 13, are all parts of a whole. The Order in Council states that the Indians shall accept the findings of the Royal Commission as approved by the Governments of the Dominion and the Province as a full allotment of reserve lands, and further, that the Province, by granting said reserves as approved, shall be held to have satisfied all claims of the Indians against the Province. What chance will there be for the Indians in the future to get additional lands or a fair adjustment of all their rights, if Bill 13 is made law?" I simply read from the document. Mr. Scott has said Bill 13 is merely an enabling Act, giving the Government power to deal with British Columbia, and that the whole bargain is so advantageous to the Indians, that the Indian Department feels justified in backing it up. We are sorry the Indian Department is of this opinion, for it places it out of sympathy with us, and makes it appear to the Indians an instrument of oppression and injustice.

The chief enabling the Indians see in the Bill is that of enabling the Government to take their lands without their consent. There may be something advantageous to the Government in the Bill, but certainly not to the Indians.

Mr. PAULL: The reason the Indians claim foreshores on reserves in tidal waters is because the foreshore is just as necessary to the Indians as the reservation is. Up to about the year 1920 whenever foreshores fronting on