THE ALLIED INDIAN TRIBES OF BRITISH COLUMBIA:
A STUDY IN PRESSURE GROUP BEHAVIOUR

by

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ABSTRACT

The purpose of this study is to examine the organization and activities of the Allied Indian Tribes of British Columbia and to explore the reasons for which the organization failed to achieve a settlement of its claim to compensation for the loss of aboriginal rights in British Columbia.

In preparing this thesis, I have drawn on several works dealing with the early history of the aboriginal rights campaign in British Columbia and the administration of Indian lands in the province. In addition, I have used material from the Provincial Archives of British Columbia and the Public Archives of Canada, as well as a report submitted by the Special Committee of the Senate and House of Commons appointed in 1927 to inquire into the claims of the Allied Tribes.

The Allied Tribes was formed in 1916, following numerous unsuccessful attempts by individual Indian bands and small inter-tribal organizations to press the Provincial, Dominion and Imperial authorities to provide compensation for the loss of aboriginal rights to land and resources. The Allied Tribes attempted to marshall all the Indians of the province behind the aboriginal rights claim and to submit that claim for decision by the Judicial Committee of the British Privy Council. It failed in this attempt.
Among the reasons for this failure were the Allied Tribes' weak organizational base and its inability to gain effective access to the higher levels of public decision-making. The Allied Tribes was, in addition, dominated by its white legal counsel and other non-Indian advisors, a situation which ultimately alienated much of the Indian membership and resulted in charges by government leaders that the aboriginal rights campaign was instigated by white agitators. Finally, the Allied Tribes insisted that it would accept a settlement of its specific grievances relating to lands, resources and socio-economic improvement only on the basis of recognition by government of the validity of the claim to aboriginal rights. The Province consistently denied this claim, and the Dominion refused to jeopardize its relations with British Columbia by permitting a judicial adjudication of the claim which might have produced a decision in favour of the Indians.
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D. A. Mitchell

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INTRODUCTION

In 1913, the Federal Indian Agent of the Naas Agency in northwest British Columbia reported to the Deputy Superintendent General of Indian Affairs in Ottawa:

The management of nearly all the bands in this agency, as is the case with many other bands in British Columbia, has become much more difficult of recent years owing to the great agitation that has been going on, a claim being made that the Indians do not own merely the reserves that have been assigned, but the whole province. Many of the bands object to control of their affairs by the government, being under the impression that to acknowledge the authority of the government would be to surrender their alleged rights to land.1

The aboriginal rights claim in British Columbia originated in the 1870's and by the early 1900's had become the major focus of Indian grievances arising from the advance of white settlement, the institution of Federal Indian administration, and the attendant disruption of native social and economic systems and patterns of land use and occupation. Because treaties were made only with Indian groups in a small area of southern Vancouver Island, natives elsewhere in the province claimed that their traditional rights to land and resources had never been properly extinguished. Nor had they been given compensation for the abrogation of those rights.

Beginning about 1900, several Indian groups attempted to form inter-tribal organizations to press government for a settlement of their claim to compensation for the loss of aboriginal rights. The largest and longest-lived of these
groups was the Allied Indian Tribes of British Columbia, which was formed in 1916. Assisted and encouraged by sympathetic white people, most of them connected with one or another of the Protestant churches, the Allied Tribes fought for over ten years to obtain a settlement of its claim.

In 1926, the Allied Tribes submitted a petition to parliament requesting a full inquiry into its grievances. The following year, a Special Committee of the Senate and House of Commons was appointed to inquire into the claims of the organization. After five days of hearings, the Committee decided that the Indians had established no claim to the lands of British Columbia based on aboriginal or other title, and recommended that the matter be regarded as finally closed. Shortly thereafter, the Allied Tribes collapsed.

How did the Allied Tribes pursue its claim to recognition of aboriginal rights in land? Why did it fail to achieve a settlement of that claim?

During the last ten years, articles and books dealing with native rights have proliferated. More specifically, the history of Indian policy in British Columbia and the development of the aboriginal rights campaign have formed part of the subject matter in examinations of the disposal of Crown lands in B.C. (R. Cail, *Man, Land and the Law*); the impact of the Protestant ethic on Indian cultures (F. LaViolette, *The Struggle for Survival*); and the development of native brother-
hoods on the northwest coast (P. Drucker), to name a few. The Allied Tribes has been discussed in a number of these historical and anthropological works, but the organization and activities of the Allied Tribes as a pressure group have not been the subject of research by students of political science.

Native Indian and Inuit groups have been neglected in the study of pressure group behaviour in Canada. Nor has a sufficient body of theory accumulated which would permit the examination of Indian pressure groups within existing theoretical frameworks. An exception, perhaps, is Paul Pross's recent essay entitled "Pressure Groups: Adaptive Instruments of Political Communication"; in which a framework is constructed according to organizational characteristics of pressure groups and the policy-making level to which they attain access. Pross's thesis, very simply, is that those groups which possess superior organizational resources and claim access to the higher levels of public decision-making are those most likely to attain their political objectives. Inasmuch as the Allied Tribes was notably deficient in both organizational assets and access, Pross's propositions are useful in explaining the defeat of the Indian organization. But other factors, which Pross does not specifically contemplate, such as the content of the group's claim; the legal and historical contexts in which the claim was advanced; the personalities of the leaders;
the composition of the group's membership; and the impact of Federal-Provincial conflicts, must all be considered in an attempt to explain the failure of the Allied Tribes to achieve a settlement of its claim.

An examination of the organization and activities of the Allied Tribes from the perspective of political science may contribute to a better understanding of the earliest province-wide organization of British Columbia Indians dedicated to the resolution of the aboriginal rights claim. Such an examination may also identify some factors which should be explored in the analysis of native Indian pressure groups in Canada and Canadian pressure groups in general.

Approach and Method

While the Allied Tribes was the best known and longest-lived of the native groups committed to resolution of the aboriginal rights claim, efforts to create other inter-tribal organizations were initiated in the first years of the twentieth century. The aboriginal rights claim itself dates from about the time of the union of British Columbia with Canada. The claim, and indeed the strategies of the Allied Tribes, as well as the response of government, were based on events which occurred in the fifty years prior to the formation of the Allied Tribes. The first chapter of this essay describes the circumstances of early British Columbia history in which the aboriginal rights claim
developed, the evolution of that claim, and the major events in the aboriginal rights campaign between 1870 and 1916.

The account of the organization and activities of the Allied Tribes, given in Chapters two, three and four, is based on materials available from a number of secondary sources, from the holdings of the Provincial Archives of British Columbia, and from the considerable information on the aboriginal rights campaign given as evidence before the Special Committee of 1927.

Chapter five provides an account of the 1927 Committee hearings.

In the concluding chapter are presented the answers, some tentative, some more definite, to the questions which form the theme of this thesis: How did the Allied Tribes pursue its claim to recognition of aboriginal rights in land? Why did it fail to achieve a settlement of that claim?
Footnotes

1 Canada, Department of Indian Affairs, Annual Report, 1913-1914, p. 92.

2 Other works in which the Allied Tribes and the aboriginal rights campaign are discussed include: E. Palmer Patterson, "Andrew Paull and Canadian Indian Resurgence" (Ph.D. dissertation, University of Washington, 1962); George Manuel and Michael Posluns, The Fourth World: An Indian Reality (Ontario: Collier Macmillan Canada, 1974); George Edgar Shankel, "The Development of Indian Policy in British Columbia" (Ph.D. dissertation, University of Washington, 1945).

3 In the introduction to a recent short study of the opinions of Canadians on Indians and Indian issues, however, Roger Gibbins and J. Rick Ponting say the following:

... the major Indian grievances focus upon the federal government, and hence in redressing these grievances it is that government which must be influenced. However, the Indian vote is not numerically strong enough to affect the outcome of an election, except in a very small number of individual ridings. Their lack of geographical concentration has also resulted in them not having much representation in Parliament itself. Indeed, Indians not only lack these political resources, but they are relatively lacking in other compensating resources, such as economic power and social prestige, which might be transformed into political influence.

Thus, the political strategies which French Canadians have utilized are not effective for Indians. Since they lack substantial political resources of their own, Indians may choose among three options: (1) relying upon the politicians to act in the Indians' interests out of essentially humanitarian motives (an unlikely but not unprecedented event); (2) becoming more dependent upon the temperament of the larger Canadian electorate; (3) attempting to create a better bargaining position for themselves by engaging in confrontation activities, such as sit-ins or court injunctions.


CHAPTER I

ABORIGINAL RIGHTS IN BRITISH COLUMBIA:
THE CLAIM AND THE CAMPAIGN 1849-1914

Introduction

When the Allied Indian Tribes of British Columbia came into being in 1916, many Indians in the province were already committed to the cause of aboriginal rights. The Allied Tribes was formed as a coalition of those native groups which had attempted individually to persuade government to provide compensation for the loss of aboriginal rights to land and resources and had decided that individual efforts were ineffective. This chapter examines the development of the aboriginal rights claim in British Columbia to 1916 and the attempts made by individual bands and the first, small inter-tribal organizations to convince the leaders of the Provincial and Dominion Governments, as well as the King, of the validity of their claims.

Part I

Why did the aboriginal rights claim emerge as the focus of Indian grievances and the major incentive to Indian political activity? To answer this question, one must examine three aspects of the early history of British Columbia: white settlement following the creation of the Crown Colony of Vancouver Island in 1849; the development
of Indian policy in British Columbia; and the activities of Christian missionaries.

Settlement of British Columbia

In 1854, the total white population of British Columbia was about one thousand. The Indian population was about sixty thousand. By 1901, however, there were 178,000 non-Indian residents of the province and the Indian population had declined to approximately 30,000. Of the white population, about sixty percent were located on Vancouver Island and the Lower Mainland and about thirty-five percent in the southern and central Interior. Most of the remaining five percent were scattered along the northwest coast, with but few whites in the northern Interior of the Province. The impact of white settlement on the various native groups varied according to the resources of their traditional areas. The limited agricultural and grazing lands of the Lower Mainland, Vancouver Island and the southern and central Interior were rapidly taken up by white settlers, disturbing native hunting grounds as well as limiting the Indians' possibilities when they themselves ventured into agricultural pursuits. On the coast, Indians were forced to compete with more efficient and better-equipped white and oriental fishermen for the mainstay of the Indians' traditional economy. Only in the northern Interior were the Indians left more or less undisturbed. The natives of this area remained for the most part on the sidelines throughout the life of the
aboriginal rights campaign.

With the establishing of white farming settlements and the growth of resource extraction industries, many Indians gradually abandoned their traditional pursuits and began to participate in the new economy. In the Interior, Indians farmed, raised stock, worked as agricultural day-labourers, cowboys, freighters, railroad navvies and miners. On the coast, Indians became commercial fishermen, loggers, stevedores, miners and boatbuilders. Both men and women worked in the canneries. Through participation in white industry and migration to urban centres, many Indians were exposed to the English language and to European life styles.

Sporadic and localized protest accompanied the advance of white settlement in British Columbia. Indian resistance might have remained at this level, had it not been for two aspects of the history of British Columbia which contributed to a focussing of native attention on the concept of aboriginal title as a basis for Indian grievances. The development of Indian land policy in British Columbia, which became characterized after confederation by acrimonious Federal-Provincial disputes over the questions of reserve acreage, reversionary interest and aboriginal title, was one of these. The second was the influence of missionaries, particularly Protestant missionaries on the north coast.
James Douglas, who after Richard Blanshard's brief term of office, was appointed Governor of Vancouver Island, later of mainland British Columbia and finally of the united colonies, recognized the existence of a native interest in land which required formal extinguishment through treaty. As Chief Factor of the Hudsons Bay Company, he concluded between 1850 and 1854 a number of treaties with Indian groups on southern Vancouver Island. Later, when the resources of the colony could not support the expense of further treaties, he carried out a policy of providing extensive reserves in the locations requested by the Indians. After Douglas' retirement in 1864, however, his successors and other officials, especially Joseph Trutch, Chief Commissioner of Lands and Works, were determined that extensive Indian reserves should not obstruct white settlement. They reduced the size of reserves allotted by Douglas and created new reserves whose areas were but a fraction of those previously granted. The average reserve allotment amounted to about ten acres for an Indian family of five (as compared with between 128 and 640 acres in other parts of Canada). Trutch also denied the existence of aboriginal title, stating in a despatch to the Colonial Office in 1870:

... the title of the Indians in the fee of the public lands or any portion thereof has never been acknowledged by government, but on the contrary is distinctly denied.
By 1871, the year of B.C.'s entry into confederation, Douglas' Indian land policy had been effectively reversed. Article 13 of the Terms of Union, which provided that the Dominion should assume responsibility for Indians and lands reserved for Indians, specified that the Dominion should continue a policy as liberal as that pursued by the British Columbia Government. The new Provincial Government was obliged by Article 13 to provide lands for Indian reserves when requested by Canada. Canada and British Columbia subsequently disagreed, however, about the proper interpretation of the word "liberal" and this disagreement resulted in years of argument between the two governments over the size of reserve allotments. The Dominion pressed for allotments similar to those in other parts of Canada, while the Province was reluctant to part with an acre in excess of the ten acre allotment per family which had been standard prior to the entry of British Columbia into confederation. In 1876, a joint Reserve Allotment Commission was established in an attempt to settle the reserve question. It laboured for thirty years with but limited success. While some reserves were set aside, only a few were transferred to the Dominion Government in trust for the use and benefit of the Indians as required by Article 13 of the Terms of Union.

In dealing with Indian lands, the Dominion was also saddled with the terms of the agreement creating the Allotment Commission, which provided that any lands removed for
any purpose from an Indian reserve should revert to the Province. Because of the Province's reversionary interest, Canada was unable to sell or lease any unused or unneeded lands for the benefit of the Indians, a practice that was not uncommon elsewhere in Canada.

In the years 1875-1876, two incidents occurred which contributed to making the matter of aboriginal title a subject of public discussion and to directing the attention of the natives to the issue of aboriginal rights as a basis for their complaints and grievances, especially those relating to reserves. In 1875, the Federal Minister of Justice, Telesphore Fournier, disallowed a Provincial Act consolidating land ordinances on the grounds that it made no mention of an Indian interest in lands. Although the disallowance was lifted the following year, Indian groups and their legal counsel would later appeal to this disallowance as evidence that the Dominion had historically supported the Indian claim to recognition of aboriginal title. In 1876, during a tour of the province, Governor General Lord Dufferin denounced the Provincial policy toward Indian lands. His speech received considerable publicity and became, with the Fournier recommendations, an important building block in the natives' case.

While the Dominion and Provincial Governments were arguing about the existence of native title in British Columbia, the Indians were beginning to protest the inadequacy
of their reserves. In July, 1874, Indians of the Fraser Valley submitted a petition to Dr. I. W. Powell, Dominion Superintendent of Indian Affairs for British Columbia. They stated, in part:

For many years we have been complaining of the land left us being too small. We have laid our complaints before the government officials nearest us; they sent us to some others; so we have had no redress up to the present; and we have felt like men trampled on, and we are commencing to believe that the aim of the white men is to exterminate us as soon as they can, although we have been always quiet, obedient, kind and friendly to the whites.

... . . . . . . . . . . . . . . . . . . . . .

We consider that eighty acres per family is absolutely necessary for our support and for the future welfare of our children. We declare that twenty or thirty acres per family will not give satisfaction, but will create ill feelings, irritation among our people, and we cannot say what will be the consequences.5

It is probable that the Indians received assistance in the preparation of this petition, perhaps from Catholic missionaries in the area.

The Interior Indians were also becoming dissatisfied, and in the 1870's, they were so aggrieved by the reserve situation, that many white settlers feared the outbreak of an Indian war.

That there had been no war ... Powell attributed solely to the lack of unity among the Indians and not in any way to the absence of sufficient provocation. Powell was not being alarmist; some white settlers and missionaries shared his views. Until the land grievances were settled, no money grants or presents would have placated the Indians. Powell stated that the Nicola and Okanagan Indians, the most seriously disaffected, refused to accept his customary gifts, fearing that by taking any they might be thought to be waiving their claim for compensation for the injustice they felt was being done to them.6
An aspect of Dominion Indian administration which, although not directly connected with the land question influenced it, was the potlatch law. This amendment to the Indian Act was passed in 1884 and not repealed until the 1930's. It prohibited potlatching and winter dancing, both integral parts of the social and economic life of the coast Indians, especially the Kwakiutl. The banning of potlatching seriously disrupted traditional culture, exposed many Indians to legal prosecution and contributed to Indian antipathy toward the Federal Government and its agents. As early as 1887, native groups petitioned for repeal of the relevant section of the Indian Act. They sought legal advice, both for defence in court and for possible ways of circumventing the provisions of the law. Because the potlatch law was extremely difficult to enforce and was not, in fact, actively enforced until several years after its enactment, Indians became both resentful of the law and contemptuous of the Government's ability to enforce it. The potlatch law became a "major factor in the emergence of a sense of injustice" and contributed to the "experience . . . and sophistication of the Indians in Canadian modes of trial procedure and political manipulation." Some Indians, such as Andrew Paull, a young Squamish who assisted in the legal defence of native accused of contravention of the law, later became leaders in the aboriginal rights campaign. One of the groups most affected by the potlatch law, however, the Southern
Kwakiutl, was a latecomer to the campaign, largely because all its efforts were occupied in fighting the potlatch law and finding ways to carry on native ceremonies despite the law.

By 1909, the efforts of Canada and British Columbia to settle their differences over reserve allotments had ground to a halt. The Indian Reserve Commissioner, A. V. Vowell, reported in 1909:

... the Honourable the Chief Commissioner of Lands has refused to sanction any further allotments of lands to Indians until the dispute between the Dominion and provincial Governments as to reversion of the reserves has been settled; the work of the Commission cannot therefore be proceeded with pending a settlement of the question. Meanwhile, the country is being settled very rapidly and lands all over the province are being occupied as homesteads etc. by incoming settlers and interfering more or less with the hunting and fishing grounds of the Indians.

With the advance of white settlement and the delay in reserve allotment arising from inter-governmental conflict, the Indians of B.C. rapidly became conscious of the value of land and of the need to protect what land they could from white encroachments. Protest against the inadequacy of reserves, which had begun in the 1870's, increased. Gradually, the reserve question merged with the issue of aboriginal rights which became publicized as a result of Federal-Provincial disputes. Missionaries, especially Protestant missionaries on the northwest coast, encouraged the Indians in their claim to compensation for the loss of aboriginal rights to land and assisted the natives in preparing petitions and
sending delegations to the Provincial, Federal and British Governments.

**Missionaries**

The involvement of missionaries in British Columbia in the development of the aboriginal rights campaign did not stem from a desire to foment political unrest. Rather, as Shankel has stated:

> With rate exceptions, missionaries are not concerned primarily with political problems; they are, however, vitally concerned with government policy affecting the welfare of the people with whom they live and serve. Should the government follow policies that bar the way to a normal material advancement of the people, the missionaries may protest and agitate to the extent of being considered by the government as very unsettling in their influence.

The first missionaries to arrive in British Columbia were Oblates and Jesuits who reached the south coast and Interior in the early 1840's. Their principal concern, apart from spreading the Christian message, was to protect the natives from the worst of European "civilization." In order to accomplish their aims, they established close-knit communities under the control of the priest. "Bishop Durieu's system" was instituted where possible.

Bishop Durieu's system was a theocratic kind of indirect rule. With the priests acting as ultimate authority, and through their advice and direction, Indian authorities were designated to regulate society at the local level.

In their attempts to eradicate heathen customs as well as pagan beliefs, the Catholic missionaries introduced the Indians to European social and political structures.
While they exercised control to some degree through the existing structures of authority, the priests granted most recognition and power to those persons who became most Christian (i.e., European) in beliefs and behaviour. Durieu's system depended on isolation of the Indian communities from the influence of advancing white settlement, and with the spread of white settlers through the lower mainland and south-central Interior, the system disintegrated. By 1910, however, most Indians in those areas had been converted to Roman Catholicism.

The Church Missionary Society of the Church of England made the first significant effort by a Protestant organization to minister to the Indians of British Columbia. The C.M.S. sent William Duncan, a lay worker, to Port Simpson in 1857. In 1862, Duncan established an industrial mission—a self-supporting Christian community—at Metlakatla. As well as establishing several modern industries in the village, he abolished the rank and class system of his Tsimpsean flock, and established a village council, a committee in charge of public works, a native police force, and other features of a municipal government. At the height of his success, both Dominion and Provincial officials sought Duncan's advice on Indian administration.

In 1879, however, the north coast was created a bishopric and Bishop Ridley arrived in Metlakatla to assume control. As Duncan refused to abandon his charges there
followed a bitter struggle between the Bishop and the lay missionary, in which the Indians took sides. Ridley claimed that Duncan and the residents of Metlakatla had no rights to the land on which the village was built, the two acres of "Mission Point" having been formally transferred to the Church Missionary Society. The natives, appalled that even the land beneath their village was not theirs, demolished a number of buildings to prevent them falling into Ridley's hands.  

In 1886 Duncan and a majority of the Metlakatlans gave up the struggle, abandoned the village and moved to Annette Island in Alaska to build a new Metlakatla. With Duncan's removal, Indian protests over their rights in land, sparked by the Mission Point controversy did not, as might have been expected, subside. The move to Alaska was followed, rather, by extensive agitation by the Tsimpsean and their northern neighbours, the Nishga, for recognition of Indian rights to their traditional lands. In 1887, a delegation of Chiefs from Port Simpson and the Naas River Valley travelled to Victoria, accompanied by a missionary. They petitioned the Provincial Government for a treaty and a guarantee of protection for their tribal territories. In the same year, the Federal and Provincial Governments, alarmed by the extent of native protest, sent a joint commission of inquiry to the north coast. The commissioners noted in their report that the demands of the Indian groups varied according to the
denomination to which each group adhered. They pinned much of the blame for inciting Indian protest on Methodist missionaries. One commissioner cited the Duncan-Ridley dispute as the beginning of the idea that the title to all Provincial land was vested in the Indians. This charge, Shankel remarks, was not altogether true.

Granted that . . . [the dispute] . . . formed extremely fertile soil, in which the idea flourished as a green bay tree, but it was not until after the Dufferin speech of 1876 that the missionaries of the Northwest Coast openly espoused the cause of the Indians in respect to land.

Although the missionaries supported the Indians in their protests against the white occupation of the Indians' traditional lands, and were undoubtedly instrumental in providing the conceptual and legal underpinnings of the aboriginal rights claim, they did not by any means initiate the land question. As earlier discussed, Indian awareness of the value of land increased from 1870 onward, and the notion of aboriginal rights was, as a result of the actions of the Federal and Provincial Governments, a matter of public discussion. The support of the missionaries and other white sympathizers became much more important as the campaign developed—as the claim in law was established and strategies devised for advancing the Indians' claim.

By 1904, ninety percent of the Indians of British Columbia were nominally Christian. The south coast and Interior remained predominantly Catholic. The north coast was divided among the Anglican Church, the Methodists, and
to a lesser extent, the Salvation Army. While Catholic missionaries gave more support to the Indians' demands for enlarged reserves than for recognition of native title, they, like the Protestant missionaries, indirectly advanced the aboriginal rights campaign through the introduction of western education, new forms of political organization and such Christian ideals as the equality of men. Most Indian schools, although funded by the Federal Government, were operated by religious bodies. This permitted the churches to strengthen their bond with the natives through their influence over the younger generation.

On the coast, the centres of activity in the aboriginal rights campaign were initially those areas which had been subject to the earliest and most intense missionary activity and this pattern persisted through the years. It may be conjectured that missionary support for the cause of aboriginal rights, while stemming in part from concern about the Indians' material welfare, also derived from the threats of advancing white settlement and the extension of Federal Indian administration to the churches' exclusive influence over the natives.

Part II

Part I of this chapter outlined three major factors which contributed to a gradual focussing of Indian attention on the concept of aboriginal rights. Between 1903 and 1916--the year in which the Allied Tribes was formed--activity in
the aboriginal rights campaign increased. During these years, the first attempts were made to create inter-tribal organizations to represent the Indians in their relations with government. Direction in these attempts was largely provided by the white organizations that developed to support the Indians in their demands.

As early as 1903, Indian tribes in the Interior began to take steps to press their claims. They were soon joined by natives of the south coast, particularly the Cowichan. In 1906, a delegation of two Interior chiefs, Basil David and John Chilihitza, and the Squamish chief, Joseph Capilano, went to England to lay their complaints before the King. They were given an audience and permitted to state their grievances. They complained that native title had not been extinguished, that white settlers were taking up lands without the consent of the Indians, and that the Indians had no vote and were not consulted in the appointment of Federal Indian Agents. Although their petition apparently accomplished nothing, their willingness to undertake a long and arduous journey appears to have stemmed from a belief that they should look directly to the Crown for justice. Some twenty years later, Chilihitza would tell the Special Joint Committee appointed to inquire into the claims of the Allied Tribes:

I am going to refer to the time when Sproat came as a messenger from the Queen. . . . The Indians were told by Sproat that the Queen would not touch their Indian
rights and their rights would include the right to keep their native titles. Sproat told a lot of things to the Indians of what the Queen said, but I will not speak about that, as it will take too much time, but the Indians have kept in mind what Sproat told them concerning the white man.18

In 1909, the "Indian Tribes of British Columbia" was formed for the purpose of stating Indian grievances and seeking a solution of the issues.19 The Indian Tribes was apparently a loose alliance of Coast Salish bands and Indians of the north coast, including the Nishga. In the same year, the Interior Indians began to hold regular meetings and with the help of J. A. Teit,20 a white trapper and scout turned amateur ethnologist, developed an organization called the "Indian Rights Association."

In 1910, the "Friends of the Indians of British Columbia," an organization composed of members of Anglican congregations, was formed. A. E. O'Meara, a Toronto lawyer who had taken Anglican orders,21 was retained as the group's legal counsel. The Friends gave moral and financial support to the aboriginal rights campaign until its defeat at the hands of the Special Committee. Prior to the formation of the Allied Tribes and during its life, the Friends together with an associated group in Eastern Canada sent numerous petitions and delegations to ministers in the Federal and Provincial Governments. Between 1909 and 1913, the Nishga, Shuswap, Thompson River Okanagan and Salish, either individually or through the Indian Tribes of British Columbia or the Indian Rights Association, submitted a number of
declarations and petitions to the Governments of Canada and British Columbia.

In one petition, presented in March 1909 to the Colonial Secretary and in April 1909 to the Governor General, the Indian Tribes of British Columbia asked that the claim to aboriginal title be submitted directly to the Judicial Committee of the Privy Council. This was apparently the first time such a request had been made. One may conjecture that O'Meara was responsible in part for the submission of the petition, for he was retained by the Nishga in 1909 and through the entire course of his future involvement with them and with the Allied Tribes, he clung tenaciously to the goal of taking the natives' claim to the Judicial Committee of the Privy Council.

Members of the Friends of the Indians produced between 1909 and 1913 several pamphlets for public distribution, sent letters to the Premier and the Prime Minister, and O'Meara delivered a number of public lectures in the Vancouver area. 22

The Government of British Columbia was not, however, impressed with these efforts. In 1909, Premier Richard McBride reiterated the Province's long-standing denial of native title:

Of course it would be madness to think of conceding to the Indian's demands. It is too late to discuss the equity of dispossessing the red man in America. 23

In later years, neither he nor his successors would depart
Prime Minister Laurier, however, was inclined to explore the possibility of resolving the aboriginal rights issue through the courts. In May, 1910, the Deputy Attorney General of British Columbia met with the Federal Minister of Justice to prepare questions relating to Indian affairs in British Columbia for submission to the Supreme Court of Canada. The first three of the ten questions proposed dealt with native title and all were approved by the Minister of Justice and Counsel for British Columbia. Legal counsel for the Indians (probably O'Meara) appears to have been consulted in the framing of the questions and apparently considered that they would be satisfactory to the Indians. When the questions were submitted to McBride for approval, however, he refused to consent to the reference if the first three questions were included.

The Federal Government was therefore obliged to find a way to force British Columbia into court. In late 1910 and early 1911, the Indian Act was twice amended to permit a reference to the Exchequer Court of Canada dealing with the issue of aboriginal title. In May, 1911, a Committee of the Cabinet reported:

> It is now proposed ... on the part of your Excellency's Government to institute proceedings in the Exchequer Court of Canada on behalf of the Indians against a Provincial grantee or licensee in the hope of obtaining a decision upon the question involved as soon as a case arises in which the main points of difference can be properly or conveniently tried.
Laurier's Liberals were defeated before they could take a case to court, however, and Borden's Conservative Government immediately adopted a more accommodating approach to Sir Richard McBride. Rather than press for a judicial decision on the matter of aboriginal title, the Federal Government, by Order-in-Council of May 24, 1912, appointed Dr. J. A. J. McKenna Royal 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. 26

After reviewing the history of Indian-Government relations in British Columbia, McKenna concluded that the most important issue dividing the two governments and provoking Indian unrest was the Province's claim to the reversion of all lands which were alienated from Indian reserves. In a lengthy memorandum to McBride, McKenna acknowledged that a reference of the matter of aboriginal title to the courts might, in McKenna's words "injuriously affect the public interest" and "throw doubt upon the validity of title to land in the province."

As stated in our conversations, I agree with you as to the seriousness of now raising the questions and as far as the present negotiations go, it is dropped. 27

Thus Cail states:

In this way two politically compatible friends could accomplish to their mutual satisfaction in two months what had been dividing the two governments for years. 28
For the remainder of his report, McKenna attempted to persuade the Premier to abandon B.C.'s claim to reversionary interest. The Royal Commissioner considered that if the Province would make this concession and would transfer to the Dominion the Indian reserves already set aside, as well as a few more, the Federal-Provincial dispute concerning Indians would be resolved. McKenna did not favour the establishment of another reserve allotment commission, for he anticipated it would be both costly and time-consuming, as it would merely repeat much of the work done by the Reserve Allotment Commission appointed in 1876. McBride was not, however, easily convinced to relinquish the Province's hold on reversionary title to reserve lands. By August, 1912, the two parties had come to no agreement and McKenna proposed that the matter be referred to the Secretary of State for the Colonies for decision. Such a course was provided for in the Terms of Union in case of Federal-Provincial disagreements over reserve lands. Perhaps McBride did not relish the interference of the British Colonial Secretary or perhaps he decided that he had secured a large enough victory in persuading McKenna to drop the issue of aboriginal rights, for a month after McKenna presented the Provincial Premier with a draft reference to the Secretary of State for the Colonies, McBride agreed to drastically modify the Province's claim to a reversionary interest in Indian lands. On September 24, 1912, the McKenna-McBride
Agreement was signed, providing that:

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 government of the Dominion and the Province, agreed upon the following proposals as a final adjustment of all matters relating to Indian affairs in the Province of British Columbia. 30

By the terms of the Agreement, five commissioners were appointed, two each by the Dominion and the Province and the chairman by the first four commissioners. The Commission was empowered to reduce the area of land included in reserves where the acreage exceeded that "reasonably required for the use of the Indians," upon the consent of the Indians as required by the Indian Act, and to allot extra lands where necessary. The Province was obliged to convey to the Dominion the additional lands with full power to the Dominion to deal with the said lands in such a manner as they may deem best suited for the purposes of the Indians, including a right to sell the said lands and fund or use the proceeds for the benefit of the Indians. 31

Excess lands were to be sold by the Province and the proceeds divided equally between the Province and the Dominion in trust for the Indians. Thus, the Province agreed that when Indian reserves were finally allotted and confirmed, it would relinquish its claim to a reversionary interest in Indian lands.

For three years the Royal Commission travelled through the province hearing testimony from the Indian bands and assessing their needs for land. In response to the Indians'
submissions concerning aboriginal title, the Commissioners responded that they had no power to deal with the question; their mandate was to set aside reserves.\(^{32}\) Some bands, such as the Skidegate Haida and the Gitk'san, refused to discuss reserves lest their claims concerning aboriginal title be jeopardized.\(^{33}\) The Commissioners on numerous occasions assured the natives that no lands would be removed from reserves without the Indians' consent.

The activities of the Royal Commission may have succeeded in some cases of allaying the Indians' fears that their reserves would be diminished. As the Commission was not empowered to deal with aboriginal title, however, it could do nothing to reduce the agitation engendered by the native title issue. Because the Commission hearings offered Indians a chance to air their grievances, the Royal Commission's tour of the Province may, in fact, have contributed to the spread of Indian unrest.

Since 1887, the Naas Valley in northwest British Columbia had been a hotbed of Indian agitation over the loss of their traditional lands. O'Meara, counsel to the Friends of the Indians, had first become involved in the aboriginal rights claim when he was retained as the Nishgas' legal advisor in 1909. While the Nishga, probably with O'Meara's encouragement, were becoming increasingly exercised by the issue of aboriginal rights, the Interior Indians, represented by the Indian Rights Association, were increasing their
efforts to persuade Prime Minister Borden to deal with their claims. In January 1912, a petition signed by nearly all the leaders of the Interior bands was presented to the Prime Minister at Kamloops. In March of that year, J. A. Clarke, counsel to the Indian Rights Association, as well as Teit and several Indian chiefs, including Chilihitza, met with Borden at Ottawa.

Meanwhile, the Nishga had decided, upon O'Meara's recommendation, to submit their claims in the form of a petition to the Governor General of Canada and the Secretary of State for the Colonies. It is probable that O'Meara was the main author of the Nishga Petition, for it is unlikely that many native Indians in 1913 would have possessed the knowledge of British law and the facility in the English language which were displayed in the petition. The petition was sent, not only to leaders of the Federal and Imperial Governments, but also to the Indian Rights Association and the Friends of the Indians.

The Nishga Petition stated:

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 use and benefit and beyond doubt the portions which we desire so to reserve would include much of the land which has been sold by the province.

We claim that our aboriginal rights have been guaranteed by Proclamation of King George Third and recognized by Acts of the Parliament of Great Britian.
The Nishgas' claim in 1913, as it would be forty-five years later, was against the Province, not against Canada.

We are 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. . . . 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 claims against the Province of British Columbia. 36

O'Meara may personally have delivered the Petition to the Colonial Secretary, for on February 17, 1914, he wrote to Andrew Paull (a young Squamish who had been active in the aboriginal rights campaign since 1910) advising him that he had just returned from England, and emphasizing the importance of getting a Privy Council decision on the Nishga Petition. 37

When the Petition was received in Ottawa, it was studied by Duncan Campbell Scott, Deputy Superintendent General of Indian Affairs. In his report of March 11, 1914 to the Superintendent General, Scott stated:

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 this claim and which may have prevented its submission so far have 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 obligations to the natives by granting them from the public domain of the province reserve lands to be administered exclusively for their benefit, and that, if the Indian claim is found valid by the Court or the Privy Council and if it is thought advisable to offer anything further in extinguishment of title, the Dominion should assume the burden and compensate the Indians according to the past usage in such arrangements as has been made by the good-will of the Crown with the aborigines. The Dominion has interest in the lands of the Railway Belt and to this extent, would benefit by extinguishment of the Indian title.

Scott considered that the best way to finally resolve the question of Indian title would be to submit the claim to the Exchequer Court of Canada, with right of appeal to the Judicial Committee of the Privy Council. Scott hedged round his recommendations with a number of conditions, however. These conditions were reiterated in Order-in-Council P.C. 751 (June 21, 1914) which recommended the reference.

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 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 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 consideration 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 of 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.

When the terms of the Order-in-Council were communicated to O'Meara and the Nishga, they flatly refused to allow the reference to proceed. In Drucker's opinion they "... refused to take advantage of the best opportunity offered them in the history of the land contention for their day in court." The Indians apparently considered that the conditions placed on the reference would so limit the benefits they could receive from a favourable decision, that it would not be in the native interest to agree to the reference on the terms proposed by the Dominion Government.
Footnotes

A Note on Sources:


Shankel's "Development of Indian Policy" was the first detailed study made of the development of Indian-Government relations in British Columbia, and has been a major source for subsequent studies of the aboriginal rights campaign in British Columbia. Cail's study of the disposal of Crown lands in British Columbia was originally an M.A. thesis submitted to the Department of History, University of British Columbia, and includes considerable material on the Indian land question before 1913. I have used LaViolette's work with caution as other authors have questioned some of his interpretations and conclusions.

In Part 2 of this chapter I have drawn on the holdings of the British Columbia Provincial Archives, especially its collection of pamphlets and petitions produced by Indian organizations and the Friends of the Indians in the early part of the twentieth century. The official papers of Premier McBride have also been used, although much of the correspondence in his files has been reproduced elsewhere. The major secondary sources used were Cail and Shankel.

1 Duff, p. 43.


4 Quoted in Patterson, "Andrew Paull and Canadian Indian Resurgence," p. 184.

5 Quoted in Cail, Appendix D, Item 3, pp. 300-301.

6 Ibid., p. 205.
7 LaViolette, p. 97.
8 Ibid., p. 76.
10 Shankel, p. 174.
11 Patterson, "Andrew Paull and Canadian Indian Resurgence," p. 21.
12 Shankel, pp. 160-161.
13 Ibid., p. 165.
15 Shankel, pp. 189-190.
16 Duff, p. 87.
17 Shankel, p. 149.
18 Canada, Parliament, Report of the Special Committee of the Senate and House of Commons to Inquire into the Claims of the Allied Indian Tribes of British Columbia (Ottawa, 1927), p. 142. (Hereafter cited as "Joint Special Committee").
19 LaViolette, pp. 127-128.
20 J. A. Teit came to British Columbia from Scotland. As a young man, he became a guide and scout in the Interior and eventually a student of Indian cultures. At one point, he assisted Marius Barbeau in his ethnographic studies.
21 Arthur O'Meara was born in Port Hope, Ontario in 1859 and was called to the Bar in 1885. In 1905 he abandoned the practice of law and entered the diaconate of the Anglican Church. He was sent to the Diocese of Selkirk (later Yukon) in the same year. Shortly thereafter he became interested in the Indian claims for recognition of aboriginal rights and was actively involved in the native rights campaign for nearly thirty years. E. Palmer Patterson, "Arthur O'Meara, Friend of the Indians," *Pacific Northwest Quarterly, 58* (April, 1926), pp. 91-92.
Copies of pamphlets and speeches prepared by the Friends of the Indians are found in the Provincial Archives of British Columbia.

Quoted in LaViolette, p. 127.


Joint Special Committee, p. 52.

Ibid., p. 8.


Cail, p. 233.


McBride Papers, "Indian Affairs" file.

McBride Papers, "Indian Affairs" file.

Special Joint Committee, p. 21.

Drucker, p. 94.


Joint Special Committee, pp. 58-60.

Ibid., p. 59. See Appendix B for text of the Petition.


Joint Special Committee, p. 56.

Ibid., p. 55.

Drucker, p. 98.

Manuel and Posluns, p. 83.
CHAPTER II

THE ALLIED TRIBES: THE EARLY YEARS

Introduction

Because its terms of reference were limited to setting aside reserve lands, the Royal Commission on Indian Affairs was unable to deal with the issue of aboriginal rights in British Columbia. While the Commission was empowered to effect a settlement of all disputes between the Dominion and the Province relating to Indian lands and Indian affairs in general, the two governments had, in effect agreed to disagree on the matter of seeking resolution of the natives' claims. The Royal Commission was limited, therefore, to establishing Indian reserves which would be free, at last, of the reversionary interest of the Province. Few Indians in British Columbia derived great comfort from the prospect of a more secure tenure to their reserve lands. Many feared, rather, that once the Federal-Provincial disputes were laid to rest, the Dominion Government would be unwilling to disturb the status quo by assisting the natives in their search for resolution of the aboriginal rights claim. The losses would vastly outweigh the gains. Many natives were thus bitterly opposed to the appointment of the Royal Commission. They resented as well the proposal by the Federal Cabinet that the aboriginal rights issue be adjudicated under rigid
conditions.

The Nishga Petition of 1913, which was widely circulated among the Indians of British Columbia, came to be adopted by the natives as a general statement of the aboriginal rights claim and of conditions for a settlement of the claim. The Allied Indian Tribes of British Columbia was formed in 1916 to support the Nishga Petition and its goal of taking the native rights claim to the Judicial Committee of the Privy Council.

Growing Support for the Nishga Petition

In February 1915, a number of Coast Salish Indians and Interior Indians, encouraged and assisted by J. A. Teit, met at Spence's Bridge to declare their support for the Nishga Petition. The delegates drew up a lengthy petition which was forwarded to the Minister of the Interior.¹ In the same month, the Nishga sent representatives to consult with D. C. Scott, Deputy Superintendent General of Indian Affairs. Their purpose was, presumably, to discover what had become of their petition and also to state their objections to the Government's proposed reference of the matter of aboriginal title to the Exchequer Court.

In October 1915, the Reverend Dr. Tucker, Chairman of the Indian Affairs Committee of the Social Services Council of Canada, and Mr. P. D. McTavish, Chairman of the Friends of the Indians, issued an explanatory statement advising the Indians of British Columbia not to accept the
terms of the reference proposed by the Federal Government. They advised that the Indians should rather, unite to secure reference of the Nishga Petition to the Judicial Committee of the Privy Council. In June, 1916, a number of Indian groups followed their advice.

Creation of the Allied Tribes

At a meeting held in Vancouver in the early summer of 1916, the Nishga together with their declared allies, joined with Coast Salish and north coast groups in rejection of the proposed reference to the Exchequer Court and in opposition to the work of the Royal Commission. The tribes and bands represented at the June meeting were, from the Interior: the Okanagan, Lake or Senjextee, Thompson River at Couteau, Lillooet, Kutenai, Chilcotin, Carrier, Tahlton; and from coast: the Nishga, Tsimpean, Kitikshain (Gitk'san), Haida, Bella Coola, Cowichan, and Lower Fraser or Stalo.

An Executive Committee was established, two members of which were Basil David and John Chilihitza. Peter Kelly, a Haida who was connected with the Allied Tribes from its first meeting, may also have been a member of the Executive. Teit was appointed Secretary and O'Meara resigned his honorary appointment to the Nishga to become legal counsel to the Allied Tribes.

The Executive Committee immediately issued a statement which was sent to the Prime Minister of Canada and the Secretary of State for the Colonies. The Committee concluded
its statement by asserting:

While it is believed that all of the Indian Tribes of the Province will press on to the Judicial Committee, refusing to consider any so-called settlement made up under the McKenna-McBride Agreement, the Committee also feels certain that the tribes allied for that purpose will always be ready to consider any really equitable method of settlement out of court which might be proposed by the Governments. 4

The Nishga, meanwhile, were seeking the assistance of the Governor General in connection with their request that the Nishga Petition be referred to the Judicial Committee of the Privy Council. On September 17, 1916, the Secretary to the Governor General informed O'Meara that:

... with reference to your letter of May 20 and your interviews with me ... I am commanded by his Royal Highness that he considers it the duty of the Nishga Tribe of Indians to await the decision of the [Royal] Commission after which if they do not agree to the conditions set forth by the Commission, they can appeal to the Privy Council in England where their case will have every consideration. 5

O'Meara interpreted this letter to be conveying "... definite assurances ... that H.M. Privy Council would consider the Petition of the Nishga Tribe." 6 A more plausible interpretation, however, is that the Governor General wanted no part of the Nishga and hoped that with the passage of time and the publication of the recommendations of the Royal Commission, the Indians' grievances would be assuaged.

Although the Nishga were members of the Allied Tribes, they did not rely on that organization to act on their behalf. Even after O'Meara was retained by the Allied
Tribes, he apparently continued to act as counsel to the Nishga. The Nishga also retained the firm of Smith, Fox and Sedgewick to act as their agents in London. In May, 1918, they requested the firm to forward a report to the Privy Council stating that, as the Government of Canada had by Order-in-Council of June, 1915, rejected the Nishga Petition and the Nishga had, in turn, rejected the Report of the Royal Commission, the matter ought to be decided by the Judicial Committee of the Privy Council. On the 16th of December, the Nishgas' agents received the decision of the Lord President of the Privy Council. He replied that if the Nishga were complaining of the . . . executive action of Canada or British Columbia . . . special reference to the Judicial Committee to consider the actions of the Dominion or Provincial Governments could only be ordered on the recommendation of the Secretary of State for the Colonies and that he would advise such a reference after consultation and in accordance with the advice received from the Dominion Government.

In these circumstances His Lordship cannot see his way to take any further action on the Petition.

Either the Indians were not informed of this letter or they misunderstood it, for in a petition prepared in 1919, the Allied Tribes stated that its case was pending in the Privy Council. In Palmer Patterson's opinion, O'Meara encouraged the Indians to believe that the Judicial Committee would, in due course, decide upon the issue of aboriginal rights in British Columbia.
The Allied Tribes Against the Royal Commission

In the early autumn of 1916, the Royal Commission on Indian Affairs in British Columbia submitted its voluminous report. The Commission recommended adding 87,000 acres to reserves and removing 47,000 acres—the latter were to become known as "cut-offs."

Between 1916 and 1919, neither the Dominion nor the Provincial Government moved to implement the recommendations of the Committee. The Federal Government could take no action until the Provincial Government accepted the recommendations, for the land to be provided as additions to reserves was, after all, Provincial Crown land. Delay on the part of the British Columbia Government may be explained in part by the defeat of Bowser and the Conservatives in 1916. The Liberal Government under Brewster and upon his death, under John Oliver, was apparently less inclined to view the recommendations of the Royal Commission as an acceptable solution to the Indian problem in British Columbia. Several Liberal members opposed additional grants of land to Indian reserves where those reserves were located in their constituencies. Oliver and his ministers were more concerned about the clause of the McKenna-McBride Agreement which stipulated that no lands could be removed from reserves without the consent of the Indians as required by the "Indian Act."

On December 18, 1918, T. D. Patullo, Provincial Minister of Lands, wrote to Arthur Meighen, Minister of the
Interior, to ascertain whether the consent of the Indians to the proposed cut-offs would in fact be required:

It had been suggested that an understanding was arrived at between the two governments that the consent of the Indians would not be required. Before giving further consideration to this joint report, I would like to know definitely from you whether or not the consent of the Indians is required in order to effect the reductions recommended by the Commission. Meighen replied that consent according to the provisions of the "Indian Act" would indeed be required. He added that after the acceptance of the Report,

... it becomes the duty of the Department of Indian Affairs to obtain these surrenders. An immediate endeavour will be made to obtain them and it is our opinion that we will meet with success.

The British Columbia Cabinet apparently did not share Meighen's optimism about the ease with which the Department of Indian Affairs would be able to obtain Indian consent to the cut-offs. On February 18, 1919, T. D. Patullo, Minister of Lands, introduced Bill 17 to empower

... the Lieutenant Governor in Council ... [to] ... do, execute, and fulfill every act, deed, matter or thing necessary for the carrying out of the said [McKenna-McBride] Agreement between the Governments of the Dominion and the Province according to its true intent, and for giving effect to the report of the said Commission, either in whole or in part, and for the full and final adjustment and settlement of all differences between the said Governments respecting Indian lands and Indian affairs in the Province.

Section 3 of the Bill provided for intervention by the Provincial Government in the process of obtaining Indian consent to the proposed cut-offs.
Without limiting the general powers of this Act conferred, the Lieutenant Governor in Council may, for the purpose of adjusting, re-adjusting or confirming the reductions, cut-offs, and additions in respect of Indian reserves proposed in the said report of the Commission, carry on such further agreements whether with the Dominion Government or with the Indians as may be found necessary for a full and final adjustment of the differences between the said Governments.  

The Bill was passed and the "Indian Affairs Settlement Act" received royal assent on March 29, 1919. In May, the Act was forwarded for review to the Federal Government. When D. C. Scott, Deputy Superintendent General of Indian Affairs, reviewed the Act, he objected strenuously to Section 3. In a letter of August 14, 1919, to the Federal Deputy Minister of Justice, he stated:

I desire to protest as strongly as I can against the passing of the British Columbia Act in its present form, enabling the Lieutenant Governor in Council to deal directly with the Indians, the wards of this Government, in the matter of the reductions, cut-offs and additions in respect of Indian reserves rather than dealing with this government as heretofore.

E. L. Newcombe, the Deputy Minister of Justice, reported Scott's comments to the Deputy Attorney General of British Columbia. On October 21, 1919, the Deputy Attorney General replied, stating that Section 3 of the Act was not intended to dispense with the requirements for Indian consent. It was merely

... for the purpose of enabling our Government to enter into any mutual arrangements which might be found necessary. ... If no further agreements to which the Indians are to be a consenting party are contemplated, Section 3 could be deleted in its entirety. If a further agreement of this character is required, this department would have to advise our Government that without an enactment
containing words similar to those now in Section 3, they would have no power to enter into any such an agreement.  

Faced with the possibility that the British Columbia Government would not proceed with implementation of the Report of the Royal Commission unless it could be assured that consent of the Indians would be obtained, Meighen and Scott began to consider how they might deal with the problem of possible Indian reluctance to part with the cut-off lands. Meanwhile, Oliver, perhaps in order to gauge the degree of resistance he could expect to the proposed cut-offs, asked the Allied Tribes for a statement of its objections to the Report of the Royal Commission.

In June, 1919 the first general meeting of the Allied Tribes was held at Spence's Bridge. A permanent Executive Committee was elected, of which Peter Kelly became Chairman and Andrew Paull, Recording Secretary. Several chiefs of the Interior tribes, including John Chilihitza, were members of the Committee.

In the course of the meeting, the Allied Tribes decided to respond to Premier Oliver's request for a statement of its grievances. Kelly and Teit undertook to prepare the statement which was adopted at a meeting of the Executive Committee on November 19, 1919. The statement was published in the form of a pamphlet and apparently given wide circulation—an indication that the Indians were beginning to consider public information as a necessary adjunct to their campaign.
On December 19, the statement was presented to Premier Oliver. It first undertook to "make clear what is the actual present position of the Indian Land Controversy." In support of their contention that Canada had "long ago" conceded the existence of native title in the Province, the authors of the statement cited the Royal Proclamation of 1763; the report of the Minister of Justice in 1875; Sir Wilfrid Laurier's promise made in 1910 that the land controversy would be brought before the courts; the Governor General, the Duke of Connaught's supposed assurances that the Judicial Committee of the Privy Council would deal with the claim. The petition then set out the Allied Tribes' main objections to the Report of the Royal Commission:

First, since Article 13 of the Terms of Union did not define all the obligations of the Federal and Provincial Governments toward the Indians, the two governments could not settle all matters relating to Indian affairs as though it had.

Second, the lands which the Commission recommended to be cut off from reserves were of far greater value than those to be added; further, the added reserve lands would be utterly inadequate for the needs of the Indians.

Third, the Commission recommended that the lands be held in trust for each Indian band, while the Allied Tribes felt that the reserve lands ought to be held for the benefit of tribal groups.
Fourth, the Report recommended that lands to be cut off from reserves should be sold with one-half of the proceeds going to the Government of B.C. and the other half to the Government of Canada for the benefit of all Indians in the Province. The proceeds of the sale should, rather, be paid to or held in trust for the tribes which lost land.

Part III of the statement submitted "facts and considerations" which should be taken into account in the provision of additional reserve lands. The statement noted, among other things, that while Indians east of the Rockies were granted, under treaty, reserves amounting to 640 acres for a family of five, the Royal Commission had recommended only 30 acres per capita. The Allied Tribes proposed 160 acres per capita as a reasonable standard.

The penultimate section of the Statement listed twenty conditions proposed by the Allied Tribes as a basis for settlement of the Indians' grievances. The conditions included provision for increasing reserve areas to a standard of 160 acres per capita, with all resources and foreshores of the reserves to be owned by the tribes concerned. The statement proposed that, if the Governments and the Allied Tribes should be unable to reach agreement on matters relating to reserve allotments, the question should be submitted to the Secretary of State for the Colonies. The Allied Tribes also demanded that hunting, fishing and water rights be adjusted, and that no restrictions be imposed on the Indians' right to take salt water fish, whether for personal
or commercial purposes.

The Allied Tribes requested, in addition, compensation for any inadequacies or inequities that might arise in the final allocation of lands and further requested general compensation for the surrender of aboriginal title to lands which would not be included in reserve areas. Such compensation, it was proposed, should take the form of adequate systems of education and medical care. The statement also contained the first request by the Indians for the reimbursement of past and future expenditures in connection with the Indian land controversy.22

In its concluding portion, the statement assured the Government that the various points of the petition had been fully discussed at various inter-tribal meetings of the principal member tribes of the organization. The statement thus represented the "well-settled mind of the Allied Tribes."

Having stated what they considered to be essential conditions of an equitable settlement, the Allied Tribes then expressed their willingness to consider alternatives.

We have carefully limited our statement of what we think should be conditions of settlement to those we think are really necessary. We are not pressing these conditions of settlement upon Government. If the Governments accept our basis and desire to enter into negotiations with us, we will be ready to meet them at any time. In this connection, we desire to make two things clear. Firstly, we are willing to accept any adjustment which may be made in a really equitable way, but we are not prepared to accept a settlement which will be a mere compromise. Secondly, we intend to continue pressing our case in the Privy Council until such time as we shall obtain a judgment or until such time as the Governments shall have arrived at a basis of settlement with us.23
The Allied Tribes waited several months for a response. Finally, during the spring and summer of 1920, P. D. McTavish, Chairman of the Friends of the Indians, wrote to Oliver and to Patullo asking them to begin discussions with the Indians as requested in the 1919 statement and pursuant to Section 3 of the B.C. "Indian Affairs Settlement Act." On October 6, 1924, Patullo wrote to McTavish, saying:

Let me say that the whole question has given us a great deal of concern, and you may be perfectly sure that we propose to treat the subject as far as the Indians are concerned, in generous fashion. I have so told the Indian Department at Ottawa and I hope that the Indians themselves will realize it.

There is not doubt, however, that it would only lead to confusion for us to hold separate negotiations with the Indians in addition to which it would be entirely contrary to the spirit and intent of our relationship to the Dominion Government in this question.

Patullo's opinion that nothing would be accomplished by direct discussions with the Indians is understandable in light of what happened in Ottawa in late 1919 and early 1920. Because of these events, the Province had no need to discuss the Report of the Royal Commission with the Indians. The problem of obtaining Indian consent to the cut-offs had been resolved by the Dominion Government.

On November 14, 1919, Scott advised Meighen that for the purposes of carrying out the McKenna-McBride Agreement,

... it is my opinion that Parliament should legislate enabling his Excellency in Council to give authority to the Province to sell [the cut-off] lands when the Indians refuse to surrender them under the conditions prescribed by the Agreement.
On January 9, 1920, Scott carried his recommendations a step further. He stated in a letter to Meighen,

I am enclosing herein a draft of the postponed bill to enable the Governor General in Council to confirm and carry out the report of the Royal Commission on Indian Affairs for the Province of British Columbia.

Section 4 of the McKenna-McBride Agreement ... appears to contemplate the disposal of all reductions recommended without exception, and it might be that no difficulty would be encountered in carrying out this matter, but it is just possible that in some instances the Indians might, through some influence or prejudice, refuse to give the necessary consent. I think we should provide against such a contingency in our legislation confirming that all reductions and cut-offs should be effected without the consent of the Indians. I do not see that any injustice would be done to any band by such a provision. These reductions or cut-offs are recommended only where the Indians held more land than they required. When these cut-offs are sold, half of the proceeds will go to the Indians of the band and will be of more real benefit to them than would the land which they do not use. 27

Meighen accepted Scott's recommendation and on March 12, 1920 he introduced Bill 13, "An Act to Provide for the Settlement of Differences between the Government of the Dominion of Canada and the Province of British Columbia respecting Indian Lands and Certain Other Indian Affairs in the said Province." Shortly after the Bill was introduced, a delegation of the Allied Tribes, consisting of Peter Calder, a Nishga; George Matheson, a Tsimpsean; Peter Kelly; Chief Basil David; and J. A. Teit, arrived in Ottawa to oppose the legislation.

O'Meara joined them a few days later. He had remained in British Columbia to develop a long-range strategy for the Allied Tribes, including a financial plan. 28 He set out the
details of his proposed strategies in a letter to the Nishga of March 4, 1920.

In his letter, O'Meara assured the Nishga that their petition was still under consideration by the Privy Council. As the Nishga had refused to accept the recommendations of the Royal Commission, O'Meara expected, in accordance with the promises of the Duke of Connaught, that the Indians' claim would soon be decided by the Judicial Committee.

Two roads, said the lawyer, were now open to the settlement of the aboriginal title claim in British Columbia. One road is that of making a settlement out of court upon your conditions. The other is the road of a hearing of your Petition and settlement based on a judgment of the Judicial Committee. Therefore the Allied Tribes have two ways of working. They can still press the case independently as before. They can also work for bringing about that the two governments will soon find it necessary to choose between the two roads. This position of affairs should pretty quickly bring an end to the course followed by the two Governments in placing obstacles in the way of a reference.29

The "two things which those opposing the Allied Tribes, especially officials of the Indian Department, most fear," according to O'Meara, were

1. A discussion of Indian affairs in British Columbia and the present position of the Indian case in the Senate and the House of Commons now in session at Ottawa.

2. That the Allied Tribes will continue to provide large funds for carrying forward their case.30

As to Item 1, the delegation of the Allied Tribes had set out for Ottawa to

... bring about the discussion in the Senate and House of Commons, inform the people of Canada through the leading newspapers and secure large funds by advance. ...
Important arrangements have already been made in Winnipeg, Toronto, Ottawa and Montreal in preparation for the work of the delegation.31

Regarding fund-raising, O'Meara informed the Nishga that a careful financial plan had been prepared by James Teit, Mr. McTavish, Chairman of the Friends of the Indians, and himself. These gentlemen considered that

... the Allied Tribes may require to carry forward their independent efforts for two more years before the two Governments can be brought to terms and shall furnish all further funds needed to the very end. It is however, hoped that the independent efforts of the Allied Tribes may be successfully finished within a shorter time and by expenditures of a smaller amount.32

O'Meara anticipated that as of September 1, 1919, $50,000 would be needed to carry the efforts of the Allied Tribes to successful completion. Of that amount, $12,500 was to be secured from individual Indians in British Columbia in the form of advances against a final settlement of the claim.

Having informed the Nishga of the long term plans of the Allied Tribes (which were made, it seems, almost entirely by white men), O'Meara joined the representatives of the organization in Ottawa to undertake the immediate task of securing the support of the Commons, the Senate and the people of Canada for the Indians' fight against Bill 13.

The Allied Tribes found the Bill, which was intended to empower the Governor in Council to

... do, execute, and fulfil every act, deed, matter or thing necessary... for the full and final adjustment of all differences between the said Governments respecting Indian lands and Indian affairs in the Province...
objectionable in its entirety. Section 3, however, particu-
larly drew their attack.

For the purposes of adjusting, readjusting or confirming
the reductions or cut-offs from reserves in accordance
with the recommendations of the Royal Commission, the
Governor in Council may order such reductions or cut-offs
to be effected without surrenders of the same by the Indians
notwithstanding any provisions of the Indian Act to the contrary,
and may carry on such further negotiations and enter into
such further agreements with the Government of the Pro-
vince of British Columbia as may be found necessary for
a full and final adjustment of the differences between
the said Governments. (emphasis added)

On March 22, ten days after the Bill was introduced
in the House, Calder, Matheson, Kelly and David circulated
among the Members of Parliament a document entitled "A Half-
Century of Injustice Toward the Indians of British Columbia."
In this statement they deplored the denial of the aboriginal
rights of the Indians of British Columbia by the Governments
of Canada and the Province, and declared that the proposed
legislation was the "crowning injustice of all."

"A Half-Century of Injustice" concluded with a bitter
denunciation of the Federal Government's neglect of its
responsibilities as trustee of the Indians of British Colum-
bia.

We should be in a position to appeal confidently to the
Government of Canada for complete justice and the pro-
tection of our rights. It would appear, however, that
we shall have to abandon all hope of successfully doing
this. It is often said that Canada is under an obliga-
tion to protect us, also the Government of Canada calls
itself the guardian of the Indians. We find ourselves
forced to the conclusion that this is a mere name. We
now see more clearly than ever that the real position of
the Government of Canada is not that of a guardian pro-
tecting our rights, but that of an interested party owing
great tracts of land in British Columbia and controlling
the vast fisheries of that Coast, and because of those
interests seeking to take away our rights.

We have appealed again and again for justice to the Government of Canada. That appeal has
been in vain. We now appeal to the Parliament of Canada
and the people of Canada. We cannot believe that Canada
having made so much sacrifice on behalf of small and weak
peoples, and having fought in order to deliver them from
oppression, will now crush under foot our people who are
both weak and voiceless.  

The bitterness and frustration reflected in "A Half-
Century of Injustice" characterized the subsequent petitons
and statements made by the Allied Tribes during its sojourn
in Ottawa. The Indians, in accordance with O'Meara's plan,
abandoned their efforts to reach an amicable settlement with
Ministers of the Federal and Provincial Governments and
sought the support of Members of Parliament and the Canadian
people at large. They hoped, apparently, that by stimulating
public debate of their grievances, they could embarrass the
Government into responding to their claims.

The representatives of the Allied Tribes received,
from the outset, little sympathy from Government Members.
The presence of O'Meara, in particular, aroused their ire.
Meighen's comments summed up the opinions of the Conservative
Members.

Mr. O'Meara has undoubtedly made himself the parent of
considerable trouble among the Indians of British Colum-
bia, and I do not feel very sympathetic at all toward his
whole mission and his conduct.

The Indian delegation managed to secure some support
from the Liberal Opposition, led by Mackenzie King, who were
particularly concerned about the clause of the Bill which would permit the removal of lands from reserves without the consent of the Indians. One Member of the Opposition insisted on reading in the House a petition prepared by the Allied Tribes which asked that the Bill be referred to a Special Committee for full consideration. Meighen considered, however, that the representations of a lot of agitators did not merit "interference with the regular course of parliamentary procedure."

The hopes of the Allied Tribes that a discussion of its grievances would be stimulated in the House of Commons were doomed from the beginning. What resulted, rather, was public censure of the Indian organization and especially of O'Meara, chief architect of its strategies aimed at arousing public support.

The Indians wrote to Meighen on several occasions attempting to persuade him of the legitimacy of their organization and of O'Meara's true capacity as legal advisor only. Calder, Matheson, Kelly, David and O'Meara finally met with the Minister on April 13, at which time they were told that O'Meara constituted the chief obstacle in the way of settlement of the Indian land controversy.

It must have been apparent by this time to the Indian members of the delegation that O'Meara represented more of a liability than an asset. He was, however, retained as counsel until the final dénouement in 1927. Perhaps the Allied
Tribes was sufficiently convinced of the animosity of government that it considered snipes at O'Meara to be merely another attack on its cause. It may be, as well, that O'Meara made himself so central to the planning and execution of the aboriginal rights campaign that without his persistent and single minded energy, it would have collapsed.

If the activities of the Allied Tribes at Ottawa received little sympathy from the Government, they did attract the attention and support of other Indian groups in Canada. On April 14, Indians claiming to represent "most of the principal tribes of Canada" met to condemn the Federal and Provincial Governments' denial of Indian title and land rights in British Columbia, and to

... express our unanimous sympathy with ... [the B.C. Indians] ... and we declare our earnest support for their case. 40

On May 4, a second meeting took place, this time between the B.C. representatives and the Indians of the Six Nations Band. At this conference the possibility of a Canada-wide organization of Indians was considered, for

... all the tribes realize that the day has come when they must look after their own interests and unite for mutual protection. 41

It was many years before such an organization was formed, but the conference in Ottawa indicates that the activities of the Allied Tribes were affecting the political consciousness of Indians beyond the borders of British Columbia.
Bill 13 received first reading in the Senate on April 13, at which time the Allied Tribes carried its campaign into the Upper House. On April 20, "Notes prepared by the Delegation of the Allied Tribes of British Columbia" was circulated among the senators. This statement complained that the McKenna-McBride Agreement

... while dealing exclusively with the matter of lands to be reserved, by stipulating that the carrying out of its provisions shall be a final adjustment of all Indian affairs in the Province of British Columbia, attempts to sweep away all general rights of the Indian tribes.42

Not only was the proposed Bill, said the Indians, an attempt to legislate native rights out of existence, but such action was being taken without regard for the wishes and needs of the Indians. The British Columbia Government, for a change, appeared to be more sympathetic to the Indians' claims than the Government of Canada, for had it not contemplated in its 1919 Act entering upon direct negotiations with the Indians to effect a settlement?

As in the House of Commons, the Allied Tribes received some support from the Liberals in the Senate. After several days of debate, it was agreed that Bill 13 should be referred to the Senate Committee on Banking and Commerce to allow the Indian delegation to make its representations. The Committee in its report of June 28, 1920, recommended that:

In view of the action taken by the Government as indicated by Bill 13 to settle the differences between the Government of Canada and the Government of British Columbia respecting Indian lands and Indian affairs generally in the said Province, the committee is of the opinion that any alleged differences between the Indians
of British Columbia and the two Governments can best be adjusted by proceeding with the legislation now before Parliament. The Committee beg to suggest, however, that before exercising the authority granted by Clause 3 of the Bill, an endeavour be made to secure a surrender under the provisions of the Indian Act of the proposed reductions or cut-offs. The committee recommend that the Government in dealing with such differences should be given every opportunity to hear such representations as may be made by the said Indian tribes.  

While matters were taking their course in the House of Commons and the Senate, the Allied Tribes was making its views known through the Ottawa newspapers. In response to a letter published in the Ottawa Journal on April 15 and critical of the Indian organization, the Allied Tribes delegation wrote to the editor setting out its objections to Bill 13. On April 23, a press statement was issued outlining the history of the land question. On May 5, Calder, Matheson, David and Teit wrote again to the Ottawa Journal protesting Bill 13. If the Bill were passed, they stated, it would deprive the Indians of any compensation for the loss of their aboriginal rights.

We want a sufficiency of additional lands reserved for us; our hunting and fishing rights adjusted; improved education and medical attention—in short, just an equitable settlement satisfying our actual needs. So far the Dominion Government has altogether ignored our statements.  

Bill 13 received royal assent July 1, 1920. The representatives of the Allied Tribes, by that date, had spent three and a half months and, no doubt, much money in Ottawa. They had succeeded in attracting the support of a number of
Liberal Members of Parliament and Senators, but these were unable to prevail against the Government's determination to secure the passage of Bill 13. Contrary to the expectations of the Indians and their advisors, the Allied Tribes received little public support for their cause. While they were engaged in battling Bill 13, moreover, they received another blow, for in late March the Secretary to the Governor General advised O'Meara

"... The Governor General takes no action [on the Nishga Petition] nor does he desire to take any action, except upon the advice of his constitutional advisors. Under these circumstances I must ask you to consider this letter as final." 46

O'Meara did not, of course, accept this letter as final, but the refusal of the King's representative in Canada to extend his assistance in the matter of the Nishga Petition must have been discouraging to the Indians, if not to O'Meara himself.

Still, although the Governments of Canada and the Province were now empowered to implement by Order-in-Council the Report of the Royal Commission, the Report was not yet actually implemented. The representatives of the Allied Tribes had lost a major battle, but they returned to British Columbia to consider how they might go on to win the war.
Footnotes

1 File entitled "Claims of the Allied Indian Tribes at Ottawa (1920)," Provincial Archives of British Columbia. (Hereafter cited as "Claims".)

2 Claims.

3 Joint Special Committee, p. 175.

4 Ibid., p. 31.

5 Ibid., p. 83.

6 Ibid.

7 Ibid.

8 Ibid., pp. 63-64. Concerning the use of the terms "Privy Council" and "Judicial Committee of the Privy Council"; the Nishga submitted their Petition to His Majesty's Privy Council in hopes that the Council would intervene in the regular course of judicial procedure and permit the Indians to have their case heard directly before the Judicial Committee. When the Privy Council refused to take such action except upon the recommendation of the Colonial Secretary, the Indians thereafter sought the permission of the Government of Canada to bypass Canadian courts. During the course of these efforts, references made to the "Privy Council" by Indians and government officials alike generally refer to the Judicial Committee of the Privy Council as the court of final appeal for Canada. Occasionally, however, O'Meara or one of the executive of the Allied Tribes refer to their belief that the Privy Council was still considering a reference of the case to the Judicial Committee. Where the "Privy Council" is mentioned in quotations, its meaning must be determined by the context.

9 Joint Special Committee, p. 32.


12 RG 10, Vol. 3820.

13 W. E. Ditchburn, Chief Inspector for Indian Agencies, British Columbia to D. C. Scott, Deputy Superintendent General of Indian Affairs, Ottawa, November 1, 1919.
I have just had an interview with Hon. Mr. Patullo, Provincial Minister of Lands. . . . As I reported to you some time ago the B.C. Government seems to shy off that part of the Agreement of 1912 with regard to the cut-offs in view of the fact that it appears necessary to have the consent of the Indians before the land can be sold. . . . [Patullo] and other members of the Cabinet appear to be of the opinion that the Agreement was much too one-sided and would like some definite assurance that if the Province carries out that part of the report referring to allotments of land for new reserves, the Dominion Government would see that the Cut-offs are made.


14 British Columbia, Legislative Assembly, Bill 17, 1919.

15 British Columbia, Bill 17.


18 Drucker, p. 96.

19 Joint Special Committee, p. 38.

20 LaViolette, p. 134.

21 Joint Special Committee, p. 31.

22 Ibid., pp. 32-37.

23 Ibid., p. 38.

24 British Columbia, Department of Lands, File 026076, #2, Victoria, Provincial Archives of British Columbia.

25 File 026076, #2.

26 RG 10, Vol. 3820.

27 RG 10, Vol. 3820.

28 File 026076, #1.

29 File 026076, #1.

30 File 026076, #1.
31 File 026076, #1.
32 File 026076, #1.
33 Canada, House of Commons, Bill 13, 1920.
34 Claims.
35 Canada House of Commons Debates, March 26, 1920, p. 793.
36 Ibid., pp. 793-794.
37 Ibid., p. 794.
38 Claims.
39 Claims.
40 Claims.
41 Claims.
42 Claims.
43 Canada, Senate, Committee on Banking and Commerce, June 28, 1920.
44 Claims.
45 Claims.
46 Lieut. H. G. Henderson to A. E. O'Meara, March 17, 1920, Joint Special Committee, p. 64.
CHAPTER III

ORGANIZATIONAL CHARACTERISTICS
OF THE ALLIED TRIBES

Introduction

The failure of the Allied Tribes to block the passage of Bill 13 spurred the leadership on to renewed effort to recruit members for the organization and raise funds for its activities. While Indians considered that they might still dissuade the Federal and Provincial Governments from implementing the recommendations of the Royal Commission, their main objective became the submission of the aboriginal title claim to the Judicial Committee of the Privy Council.

Leaders and Followers

By 1920, Peter Kelly and Andrew Paull had emerged as the two most prominent native figures in the Allied Tribes. Kelly, an ordained Methodist minister, had been involved in the land controversy since 1910. Andrew Paull had been educated in a Catholic mission school and had spent four years in the Vancouver law offices of Hugh St. Quentin Cayley where he concentrated on law pertaining to Indians. Paull was politically active at the band level and had, as well, assisted Indians charged with offences under the potlatch law. To the matter of aboriginal rights, however, Paull directed most of his considerable energies, for in the Indian
land controversy, he saw

... an opportunity for fame and service on a broader stage. In his performance, he was clearly setting himself apart from other Indians of his generation and community. 2

Of the two most influential whites associated with the Allied Tribes, J. A. Teit died in the early 1920's and left the stage clear for Arthur O'Meara. O'Meara, whose appointment as legal counsel to the Allied Tribes was reconfirmed in January, 1920, 3 was an old man. In his old age, he became, if possible, more rigid in his opinions.

He continued to counsel against anything done without his advice and presence. He had become locked in a certain posture and he had come to think that not only his views were correct, but that he himself was indispensable.

[He] ... remained firm in his belief that a decision on the Nishga Petition by the Privy Council would set the precedent for impartial settlements. He insisted that disinterested jurists could be found in England and he implied that he would be on familiar ground there. His almost fanatical single-mindedness ... prevented him from accepting what was a clear refusal. 4

It is a matter for speculation whether the organization might have followed a different path had its leadership not been under O'Meara's influence. The Allied Tribes might, in other circumstances, have turned to seeking satisfaction of the many specific grievances which, it could be argued, were what resolution of the aboriginal rights claim was intended to achieve. But at least in part because of O'Meara's influence, the Executive Committee refused to accept that the Nishga Petition was a dead letter and continued to the end to plead for a hearing before the Judicial Committee.
By 1920, Kelly, Paull and O'Meara dominated the Allied Tribes. This concentration of control in the hands of two Coast Indians and a white lawyer, all of them obsessed with the idea of taking their case to the Judicial Committee, eventually resulted in the withdrawal from the organization of the Interior chiefs. This split did not occur until the mid-1920's, however, and in the earlier years of the Allied Tribes, Paull and Kelly mounted a vigorous membership drive which was directed, for the most part, to the coastal groups, but also extended to bands in the Interior.

Paul and Kelly resolved to enlist the coastal groups in the Allied Tribes' cause. They visited practically every village . . . from Aiyansh to Kispiox to Musqueam, preaching the doctrine of the Allied Tribes as the Indians' only hope.5

Paull, in addition, travelled through the Interior, initially to enlarge the membership of the Allied Tribes and later to raise funds for its activities.6

Paull and Kelly were not universally successful. The Nootka, Northern Athabascans and many of the Kwakiutl evinced little interest in the land issue. The mission school-educated, politically minded leadership often had considerable difficulty in communicating its doctrine of "strength through unity" to a geographically scattered and culturally diverse Indian population. Moreover, by 1922, the Nishga had drifted away from the organization. While they continued to cooperate with the Allied Tribes and acknowledged their backing, as they had done in the past and would do in the future,
they preferred to fight their battles alone.

In January, 1922, forty-five delegates from twenty-four Indian groups gathered in North Vancouver. Chairman Kelly of the Allied Tribes told the delegates

... this is not an Allied Tribes meeting, but a general meeting of all B.C. Indians and for the assembly to express their views.8

It appears that by the date of the meeting, the Interior Indians were becoming dissatisfied with their role, or lack of it, in the Allied Tribes. However, after three days of discussions, the delegates passed the following resolution:

Whereas it is apparent that there are two factions of organization at this meeting, namely the Allied Tribes and the Independent Party, to bring these parties together, be it resolved that the Indians of British Columbia form an organization of Indians ... and adopt for its policy the Statement of the Allied Indian Tribes of British Columbia for the Government of British Columbia, said organization to have a standing executive committee to contain Indians and others deemed acceptably by Interiors.9

The witnesses for the Allied Tribes claimed at the 1927 hearings that, as a result of the 1922 alliance, the Allied Tribes represented nominally all of the tribes of British Columbia and most of them individually. It is difficult to determine, however, by what authority the delegates to the 1922 meeting spoke for their groups. By the 1920's Federal Indian administration extended to nearly all areas of the Province. The traditional structures of authority had for the most part broken down and native councils had not yet sufficient powers and experience to manage the
affairs of the band. Many of the delegates did, indeed, have "Chief" before their names, but these hereditary titles probably no longer carried enough weight to enable a Chief to commit an entire group to support the Allied Tribes. A. D. McIntyre, a lawyer who claimed to represent the Indian Tribes of the Interior, stated at the 1927 hearings that many representatives to the 1922 meeting represented nobody but themselves, and to some extent this may well have been true. Drucker believes that the meeting did not really constitute an alliance as represented by spokesmen for the Allied Tribes. In his opinion, some of the Interior tribes never really affiliated themselves with the Allied Tribes; "at this particular meeting, they simply agreed to work together for the common goal."

In addition to uncertainty as to the nature of the alliance, one is faced as well with the difficulty of determining which group or groups the delegates represented. In an affidavit filed at the 1927 hearings, delegates to the meeting are identified as representing, for example, "Saanich Tribe," or "Lower Fraser Valley Tribes," or simply "Merritt Nicola Valley." Some of the "tribes" alleged to have been represented seem to have been, in fact, bands. Some were apparently linguistic divisions or sub-divisions. One cannot always know, therefore, whether a delegate purported to represent a village of perhaps twenty people or a language group of two thousand. In 1927 the problem of whom the
Allied Tribes really did speak for came to the surface at a most inauspicious moment, as will be shown in a later chapter.

It appears that even after 1922 no formal method of selecting delegates to attend the meetings of the Allied Tribes was established. There was initially a tendency, states Drucker, especially among the southern Kwakiutl, to elect ranking chiefs as delegates. The Indians "... soon discovered [however] that facility in English and an understanding of white law and culture were necessary."\(^{13}\)

Thus the preference probably turned to younger Indians who would be more likely to possess such qualifications. The delegates appear to have been primarily liaison officers between the Executive Committee and the membership. They attended meetings in Vancouver and Victoria, then returned to their villages to recount the events of the conference and to explain problems and answer questions. Throughout the life of the organization the local level of the Allied Tribes remained essentially unorganized, while the Executive Committee was structured in a highly formal fashion.\(^{14}\)

Fund-raising

Fund-raising was a constant worry to the leadership. Some money was contributed by sympathetic whites, such as the Friends of the Indians,\(^{15}\) but for the most part, the Executive Committee was thrown back on the resources of the membership. There apparently were no membership fees, annual
levy or other regular fund-raising mechanisms, apart from periodic drives to secure advances which, it was hoped, would be repaid from the proceeds of a final settlement. The practice of asking for "advances" rather than "donations" perhaps instilled some hope in the contributors that they might some day receive their money back with interest. Collections were taken up at the village level to enable delegates to attend meetings (although the delegates sometimes had to pay their own way) and notices announcing meetings as well as circular information letters, often concluded with a plea for money. The funds collected were used to finance travel by the Executive Committee, pay attorney's fees, cover the day to day operating expenses of the organization and in some cases, assist the Nishga Land Committee. It appears that the Executive Committee received no regular salary. Some groups, such as the Southern Kwakiutl, responded promptly and liberally to requests for funds, but others were more dilatory. The leadership was frequently obliged to remind them of their duty to the organization.

In the Interior, Paull undertook most of the fund-raising and organizing. George Manuel recalls,

... wherever he [Paull] went, the blanket and the hat were passed to keep Andy travelling and working. Often in his later trips to Ottawa, we would raise enough money just to get him to Ottawa. A week or so later, we would get a wire from him. It was time to chip in again and help him get back home.
Footnotes

1 A few other coast Indians, such as Billy Assu of the Cape Mudge band, were also active in the Executive of the Allied Tribes, but Paull and Kelly appear to have been the motor force for most of the life of the organization. Several of the minor figures did, however, assume prominence in the leadership of the Native Brotherhood of British Columbia which was formed in 1930.

2 Patterson, "Andrew Paull and Canadian Indian Resurgence," p. 105.

3 Joint Special Committee, p. 47.


5 Drucker, p. 95.

6 Manuel and Posluns, p. 84.

7 See Appendix C for list of delegates.

8 Joint Special Committee, p. 176.

9 Ibid.

10 Ibid., p. 138.

11 Drucker, p. 97.

12 Joint Special Committee, pp. 175-176.

13 Drucker, p. 16.

14 Ibid.

15 Ibid.

16 Manuel and Posluns, p. 85. These later trips may refer to Paull's activities in the North American Indian Brotherhood, founded after the fall of the Allied Tribes.
CHAPTER IV

THE ALLIED TRIBES: THE LATER YEARS

Introduction

In late 1920, the Allied Tribes' prospects of either blocking the implementation of the Report of the Royal Commission or reaching the Judicial Committee of the Privy Council looked bleak. For one thing, most Federal politicians and officials had been anything but sympathetic to the Indians' objections to Bill 13. After the passage of Federal legislation removing the requirement for Indian consent to the cut-offs, the Provincial Government took no steps to consult with the Indians in connection with the implementation of the Report. Neither did it retreat from its consistent denial of the existence of aboriginal title.

From 1911 onwards, the Indians had failed to convince any influential person in public office that they had a substantial legal case. As government officials controlled the Indians' access to a court of law, the Allied Tribes appeared to have reached a dead end.¹ Notwithstanding the apparently hopeless outlook, however, the Indians struggled on.

Last Stand Against the Report of the Royal Commission

When Mackenzie King came to office as Prime Minister in 1921, the prospects of reaching a settlement of the land
claim appeared, perhaps, a little brighter. King had expressed sympathy for the Allied Tribes in 1920, and he was still sufficiently interested to request his Minister of the Interior to look into the matter of their claims.\(^2\)

On May 31, 1922, O'Meara submitted a document entitled "Memorandum for the Government of Canada" to the Prime Minister. It reiterated the claims made by the Allied Tribes in the 1919 statement, and proposed that the Government of Canada, the Government of British Columbia and the Allied Tribes enter upon discussions leading to a settlement of the aboriginal title issue. O'Meara suggested that Canada, as a token of good faith, provide funds to the Indian organization to enable it to continue its efforts toward a settlement. The Memorandum also asked that the 1920 "British Columbia Indian Lands Settlement Act" be repealed or "... at least amended so that the rights of the Allied Tribes shall be safeguarded."\(^3\)

Two months after the submission of the Memorandum Charles Stewart, Minister of the Interior, met with the Executive Committee of the Allied Tribes at Vancouver.\(^4\) Stewart returned in July of the following year to arrange a meeting between the Deputy Superintendent General of Indian Affairs, the Executive of the Allied Tribes and O'Meara.\(^5\) In his later comments on Stewart's visit, O'Meara stated that:
On the 21st day of July, 1923 at Vancouver, the Minister of the Interior addressed the most representative meeting of the Indians of British Columbia ever held and speaking on behalf of the Government of Canada gave assurance that Canada would help the Indian Tribes of British Columbia in obtaining judgment of the Judicial Committee of His Majesty's Privy Council deciding the Indian Land Controversy.  

According to Scott's testimony given at the 1927 hearings, the Minister of the Interior hoped in 1923 that 

... it might be possible to settle the claim for aboriginal title out of court, if the Indians would fix upon reasonable compensation which the Dominion Government might supply without involving the Government of the Province.  

It seems unlikely, therefore, that Stewart would have offered to assist the Indians to reach the Judicial Committee. 

Five days after the July meeting, the British Columbia Cabinet passed Order-in-Council P.C. 911 recommending to the Lieutenant Governor in Council that 

... the reductions, cut-offs and additions in respect of Indian reserves proposed in the ... report of the Royal Commission ... be approved and confirmed as constituting full and final adjustment and settlement of all differences in respect thereto between the Governments of the Dominion and the Province. 

On July 27, Scott wrote to Premier Oliver requesting that a provincial representative attend the forthcoming meeting with the Executive Committee of the Allied Tribes. Oliver discussed the request with his Cabinet and on July 31 directed his secretary to inform W. E. Ditchburn, Chief Inspector of Indian Affairs for British Columbia that
... the question of a representative of the Province attending any conference held between representatives of the Government of Canada and the Indians of British Columbia was considered by the Executive Council this morning, and it was the opinion of the council that whereas the charge of the Indians and the trusteeship and management of the lands reserved for their use is a function of the Dominion Government, therefore any conference with the Indians should be solely with the representatives of that Government.

Scott met with the Executive Committee of the Allied Tribes and O'Meara at Victoria on August 7, 1923. After some rather aimless discussion of the Report of the Royal Commission, the Executive Committee brought out its petition of 1919. This, with the addition of a request for monetary compensation, they still considered to be a statement of essential conditions for a settlement.

On October 29, 1923, Scott submitted a report to his Minister, outlining the main elements of the statement together with his comments. With regard to fishing rights, Scott stated he was

... in sympathy with the desires of the Indians to take fish for food and [thought] they should suffer ... [no] ... disability whatever in the prosecution of the fisheries.

After consulting with the Chief Inspector for Fisheries, Scott was able to inform the Executive Committee that Indians would thereafter be able to obtain salmon and herring seining licenses in their own names, in the same manner as white men. The Department of Fisheries had further instructed the Chief Inspector to give "sympathetic attention" to any representations made by Indians in connection with fisheries.
These significant achievements, Scott felt, were evidence of the sympathetic attitude of government officials to Indian grievances. Scott noted without comment the Indians' requests for confirmation of hunting rights, for the use of timber outside reserves for traditional purposes, for more native control of Indian trust funds, and for improvements in the education system.

He then quoted a lengthy extract from Rev. Kelly's representations concerning monetary compensation. Kelly argued that as a treaty ought to have been concluded many years previously, the Indians should be paid the annuities which would have accrued during the intervening years. He asked that an amount equal to perhaps twenty years of lost annuities be paid so that

... people who are now living and who will not be in a position to profit by any of the future benefits that we have claimed would receive direct benefit from the question that is now being brought we hope to a position where we are in sight of a settlement.¹⁰

Scott calculated that on the basis of the then current Indian population the payments in lieu of annuities would amount to $2,747,400—in Scott's eyes, an appalling sum. The Executive Committee also requested $100,000 as reimbursement of costs incurred in pursuing a land claims settlement.

After reciting the terms of settlement proposed by the Allied Tribes—terms which the Indians considered just and reasonable—Scott described the Indians' demands as
"exacting and extravagant." Moreover, he stated, expenditures of large amounts of money on the British Columbia Indians would incur the envy of natives elsewhere in the country.

At the conclusion of the meeting, the matter of the implementation of the Report of the Royal Commission was raised. The Indians once again voiced vigorous objections and informed Scott that if a satisfactory settlement could be achieved in no other way, the Allied Tribes would "press on to the Judicial Committee of the Privy Council." 11

Scott summed up his report by recommending that, despite the objections of the Indians, the Report ought to be implemented. The Indians would thus be provided with adequate reserve lands free from the reversionary interest of the Province and the reserve question would finally be disposed of. Prior to the August meeting, Scott stated, he had expected that the Indians would be satisfied that their claims to aboriginal title had been met by expenditures made on their behalf. However, Scott stated, "... such is not the case and I have to submit the facts for your consideration." 12

Another year elapsed before the Dominion Cabinet passed an Order-in-Council to implement the recommendations of the Royal Commission. 13 In the meantime the Allied Tribes continued to protest the recommendations.
By autumn of 1923, the organization was in desperate financial straits. Kelly's statements made during the August meeting indicated that the Allied Tribes was in debt, and a circular letter to the tribes in September contained a request for money, stating that the funds which had been collected during the year were all spent.14

On February 29, 1924, O'Meara prepared a memorandum which he sent to the Minister of Justice. Kelly stated in a later petition, that in this memorandum

... the Allied Tribes opposed the passing of Order-in-Council of the Government of Canada adopting the Report of the Royal Commission, upon the ground, among other grounds, that no matter whatever relating to Indian affairs in British Columbia having been fully adjusted, and important matters such as foreshore rights, fishing rights and water rights not having been to any extent adjusted, the professed purpose of the Agreement and the [1920] Act had not been accomplished.15

The Deputy Minister of Justice replied to O'Meara's memorandum the day it was presented. In Kelly's view, his reply clearly indicated that the 1920 Act was intended

... not for bringing about an actual adjustment of all matters relating to Indian affairs, but for the purpose of bringing about a legislative adjustment of all such matters and thus effecting final settlement under the laws of Canada without the concurrence or consent of the Indian Tribes of British Columbia.16

Despite the objections of the Allied Tribes, P.C. 1265 was passed on July 19, 1924, confirming the additions and reductions to reserve lands in British Columbia recommended by the Royal Commission. The Allied Tribes had spent eight years and more than $100,000 in a fruitless endeavour to block implementation of the recommendations of the Royal
The Road to the Judicial Committee

The one remaining avenue which the Allied Tribes could see open to the settlement of its claims was to the Judicial Committee of the Privy Council. On January 25, 1925, the Executive Committee passed the following resolution:

In view of the fact that the two governments have passed Orders-in-Council confirming the report of the Royal Commission on Indian Affairs, we the Executive Committee of the Allied Indian Tribes of British Columbia are more than ever determined to take such action as may be necessary in order that the Indian Tribes of British Columbia may receive justice and are furthermore determined to establish the rights claimed by them by a judicial decision of His Majesty's Privy Council.17

As they had done in 1920, the Executive Committee decided to appeal to the legislative rather than the executive arm of government. Perhaps they expected more favourable treatment from the Liberals than the Conservatives, as in the past Liberal governments had been generally more sympathetic.

One of the members of the Liberal Government, Stewart, the Minister of the Interior, was at his wits' end as to how to deal with the Indian land controversy. On June 26, 1925, in the House of Commons, Meighen requested the Minister to outline the current position of the controversy.

Is the government standing in the way of the submission of the matter to the Privy Council? What I understand is this—and I know it has been the case for some time—that the Indians and those representing them have
been anxious to obtain the decision of the Privy Council. I do not see any reason why they should not have that decision. Why is it that they have not been able to get it?

Stewart replied:

Regarding the controversy over the aboriginal title, I have been trying for the past three years to find out just what the Indians mean by this. Do they lay claim to all lands in British Columbia in view of the fact that in ninety per cent of the cases no treaty had been signed between the tribes and the representatives of the Crown? After a great deal of discussion, I found that they did not lay claim to the land in its entirety, but they do say that before an adjustment can take place, they should have certain specified and unspecified provisions made for them by the government of Canada. This is all so vague and difficult of understanding that it is very hard to arrive at any concrete definition of what their claims are. . . . My Hon. friend says, why not send it to the Privy Council?

Mr. Meighen:

Why do you not let them take it?

Mr. Stewart:

They want the government of Canada to pay their expenses. 18

Stewart continued:

I must confess that I do not see very much hope. . . . One of the difficulties we have to meet is the vagueness of their demands. I defy anyone to get them down to a concrete basis as, for example, so much for education, so much for relief and so forth. That is one great difficulty and it looks hopeless to me. I believe the Privy Council would only come to one decision. They are quite likely to follow precedent and say to the Indians, "You are entitled to the same consideration as has been given to the other tribes throughout Canada." That the government is prepared to give them, and for the life of me I do not know what to recommend. It seems to be an unending difficulty and I do not see that the government would be warranted in paying expenses of representatives of the Indians to go over and argue the case before the Privy Council unless we have something very concrete presented to us.
Mr. Meighen:

Then you would be quite willing that they should get a fiat and let them go over?

Mr. Stewart:

Oh yes, if they wanted to.\(^1\)

Agreeing to let the Indians go to the Judicial Committee, but refusing to provide them with funds, was a rather empty concession. The cost of instituting such a case would have been enormous. Nonetheless, Kelly pounced on Stewart's statement, later saying that

... the Minister on behalf of the Government of Canada ... recognized that the Allied Tribes are entitled to obtain from His Majesty's Privy Council decision of the Indian land controversy and agreed that the Government would give authoritative sanction for so doing.\(^2\)

Having received what they thought was government approval of their goal of taking the native rights case to the Judicial Committee, the Allied Tribes then set out to secure government assistance in bringing the case to court. On December 15, 1925, a general meeting of the Allied Tribes passed a resolution to submit a petition to Parliament. The petition, which was drawn up by Kelly,\(^3\) recited the history of the land question and reaffirmed the 1919 statement as a declaration of the Allied Tribes' conditions for an equitable settlement. The petition also called Parliament's attention to the supposed willingness of the Minister of the Interior to allow the Indians to proceed to the Judicial Committee. The petition contained several requests, the three most important being:
2. That steps be taken for defining and settling between the Allied Indian Tribes and the Dominion of Canada all issues requiring to be decided between the Indian Tribes of British Columbia on the one hand and the Government of Canada on the other hand.

3. That immediate steps be taken for facilitating the independent proceedings of the Allied Tribes and enabling them by securing reference of the petition now in His Majesty's Privy Council and such other independent judicial action as shall be found necessary to secure judgment of the Judicial Committee of His Majesty's Privy Council deciding all issues involved.

4. That this petition and all related matters be referred to a Special Committee for full consideration.  

The petition was given to W. G. McQuarrie, the Member of Parliament for New Westminster, who presented it in the House on June 9, 1926. The session ended a few days later, however, and the Allied Tribes received no response to their petition.

After waiting in vain for several months, the Executive Committee instructed O'Meara in November, 1926, to write to the Minister of the Interior inviting his reply to any or all of the claims submitted. The Minister did not acknowledge the letter.

On February 9, 1927, H. H. Stevens, the Member for Vancouver Centre, questioned Prime Minister Mackenzie King about the matter of the claims of the Allied Tribes.

While I have not much sympathy with some of the views entertained by those who are agitating the question, nevertheless I do think it is desirable to satisfy and quiet the Indians in regard to it. I am anxious to cooperate in giving them every opportunity to have the question settled but I do not think any headway will be made if it is allowed to drift any longer. . . . I would ask the Prime Minister if the government would consider
the appointment of a small select committee to hear the representatives of the Indians and give the question study in order to see if we cannot bring it to a conclusion.  

The Prime Minister declined to respond to Mr. Stevens' suggestion, but proposed that he direct his remarks to the Minister of the Interior. Stevens did so on February 11. Stewart replied that the request of the Allied Tribes that the land question be taken to the Judicial Committee . . . has not been granted, although it is receiving consideration. We have a committee of the government acting in cooperation with the Deputy Minister of Justice working on the situation and endeavouring to reach a decision as to whether or not it would be of use to submit the matter for judicial investigation with the privilege of carrying the whole question to the Privy Council.  

With regard to Stevens' suggestion that a committee of Parliament be appointed to consider the question, Stewart replied:

If a committee of parliament would be helpful without going to the expense of bringing two or three hundred witnesses from B.C., I would be inclined to ask for that assistance, but there has been so much investigation already, so much evidence taken, that I am inclined to think we had better have a try at a solution of the problem by the present committee and see if we cannot get together.  

On February 24, 1927, O'Meara prepared yet another memorandum, this time for the Minister of Justice. In "The British Columbia Indian Land Controversy: Introductory Notes for the Parliament of Canada," O'Meara claimed that the Allied Tribes . . . are entitled according to British constitutional principles firmly established and founded upon the provisions of the Magna Carta, to secure that their Petition shall be referred to a Special Committee.
Two weeks later, on March 8, the Minister of the Interior introduced a motion

That a special committee of this House . . . be appointed to meet with a similar special committee of the senate, if such a committee be appointed, to inquire into the claims of the Allied Indian Tribes of British Columbia as set forth in their petition submitted to parliament in June 1926.²⁹

The motion was agreed to. The Committee was to begin its inquiry on March 22.

It is not clear why Stewart decided to have the claims of the Allied Tribes referred to a Special Committee. Judging by his remarks of June, 1925, he was casting about for any solution to the Indian land controversy. Presumably the government committee had been unable to produce a solution to the problem and Stewart was not personally in favour of a reference to the Judicial Committee, although he conceded that such a reference was one possible route to resolution. Perhaps, by Clause 2 of the prayer for relief in their 1926 petition, the Allied Tribes had unwittingly provided the government with a convenient way of resolving the problems in a manner suggested by the Indians themselves:

That steps be taken for defining and settling between the Allied Indian Tribes and the Dominion of Canada all issues requiring to be decided between the Indian Tribes of British Columbia on the one hand and the Government of Canada on the other hand.

The Allied Tribes did not specify what "steps" it desired to be taken. It was to regret this clause, for the Joint Special Committee would later appeal to it in
justifying their decision to settle the Indian land controversy once and for all, without reference to any court of law.
Footnotes

1 LaViolette, p. 138.

2 Ibid., p. 139.

3 File 026076, #3.

4 July 24, 1922, Joint Special Committee, p. 14. O'Meara was not at this meeting. In a memorandum presented to the Prime Minister on April 23, 1923, P. D. McTavish of the Friends of the Indians claimed that the July meeting

... was not called by authority of the Chairman of the Allied Tribes. The meeting was arranged and called by authority of the Indian Department. The Indians attending were a considerable number of chiefs together with some members of the Executive Committee of the Allied Tribes. The Indians who attended acted without advice of the General Counsel of the Allied Tribe and without any independent advice. (File 026076, #3).


6 Ibid., p. 83.

7 Ibid., p. 14.

8 Ibid., p. 61.

9 Ibid., p. 67.

10 Ibid., p. 69.

11 Ibid., p. 71.

12 Ibid.

13 The four year lapse of time between passage of the Indian Lands Settlement Act and the Dominion Order-in-Council resulted in part from the study of the Royal Commission's Report undertaken by W. E. Ditchburn, representative of the Dominion Government, and Major J. W. Clark, the Provincial representative. Ditchburn and Clark re-examined the Commission's findings and made several revisions.

14 Joint Special Committee, p. 242.


16 Ibid.
17 Ibid.
18 Debates of the House of Commons, June 26, 1925, pp. 4993-4994.
19 Ibid., p. 4994.
20 Joint Special Committee, p. xxi.
21 Ibid., p. 82.
22 Ibid., p. xxi. Text of the Petition is given in Appendix D.
23 Debates of the House of Commons, June 9, 1926, p. 4301.
24 Joint Special Committee, p. 87.
26 Debates of the House of Commons, February 11, 1927, pp. 210-211.
27 Ibid., p. 211.
28 Joint Special Committee, p. 84.
29 Debates of the House of Commons, March 8, 1927, p. 985.
CHAPTER V

THE "GREAT SETTLEMENT" OF 1927

A "Special Committee of the Senate and House of Commons meeting in Joint Session to inquire into the Claims of the Allied Indian Tribes of British Columbia" convened on March 22, 1927 and held sittings on March 31, 31, and April 4, 5, and 6. The Committee consisted of fourteen members, with Senator Hewitt Bostock as Chairman. During the course of the hearings, eight witnesses were examined as well as A. E. O'Meara and A. W. Beament, Counsel for the Allied Tribes, and A. D. McIntyre, Counsel for the Indian Tribes of the Interior of British Columbia. Stewart, the Minister of the Interior, had invited Premier Oliver to send a representative to the hearings, but Oliver had declined.¹

On the first day of the hearings, March 30, D. C. Scott, Deputy Superintendent General of Indian Affairs, O'Meara, Andrew Paull and Peter Kelly were present. The witnesses for the Allied Tribes were not heard, however, until the end of the day's session, as the Hon. Mr. Stevens suggested that Dr. Scott describe the history of the Indian land controversy to give the committee a "grasp of the general situation." This request obviously came as no surprise to Scott, for he had arrived armed with a "Report on the British Columbia Land Situation." He proceeded to
read his Report, for twenty pages of evidence. In this "succinct" memorandum, Scott proposed to "present the facts as clearly as possible and make such recommendations as appear to be appropriate."²

In the second paragraph of his report, Scott acknowledged that "no cession of the aboriginal title claimed by the Indians over the lands of the Province of British Columbia has ever been sought or obtained."³ The exceptions to this statement were those lands covered by Douglas' treaties and the northeast corner of the Province which was included in Treaty 8. This acknowledgement must have been gratifying to the Indians, as it appeared to constitute an acceptance that unextinguished title existed. This may have been the intent of Scott's statement, but it proved to be of little benefit to the Indians as the Deputy Superintendent General proceeded to discuss the matter of extinguishment of and compensation for native title.

In Scott's opinion, the essential difference between British Columbia and other provinces was the absence of treaty—and the distinguishing mark of a treaty was payment of annuity.⁴ Granted that the B.C. Indians had received no annuities, 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 Government has granted this Department funds to develop a progressive policy ($10,800,37 since confederation). It is clear
that 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 has not prejudicially affected the interests of these Indians.  

Scott obviously over-simplified the meaning and effect of a treaty. Other things than annuities were provided by these agreements, notably reserve lands. Scott also omitted to discuss the reason for concluding a treaty—benefits were provided to the Indians in exchange for the extinguishment of aboriginal title. Scott's intent is clear. He was trying to minimize the significance of extinguishment of aboriginal title and concentrate on the question of whether the Indians had suffered as a result of lack of a treaty. The latter issue was essentially incidental to the Indians' claims for recognition of aboriginal title, but the matter no doubt loomed large to those expected to provide compensation.

Scott went on to describe the more recent history of Government-Indian relations in B.C., emphasizing the Dominion Government's willingness in 1923 to seek "reasonable compensation which the Dominion Government might supply without involving the Government of the Province." Having left the impression that unreasonably high native demands had terminated the Government-Indian discussions, Scott proceeded to read some "general remarks."  

In these concluding comments, the Deputy Superintendent General repeated his opinion that the Indians had
suffered no disability as a result of non-extinguishment of aboriginal rights. In his view, any compensation that the Indians might be entitled to had been granted

... by the provision of reserves and by the extension to the Indians of British Columbia of the policy which obtains in the other Provinces of the Dominion.  

He went on to suggest the unpleasant and even disastrous consequences which might follow an Indian victory in court:

First, there would be a cloud on all the land titles issued by the Province;

Second, the recommendations of the Report of the Royal Commission might be put in question or invalidated, thus jeopardizing the benefits the Indians received as a result of the Report.

The considerations of public interest which had caused McKenna to agree that the Federal-Provincial dispute respecting aboriginal title be dropped, Scott stated, still obtained. In short, the question of native title was as much a matter of public policy as of Indian policy. Serious thought ought to be given to the effects of a possible Indian win in court on future Federal-Provincial relations, so recently improved by implementation of the Report of the Royal Commission.

Turning again to the Indians' demands for compensation, Scott pointed out that the value of lands for the purposes of assessing compensation for aboriginal title was
not increased as a result of white settlement and improvements. On the basis of Douglas' payments to the Indians of southern Vancouver Island, the "surrender value" of the unextinguished title amounted to $251,097, or about $1.00 per square mile. In addition to this amount, all the Indians would receive under treaty would be the ordinary annuity of $5.00 per capita—a pittance compared to the expenditures which the Dominion had already made although not required to by treaty.

In concluding, Scott emphasized the many benefits which had accrued to the native people as a result of white settlement and Government benevolence: they were now an "educated and progressive" rather than a "primitive people." In view of the foregoing, Dr. Scott felt that any claims the Indians might have had had been fully compensated by ordinary Government expenditures. Their request to go to the Judicial Committee should be refused.

In the discussion following Scott's presentation, it was pointed out that since the Province owned the lands and resources claimed by the Indians, if the natives went to court, B.C. would be the defendant. As the Provincial Government had refused to give any more lands than those provided under the terms of the Royal Commission's report, and further, had refused to attend the hearings of the Special Committee, in the opinion of the Hon. Mr. Belcourt, the work of the Committee was finished:
We cannot suggest anything to our parliament that could be at all effective. If we were to decide on this question in law, British Columbia would refuse to accept our jurisdiction. If British Columbia takes the ground that they have an agreement and that is the end of it, I do not see what purpose this committee can serve by hearing all these people. It seems to me that we are up against an insuperable difficulty.

... On the question of aboriginal title, I say it is utterly hopeless for us to proceed.

The Hon. Mr. Stewart pointed out that the dispute was not between the two governments, but between the Indians and government. Even if Mr. Belcourt were right, it would be bad form to close the hearings after listening only to Dr. Scott.

As the hearings continued, the Indians were placed in the position of rebutting Scott's statements rather than presenting evidence and argument in support of their own position. Despite the protestations of A. W. Beament, an associate of O'Meara's, that the Allied Tribes had requested a hearing to "satisfy the committee that ... there are substantial legal questions at issue between the Indians and the two governments," the Committee undertook to determine the substantive issues. The Hon. R. B. Bennett made it quite clear that he, at least, intended the matter to go no further than the Committee:

Paragraph 2 [of the 1926 Petition's prayer for relief] is the important one; that steps be taken for defining and settling between the Allied Tribes and the Dominion. That is a clear definition of the situation and we will settle the matter here.

The Committee's insistence on having the "facts" put the Indians at a great disadvantage, for they had come
prepared to present arguments in law and opinions of public officials as to the appropriateness of referring the case to the Judicial Committee. The Committee wanted hard facts which proved the existence of aboriginal title and demonstrated that the Indians had suffered as a result of non-recognition of that title.

O'Meara was to present the main constitutional argument, and this choice of a spokesman badly prejudiced the Allied Tribes' position. Public officials' opinions of O'Meara had not changed for the better since 1920. Two members, Belcourt and Stevens, particularly disliked him, but O'Meara's wordy, repetitious and pompous manner soon exasperated the entire Committee. O'Meara insisted on reading long documents that could have been filed in the record and annoyed the Committee by quoting extracts from legal opinions, often out of context and usually without citing the sources. After promising to state his position in five minutes, he dragged it out to fifty. By the time he had concluded his first argument, the Committee was frustrated, if not infuriated.

Hon. Mr. Green: Mr. Chairman, I think we have heard enough of this piffle. . . . 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: . . . If the Chairman 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 into 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 this 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. 12

As if the hostility provoked by O'Meara were not sufficiently damaging to the Allied Tribes' case, on the third day of hearings, Mr. A. D. McIntyre appeared and informed the Committee that he, not the Allied Tribes, represented the Indians of the Interior of British Columbia. Despite Peter Kelly's objections that any spokesman for Indians not included in the Allied Tribes had no business at the hearings, the Committee permitted Mr. McIntyre and
his witnesses to speak.

McIntyre stated that the Allied Tribes was an organization of coast Indians and that the majority of the matters brought before the committee by that organization did not concern the Interior Indians at all. The Indians of the Interior, he stated, had no interest in most of the specific grievances contained in the 1919 petition, and further were not concerned with the question of aboriginal title. What they wanted was security of tenure to their reserve lands.

McIntyre then introduced Chiefs John Chilihitza and Basil David, who were, in 1927, very old men. Whereas the Allied Tribes sought more education, improved medical care and provisions to give them more control over Indian funds and the conduct of life on the reserves—all benefits intended to help modernize the Indians—Chilihitza stated that

... all the Indians want is to be just Indians, and not to be taken as white people and made to live like white people. They want to be the way their forefathers used to be, just plain Indians.

The main interests of the Interior Indians, said Chilihitza, were more water for irrigation and the right to hunt and fish unmolested.

When Peter Kelly was called, he tried to minimize the damage caused by the Interior Indians and their lawyers.

... there are two groups of things which must be considered: one is the Indian grievances and it was to overcome one phase of the Indian grievances that the Royal Commission was appointed in the year 1913. But
that Commission looked into just one thing, only one phase of Indian grievances and that was to provide Indians with adequate lands. . . . Now the other side is this: at the bottom of that is a fundamental issue. That is to say, the Indians of British Columbia were not treated as Indian tribes in other parts of this Dominion, not because it was not known at all, but after some endeavour on the part of the Colonial Government in the early days when governments strove to deal with this great fundamental issue, and I refer frankly to the aboriginal title of the Indians.15

Although Kelly was permitted to continue with his evidence, McIntyre's testimony must have influenced the Committee. The Allied Tribes, after McIntyre's appearance, could no longer maintain the position that it represented all the tribes of British Columbia, nor could it claim to state the demands of all British Columbia Indians.

In his testimony, Kelly attempted to focus the Committee's attention on the fundamental issue of aboriginal title, but the members were more interested in specific grievances. The Committee pointed out that substantial sums had been spent on education—one of Kelly's main concerns—and in other areas such as medical care. Kelly countered that the state was, after all, obliged to provide such services to all Canadians, not only Indians.

In the midst of a discussion of the proper size of the budget of the Indian Department, the Hon. Mr. Stevens asked Kelly:

Suppose the aboriginal title is not recognized. Suppose recognition was refused, what position do you take then?

*Kelly*: 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 where we are today. And perhaps if we are turned down now, if this Committee sees 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. 

In this statement, Kelly expressed what was perhaps the essence of the Indians' claims for recognition of aboriginal title. Whether the Indians had been deprived of land or annuities was relatively unimportant compared to the fact that without recognition of aboriginal title, all the Indians had received and would receive would be given to them as charity. Entitled by right to nothing, they would forever depend on the benevolence of government.

Kelly's bleak prediction of a future of perpetual charity made little impression on the members of the Committee. The hearings carried on. O'Meara rose again to vex the members with odd bits of documents, opinions of past Prime Ministers and dubious interpretations of judgments and legal opinions.

On April 4, 5, and 6, the Indian Commissioner for B.C. and the Director of Fisheries appeared. Specific answers to specific problems were discussed at some length,
the members apparently relieved to be able to discuss matters of administration rather than the vague concepts of aboriginal title. The members were not much impressed with O'Meara's constitutional argument; they were tired of discussing the obvious impossibility of the Allied Tribes proceeding directly to the Judicial Committee. They wanted concrete proposals toward the solution of concrete problems. Finally, on the last day, Kelly attempted to argue once again that the matter of whether or not the government had treated Indians generously was not the fundamental question. It was the matter of aboriginal title that was at issue. Then the Hon. Mr. Barnard dropped a bombshell:

[Mr. Kelly], you know what estoppel is in law?

Kelly: I must confess I do not.

Barnard: If two men act as if a contract were in existence, act mutually upon it, they cannot afterwards deny that it did exist.

Kelly: Provided a bargain has been struck.

Barnard: No.

Stevens: That is a principle of law which is very important which Mr. Barnard has suggested. Independent of written law in law courts, where two men who may be wholly ignorant of the law by mutual consent go on a certain line, share mutual benefits and so on, that becomes in the eyes of a court of law or has the effect of a contract.

Bay: That is, you cannot take the benefits of another man's actions and deny that party has a part in the contract. Your action estops you from raising that objection.\textsuperscript{17}

The Committee was not a court of law. The petitioners had no opportunity to argue whether the principle of estoppel
applied, whether the "contract" entered into was one of benefits in exchange for aboriginal title. But as far as the Committee was concerned, that was the end of it. The Indians had already traded their claim to aboriginal title for Government largesse, and it was too late to renegotiate the terms of the agreement.

The hearings concluded on April 6, 1927. Five days later the Committee submitted its final report to Parliament. The report discussed the specific claims of the 1919 petition and made some recommendations, for example, that "special efforts should be at all times made—and it is as much in the interest of the white citizens as of the Indians—to diminish the incidence of tuberculosis." With respect to hunting and fishing, the Committee considered that "an extremely sympathetic and liberal view of the Indian situation should influence regulations and their enforcement against Indians. The amelioration of local difficulties must be worked out with local officers, and we are convinced of the importance of leniency in the enforcement of the regulations." The Committee did not recommend that the regulations be changed.

In the matter of the Indians' claim for recognition of the aboriginal title, the Committee stated:

... the aboriginal title was first represented as a legal claim against the Crown about fifteen years ago. The claim then began to take form as one which should be satisfied by a treaty or agreement with the Indians in which conditions and terms put forward by them or on
their behalf must be considered and agreed upon before a cession of the alleged title would be granted. Tradition forms so large a part of the Indian mentality that if in pre-confederation days the Indians considered that they had an aboriginal title to the lands of the Province, there would have been tribal records of such being transmitted from father to son, either by word of mouth or in some other customary way. But nothing of the kind was shown to exist. On the contrary, the evidence of Mr. Kelly goes to confirm that the Indians were consenting parties to the whole policy of the government both as to reserves and other benefits which they accepted for years without demur. . . . The fact was admitted that it was not until fifteen years ago that aboriginal title was first put forward as a formal legal claim by those who have ever since made it a bone of contention and by some a source of livelihood as well. 20

The Committee did not spare O'Meara and other white friends of the Indians:

The Committee note with regret the existence of agitation not only in British Columbia but with Indians in other parts of the Dominion which agitation may be called mischievous, by which the Indians are deceived and led to expect benefits from claims more or less fictitious. Such agitation, often carried on by designing white men is to be deplored and should be discountenanced, as the Government of the country is at all times ready to protect the interests of the Indians and to redress real grievances where such are shown to exist. 21

Not surprisingly, the Committee came to the unanimous decision that "... the Petitioners have not established any claim to the lands of British Columbia based on aboriginal or other title and . . . the matter should now be regarded as finally closed." 22

The Committee, doubtless in recognition of Scott's testimony that the only benefit of which the B.C. Indians were deprived was annuities, recommended that a sum of $100,000 be expended annually in lieu of annuities. This amount equalled approximately $5.00 per head based on the
then current Indian population. I would not increase if the population increased, but then it was not until the 1930's that it became apparent that the Indians, contrary to previous indications, were not dying out.

In concluding, your Committee would recommend that the decision arrived at should be made known as completely as possible to the Indians of British Columbia by direction of the Superintendent General of Indian Affairs, in order that they may become aware of the finality of findings and advised that no funds should be contributed by them to continue further presentation of a claim which has now been disallowed.23

The prohibition against fund-raising was hardly news. On March 31, the first day of Committee hearings, Parliament had passed an amendment to the Indian Act prohibiting all fund-raising for the purpose of advancing Indian claims.

Shortly after the decision of the Special Committee, the Allied Indian Tribes of British Columbia collapsed.
Footnotes

1 Joint Special Committee, p. 2.
2 Ibid., p. 3.
3 Ibid.
4 Ibid., p. 10.
5 Ibid.
7 Ibid.
8 Ibid., p. 18.
9 Ibid., pp. 22-23.
10 Ibid., p. 28.
11 Ibid., p. 77.
12 Ibid., p. 92.
13 Ibid., p. 139.
14 Ibid., p. 142.
15 Ibid., p. 147.
16 Ibid., p. 160.
17 Ibid., pp. 224-225.
18 Ibid., p. xvii.
19 Ibid., p. xv.
20 Ibid., p. viii.
21 Ibid., pp. viii-ix.
22 Ibid., p. xi.
23 Ibid., p. xviii.
CHAPTER VI

CONCLUSIONS

The preceding chapters have described the organizational characteristics of the Allied Tribes and the manner in which the organization pursued its claim to recognition of aboriginal rights and compensation for the abrogation of those alleged rights. The Allied Tribes failed to achieve satisfaction of its claim; the blow delivered it by the Joint Special Committee in 1927 crushed the organization. Why did the Allied Tribes fail?

The Allied Tribes was hindered from the outset by the nature of the aboriginal rights claim. Although the claim reflected the genuine concern of the Indians of British Columbia that their lands and lifestyles had been taken from them without payment of compensation by the Crown, its formulation as a claim in law was the work of white men who sympathized with the Indians' grievances. It is unlikely that the Indians themselves ever fully understood the legal principles underlying the notion of aboriginal rights. Their lawyer's interpretation of aboriginal rights seems as well to have been questionable.1

The Indians' persistence in seeking a judicial decision on the issue stemmed, it seems, almost entirely from the influence of their white advisors, especially O'Meara,
who was obsessed with the idea of taking the case to the Judicial Committee of the Privy Council. O'Meara's appointment as general counsel to the Allied Tribes was unfortunate. He was probably not as self-serving and unscrupulous as some members of the Dominion and Provincial Governments thought him to be. However, he undoubtedly derived great satisfaction from directing the efforts of the Allied Tribes and he was fascinated with the prospect of taking the aboriginal rights claim to the highest court in the British Empire. He was, in addition, pompous and overbearing, and these qualities earned him no friends among those whom he attempted to convince of the validity of the Allied Tribes' claims. Had O'Meara not been bent on taking the case to the Judicial Committee, the Allied Tribes might have succeeded, by more conciliatory methods than threatening court action, in obtaining some concessions to its complaints. As it was, the Allied Tribes, under O'Meara's prompting, advanced claims which, at least in the eyes of politicians of the day, were extravagant and groundless. Perhaps the Allied Tribes might never have been mobilized without O'Meara's involvement, yet his domination of the organization prevented it from achieving the desired improvements in social and economic areas which in large part underlay the claim.

What O'Meara and his Indian clients never realized was that the aboriginal rights claim was a political, not a legal, issue. The only occasion upon which the Dominion
Cabinet took concrete steps to bring the matter to court in the face of B.C.'s opposition, was in 1911 when Laurier's government amended the Indian Act to permit the issue to be referred to the Supreme Court of Canada, with or without Provincial concurrence. At that time, Dominion-Provincial efforts to settle the matter of reserve allotments had broken down entirely, and Laurier was ready to take drastic action to resolve the issue. When Borden replaced Laurier as Prime Minister and established more amicable relations with the Conservative Premier McBride, the question of taking the case to court was dropped. With the signing of the McKenna-McBride Agreement and the establishment of a Commission to finally settle Dominion-Provincial disputes (which no longer included aboriginal title), no Dominion Government thereafter supported the Indians in their attempts to reach the Judicial Committee. In the 1914 proposed reference to the Exchequer Court, the Province was absolved of all responsibility to provide compensation over and above the lands to be given under the McKenna-McBride Agreement, an absolution which would have effectively prevented the Indians from gaining any significant privileges in the areas of lands and resources. Stewart's half-hearted acceptance of the possibility of sending the claim to the Judicial Committee can hardly be considered support. Had the Allied Tribes realized that the importance of preserving satisfactory relations between Canada and British Columbia, rather
than the importance of securing a judicial decision which might have severely damaged these relations, dictated the outcome of the Indians' efforts to secure such a decision, its members might have saved themselves a good deal of time, money and disappointment.

The strategies of the Allied Tribes betrayed both political naivete and a lack of technical, financial and organizational resources. The potential impact of the organization was, in any event, severely limited by the restrictions on Indian political activity. They lacked both the Federal and Provincial vote and could not run for election; they were not part of the Canadian political community. This exclusion, together with the paternalistic nature of Federal Indian administration, contributed to a feeling on the part both of many Indians and of most of white society, that Indian action to solve their problems by political means was not quite legitimate. Things were done for Indians; they were not expected to do things for themselves. Even when they did form an organization to press their demands, that organization was dominated by white sympathizers. The Indians did not escape paternalism even within their own pressure group.

The involvement of whites in the Allied Tribes resulted, not only in objectives and strategies which ultimately alienated much of the Indian membership, but also in the antipathy of politicians and government officials.
These latter refused to believe that the Indians were expressing legitimate grievances. In their eyes, the activities of the Allied Tribes were instigated by white agitators and trouble makers, out to bolster their own sense of importance and possibly to line their pockets as well. In Meighen's view, the Indians were as much victims of O'Meara as was the government.

The authors of the Hawthorn Report have stated:

In the absence of the franchise, government response to Indian needs reflected generosity and elite concern rather than response to political pressures. The historical record of government treatment of the Indian population indicates that this provides an inadequate impetus for the development of comprehensive programs of social amelioration and economic development.3

Certainly, the Allied Tribes was in a weak bargaining position. Its members were always supplicants, submitting petition after petition, appealing to the sense of justice and fair play of Ministers of government, Members of Parliament, and finally, the Canadian public at large. Their threats of legal action were weakened by the fact that they could not get to court without the permission of those government officials whom they threatened. The prospect of finally reaching the Judicial Committee of the Privy Council had, perhaps, considerable appeal—the Indians would finally face their opponents in an impartial court of law. But the Indians never reached the Judicial Committee, and their insistence that they would not compromise their claim by agreeing to settle it on any basis other than recognition of
aboriginal rights prevented them even from gaining satisfaction of a few of their specific grievances.

That pressure groups must, in order to be effective, establish long-term, mutually satisfactory relations with the Cabinet and senior members of the bureaucracy is one principle that is universally accepted among students of pressure group behaviour in Canada. Such relationships the Allied Tribes was unable to establish. It engaged, rather, in alternately pleading with and confronting the Governments of the Province and of Canada. After 1920, in fact, the Indians virtually ignored the Provincial Government except in their complaints about it to the Dominion. The Government of British Columbia never, and has not to this day, accepted the existence of aboriginal rights in British Columbia and the Allied Tribes was probably correct in assuming that nothing was to be gained by barking up that particular tree. But in ignoring the Provincial Government, it virtually ensured that none of its demands for lands, timber, hunting rights or other resource-related privileges, would ever be granted, for the Province has sole jurisdiction in these areas. That the Province could ever have been convinced by the Indians to give recognition of their needs for more land and resources seems highly unlikely, in view of the difficulties faced by the Dominion Government in obtaining any such concessions. By continued snipes at the Provincial Government, however, the Allied Tribes may have intensified
the recalcitrance of that Government in any matters relating to Indians and Indian lands in British Columbia.

The Allied Tribes was severely deficient in organizational assets. For one thing, the pool of potential members from which the Allied Tribes could recruit was very limited. There were perhaps 30,000 Indians in British Columbia in the 1920's. Many of these were attracted by the prospect of a seemingly magic solution to their various social and economic ills, but as the aboriginal rights campaign dragged on and few concrete benefits were secured, the membership of the Allied Tribes dwindled. The organizational base was always weak; money was always short. The life and purpose of the organization was concentrated almost entirely in the small knot of dedicated leaders and their white supporters. The psychological benefits to be derived from planning, organizing, raising funds, travelling to Ottawa and Victoria, meeting with government ministers, were not available to the membership at large. As these benefits were almost all there was to be derived from association with the Allied Tribes, it is not surprising that after the first few years, the interest of the members of the organization began to wane. What is surprising is that the organization managed to survive as long as it did. The aboriginal rights claim caught the imagination of the Indians of British Columbia. The dramatic resurgence of the native rights campaign in the last few years is evidence of Indian commitment
to a cause which, although it lay dormant for many years, never quite died. Had the Allied Tribes possessed the financial resources which have been made available by the Federal Government to contemporary Indian pressure groups, and had it possessed the knowledge of white law and society, as well as the political expertise which B.C. Indians have gained in the intervening years, the outcome of the aboriginal rights campaign in the 1920's might have been different. The continuing difficulties of contemporary Indian pressure groups in British Columbia to achieve internal solidarity and stability suggest, however, that it might have been much the same.

Apart from organizational weakness and a single-minded commitment to an impracticable way of resolving their grievances, the leadership of the Allied Tribes was also saddled by the attitudes toward Indians and native rights held by many members of government and the Canadian people as a whole. The opinions of politicians probably expressed the opinions of their constituents. Except for those small organizations which developed to support the Indians in their demands, few Canadians had taken up Indians as a social cause. Especially in British Columbia, essentially a pioneer community, the problems of subduing the land, improving transportation and building an economy, must have seemed more important than dealing with the problems of a group which had lost out in the race for ascendancy. In
the white settlement of British Columbia, the Indians had been shouldered aside and the prospect of giving them back large amounts of the lands and resources which had just been taken from them could not have been a popular idea. The Allied Tribes was disappointed in its search for public support because the public support was simply not there. Had Canadians been asked, most would probably have agreed with Premier McBride: "It is too late to discuss the equity of dispossessing the red man in America."

That the Allied Tribes failed is incontestible. What might be asked however is, Ought it to have failed? Was it justly dealt with by the Governments of Canada and British Columbia? Should the Indians have been compensated for the loss of the control they once had over the lands and resources of British Columbia?

The question of whether the Crown is legally or morally obliged to compensate aboriginal inhabitants for the loss of their traditional lands has not yet been answered by the courts. The Federal Government has recognized claims deriving from unextinguished native interests. The Government of British Columbia denies such claims. What is the answer?

One might reply that Canada, having assumed obligations under the British North America Act and confirmed them under the Terms of Union with British Columbia, has a duty
ill to do the best it can by its Indian charges. That the paternalistic attitude which characterized policy-makers and Indian policy until recently (and which still persists in some degree) served the Indians badly can be argued, and such an argument has considerable merit.

In my opinion, the aboriginal rights claim stemmed from two sources— one of them being the actual social and economic disruption in Indian life caused by the white occupation of British Columbia and the consequent need to establish alternate social and economic systems. The second was the desire of Indians to escape the role of charity cases, a role imposed by the Federal Government in its policies and methods of Indian administration. The first complaint is all that government officials and politicians seem to have understood. They were willing to try to solve particular problems, if they considered those problems legitimate according to their own lights, and if they could deal with them in the manner they chose.

The second aspect of the aboriginal rights claim—the Indians' quest for recognition of rights which preceded the coming of the white man and the dignity that would flow from such recognition— the Government seemed unable to comprehend. Federal Indian administration perhaps gave too little to the Indians, and what it did provide it gave as handouts from a supposedly benevolent guardian. What it took from the Indians was their independence, their sense of participation
in the Canadian community, their self-respect.

Would recognition of aboriginal rights have returned to the Indians those things, both material and spiritual, which had been taken from them? Recognition of aboriginal rights would perhaps have strengthened the Indians' sense of dignity and self-worth, and contributed as well to improved relations between the Indians and government. The actual material benefits which the Indians might have received by such recognition would have depended upon what the Dominion Government saw fit to give them. Had the Dominion offered increased lands and access to resources, better medical care and education (offers which would have depended largely on the concurrence of the Provincial Government), the Indians' social and economic condition might have been significantly improved.

Government leaders were often frustrated by the vagueness of Indian demands; this vagueness apparently stemmed from the Indians' own uncertainty as to what they wanted. The Indians were caught between two worlds—the world of their ancestors before the coming of the white man and the society and economy which had been imposed upon them with the white occupation of British Columbia. The demands which the Allied Tribes made reflected this ambivalence. They wanted hunting rights; they also wanted improved education. They sought timber for traditional purposes; they also sought the benefits of the white man's medical science.
Government recognition of aboriginal rights would, I think, have done little to resolve the tension between the old world and the new. Life for the Indians was irrevocably changed with the coming of the white man and to these changes the Indians had, in some way, to adjust. There is no once-for-all solution to the problems of adjusting to a new life. These problems can be resolved perhaps only through the passage of time. It should be remarked here that the Native Brotherhood of British Columbia, formed three years after the fall of the Allied Tribes, has not, for most of its life, pursued the claim to aboriginal title. It has sought rather, improved education for Indians, better health care, the franchise, improved opportunities for Indians in the fishing industry. In these efforts, the Native Brotherhood hoped, perhaps to accumulate the technical expertise, the knowledge of white society and politics, and the economic status which would permit its members to meet the non-Indian society on its own terms and enable them to disabuse Government of its conception of Indians as wards incapable of managing their own lives.
O'Meara made at least two questionable conclusions about the legal status of aboriginal rights. One of these was his contention that the Proclamation of 1763 extended to the lands included in British Columbia. In the 1920's this contention had not been tested in the courts, but a number of recent decisions indicate that the 1763 Proclamation does not apply in British Columbia because the area in question was terra incognita in 1763.

Even if O'Meara had been able to establish the existence of aboriginal rights, flowing from recognition under the Proclamation or otherwise, his contention that the Crown is obliged to provide compensation for the extinguishment of such rights is questionable.


In a leading case in O'Meara's day, however, St. Catherines Milling Case (1889) 14 A.C. 46, Lord Watson at p. 25 defined aboriginal title as ". . . a personal and usufructuary interest dependent on the good will of the sovereign."

The courts of common law countries have consistently held that the power of a sovereign government to extinguish, by such means as it sees fit, aboriginal title to land, is questionable (Lysyk, p. 475).

Whether the Crown must provide compensation for extinguishment is still undecided, but it seems unlikely that O'Meara could have convinced the Judicial Committee that such compensation was required.

In connection with the legal as against the political nature of the aboriginal rights issue, J.A.J. McKenna's comments made in the Canadian Magazine (1920) are instructive:

Aboriginal title is not a claim enforcible at law. The natural law of nations out of which it arises has no court for its enforcement. The law lords in the judgment already referred to [Northwest Angle Treaty case] might have gone further by way of defining the bearing of the question upon public morality. But questions of that nature are entirely for governments, however poor they be at resolving them.

Indian title belongs to the domain of public policy,
unimpinged upon by our constitutional law (J.A.J. McKenna, "Indian Title in British Columbia," Canadian Magazine, 50 [1920], 471).

2 Hawthorn, ed., p. 255.

3 Ibid.
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APPENDIX A

CHRONOLOGY OF EVENTS IN THE
ABORIGINAL RIGHTS CAMPAIGN

1849
Crown Colony of Vancouver Island created.

1850-1854
Fourteen treaties signed between Governor James Douglas and Indian bands of southern Vancouver Island.

1858
Crown Colony of British Columbia created.

1862
Founding of Metlakatla by William Duncan.

1866
Crown Colonies united to form Colony of British Columbia.

1871
British Columbia enters confederation.

1874
Petition of the Indians of the Fraser Valley to Dr. Powell.

1875
Federal Minister of Justice disallows B.C. consolidation of land ordinances on grounds of no mention of Indian interest in land.

1876
Joint Federal-Provincial Reserve Allotment Commission appointed.

1887
Tsispsean and Nishga Chiefs petition Provincial Government for a treaty.

Joint Federal-Provincial Commission to inquire into the causes of unrest among the Indians of the northwest coast.

1903-1906
Indians of the Interior and south coast begin to press claims for recognition of aboriginal rights.

1906
Chiefs David, Chilihitza and Capilano petition the King for settlement of Indian grievances.

1909
Indian Tribes of British Columbia formed.

Indian Rights Association formed.

Indian Tribes of British Columbia petition Secretary of State for the Colonies and Governor
General of Canada asking that the aboriginal rights claim be submitted directly to the Judicial Committee of the Privy Council.

1910 Friends of the Indians formed; O'Meara appointed general counsel.

1911 Indian Act amended to permit reference of the aboriginal rights claim to the Supreme Court of Canada.

1912 McKenn-McBride Agreement signed.

1913 Nishga Petition submitted to Colonial Secretary and the Government of Canada.

1913-1916 Royal Commission on Indian Affairs determines Indians' land requirements.

1914 Dominion Cabinet recommends that land controversy be referred to the Exchequer Court; Indians refuse to accept reference.

1915 Indians of the Interior meet to support the Nishga Petition.

1916 Allied Tribes formed at North Vancouver.

---- Royal Commission submits its Report.

1919 British Columbia "Indian Lands Settlement Act" passed.

---- First general meeting of the Allied Tribes.

---- Allied Tribes submit statement of grievances to Premier Oliver.

1920 Allied Tribes fight Bill 13 at Ottawa.

---- Dominion "British Columbia Indian Lands Settlement Act" passed.

1920-1922 Paull, Kelly and O'Meara now dominate Allied Tribes.

1922 Assembly of B.C. Indians resolve to pursue objectives of the Allied Tribes.

1923 B.C. Order-in-Council passed to implement recommendations of the Royal Commission.
Scott meets with Executive Committee of Allied Tribes at Victoria; recommends that Canada implement recommendations of the Royal Commission.

1924 Dominion Order-in-Council to implement recommendations of the Royal Commission.

1925 Indians renew resolve to reach the Judicial Committee.

1926 Allied Tribes petition to Parliament.

1927 Joint Special Commission of the Senate and House of Commons appointed to inquire into the claims of the Allied Tribes; decide against aboriginal title.

Allied Tribes collapses.
APPENDIX B

STATEMENT OF THE NISHGA NATION OR TRIBE OF INDIANS (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 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 provision, 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 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 claim, and for many years has been selling over our heads large tracts of our lands. We claim that every such transaction entered 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 resolve 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 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 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 large amounts 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 adjusted by some equitable method to be agreed upon which should include representation of the Indian Tribes upon any Commission which then might 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 the 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. Clarke, 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.
APPENDIX C

ALLIED INDIAN TRIBES OF BRITISH COLUMBIA

We represent nominally all the Indians of British Columbia with the exception of those Indians coming under Treaty No. 8, and the Songhees and the Sooke Indians on Vancouver Island.

At the conference in June, 1916, the following tribes were allied,

The Interior:— The Okanagan, Lake or Senjextee, Thompson River at Courteau, Shuswap, Lillooet, Kutenai, Chilcotin, Carrier, Tahlton, Kasha; and on

The Coast and North:— The Nishga, Tsimpshian tribes, Kitikshian, Haida, Bella Coola, Cowichan and Lower Fraser or Stalo.

A larger alliance was formed in the year 1922 when the following tribes were represented:

"The Reverend Chairman informed the meeting that this was not an allied tribe meeting but a general meeting of all B.C. Indians, and for the assembly to express their views.

Those present were as follows:— Rev. P. R. Kelly, representing Haida Tribe; Charlie Saylaykultin, representing Musqueam; Chief Paul White, representing Nanaimo; Chief Billy Yaklum, representing Nanaimo; Sam Smith, representing Nanaimo; Chief Charlie, representing Nanaimo; Chief George, representing Cowichan; Chief David, representing Saanich Tribe; Tommy Paul, representing Saanich Tribe; Chris Paul, representing Saanich Tribe; Chief Billy Asser, representing Cape Mudge Tribe; James Howell, representing Cape Mudge Tribe; Johnny Dick, representing Cape Mudge Tribe; Chas. Nowell, representing Albert Bay Tribe; Johnny Drable, representing Albert Bay Tribe; Harry Mountain, representing Fort Rupert Tribe; Chief Smith, representing Fort Rupert Tribe; Bob Harris, representing Fort Rupert Tribe; Jim Humchet, representing Kingcome Inlet; Harry Johnson, representing Kingcome Inlet; Albert King, representing Bella Coola; Rueben Schooner, representing Bella Coola; Chief Harry Stewart, representing Lower Fraser Tribes; George Matheson, representing Lower Fraser Tribes; Chief Harry Joe, representing Lower Fraser Tribes; Dennis
Peters, representing Lower Fraser Tribes; Chief Stephen Retasket, representing Lillooet Tribes; Johny Antoine, representing Lillooet Tribes; Chief Harry Peters, representing Fort Douglas Tribes; Chief J. A. Stager, representing Pemberton Tribes; Paul Dick, representing Pemberton Tribes; Willie Pascal, representing Pemberton Tribes; Aleck Leonard, representing Kamloops Tribes; Johny Galocuum, representing Campbell River Tribes; Chief Bazil David, representing Similkamien Tribes; Wm. Turpaskitt, representing Similkamien Tribes; Narcisse Batiste, representing Nakamip Tribes; Chief Michael Jack, representing Penticton Tribes; Jimmy Antoine, representing Okanagan Tribes; Francoise Guguere, representing Okanagan Tribes; Joseph George, representing Fairview Tribes; Chief Johny Chillikitza, representing Nicola Valley Tribes; Chief Jonoh, representing Merrit Nicola Valley; Ambrose Reid, representing Tsimptian Tribes; Andrew Paull, representing Squamish Tribes; Chief Moses Joseph, representing Squamish Tribes.

At the above mentioned meeting, the following resolution was passed:

"Whereas it is apparent that there are two factions of organization at the meeting, namely the Allied Tribes and independent party. To try and bring these two parties together, therefore, be it resolved that the Indians of B.C. join an organization of Indians to fight Bills 13 and 14 and adopt for its policy the statement of the Allied Indian Tribes of B.C. for the Government of B.C., said organization to have standing executive committee which will consist of Indians and others deemed acceptable by Interiors."

Since the above meeting all Indians on the coast of the mainland and on the east and west coast of Vancouver Island have joined that organization.

Certified Correct,

ANDREW PAULL,
Secretary.
APPENDIX D

PETITION TO PARLIAMENT, JUNE 1926

The Petition of the Allied Indian Tribes of British Columbia humbly showeth as follows:

1. This Petition is presented on behalf of the Allied Indian Tribes of British Columbia by Peter R. Kelly, Chairman duly authorized by resolution unanimously adopted by the Executive Committee of Allied Tribes on 19th December, 1925.

2. When British Columbia entered Confederation Section 109 of the British North America Act was made applicable to all public lands with certain specific exceptions. By virtue of the application of this Section it was enacted that the public lands belonging to the Colony of British Columbia should belong to the new Province. By virtue of the application of the same Section as explained by the Minister of Justice in January, 1875, all territorial land rights claimed by the Indian Tribes of the Province were preserved and it was enacted that such rights should be an "interest" in the public lands of the Province. The Indian Tribes of British Columbia claim actual beneficial ownership of their territories, but do not claim absolute ownership in the sense of ownership excluding the title of the Crown. It is recognized by the Allied Tribes that there is in respect of all the public lands of the Province an underlying title of the Crown, which title at least for the present purposes it is not thought necessary to define.

3. In order to make clear what is meant by an "interest" the Petitioners quote the following words of Lord Watson to be found in the Indian Claims Case--L.R. 1897 A.C. at page 210: "An interest other than that of the Province in the same appears to denote some right or interest in a third party independent of or capable of being vindicated in competition with the beneficial interest of the old Province."

4. The position taken by the Allied Tribes was placed before Parliament by means of Petition presented to the House of Commons on 23rd March, 1920 and read in the House of Commons and recorded on 26th March, 1920 (Hansard, p. 825) and Petition presented to the Senate on 9th June, 1920, to all contents of which two Petitions the Petitioners beg leave to refer.
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 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 settlement 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 a 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 the 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 where 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 the 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 held in the Senate of 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 "entirely be 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 claim--antior 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 valid. If the claim be a valid one which is being advanced by this gentleman and those associated with him as to the Indian Tribes of British Columbia being entitled to the whole of the lands of British Columbia this Government cannot disturb that claim. That claim can still be asserted in the future."

12. Upon occasion of interview had with the Executive Committee of allied Tribes at Vancouver on 27th July, 1923, the Minister of Interior speaking on behalf of the Government of Canada conceded that the allied Tribes are entitled to secure judicial decision of the Indian land controversy and gave assurance that the Dominion of Canada would help them in securing such decision.

14. By Memorandum which was presented to the Government of Canada on 29th February, 1924, the Allied Tribes opposed the passing of Order-in-Council of the Government of Canada adopting the Report of the Royal Commission upon the ground, among other grounds, that no matter whatever relating to Indian affairs in British Columbia having been fully adjusted and important matters such as foreshore rights, fishing rights and water rights not having been to any extent adjusted, the professed purpose of the Agreement and the Act had not been accomplished.


16. From the Memorandum issued by the Deputy Minister of Justice on 29th February, answering questions which had been submitted by the Allied Tribes to the Government of Canada, the Order-in-Council passed on 19th July, 1924, and the Memorandum issued by the Deputy Minister of Indian Affairs on 9th August, 1924, it clearly appears as is submitted that both the Department of Justice and the Department of Indian Affairs regard the Statute Chapter 51 of the year 1920 as intended, not for bringing about an actual adjustment of all matters relating to Indian affairs, but for the purpose of bringing about a legislative adjustment of all such matters and thus effecting final settlement under the laws of Canada without the concurrence or consent of the Indian Tribes of British Columbia.

17. The Allied Tribes submit that, so far as Section 2 being the main enactment of Chapter 51 may be interpreted as being intended for accomplishing the purpose above mentioned and thus bringing to an end all aboriginal rights claimed by the Indian Tribes of British Columbia, that enactment is in conflict with the provisions of the British North America Act.

18. On the 15th January, 1925, the Executive Committee of the Allied Tribes unanimously adopted the following resolution:

"In view of the fact that the two Governments have passed Orders-in-Council confirming the Report of the Royal Commission on Indian Affairs, we the Executive Committee of the Allied Tribes of British Colombia are more than ever determined to take such action as may be necessary in order that the Indian Tribes of British Columbia may receive justice and are furthermore determined to establish the rights claimed by them by a judicial decision of His Majesty's Privy Council."
19. In the course of debate had in the House of Commons on the 26th of June, 1925 the Minister of Interior speaking on behalf of the Government of Canada in answer to the representations which had been made on behalf of the Allied Tribes recognized that the Allied Tribes are entitled to obtain from His Majesty's Privy Council decision of the Indian land controversy and agreed that the Government would give authoritative sanction for so doing.

20. With regard to the remark then made by the Minister that the Government would not be justified in providing funds unless "something very concrete" should be presented, the Allied Tribes submit that they have already presented "something very concrete" namely their own conditions proposed for equitable settlement by their Statement presented to the Government of British Columbia in response to request of that Government in the month of December 1919., and subsequently presented to the Government of Canada.

21. With regard to the general subject of the funds which as the Allied Tribes claim the Dominion of Canada is under the obligation of providing, the Allied Tribes have placed in the hands of the Superintendent-General of Indian Affairs the following Memorial:

THE ALLIED INDIAN TRIBES OF BRITISH COLUMBIA TO
THE SUPERINTENDENT GENERAL OF INDIAN AFFAIRS

By this Memorial of the Allied Tribes of British Columbia it is respectfully submitted as follows:

The Allied Tribes submit that the Dominion is under obligation for providing all funds already expended and all funds requiring hereafter to be expended by the Allied Tribes in dealing with the Indian land controversy in establishing the rights of the Allied Tribes, and in bringing about final adjustment of all matters relating to Indian affairs in British Columbia.

The Allied Tribes so submit upon grounds briefly stated as follows:--

1. Well established precedent relating to judicial proceedings intended for establishing the rights of Indian tribes and in particular that of the Oka case, which was carried independently to the Judicial Committee of His Majesty's Privy Council by the Indians interested and of which the total cost was provided by the Parliament of Canada.

2. The fact that the Dominion of Canada being by virtue of the British North American Act and the "Terms of Union"
trustee for the Indian Tribes of British Columbia and under all obligations arising from such trusteeship has by entering into the compact with British Columbia above mentioned rendered itself incompetent for taking effective action establishing the rights of the Indian Tribes of British Columbia, as is clearly shown by the Opinion of the Minister of Justice issued in the month of December 1913, and moreover has put itself in the position of a party in the case upholding the contentions of the Province of British Columbia, and by the acts so stated has placed upon the Indian Tribes the absolute necessity of proceeding independently for establishing their rights.

3. The principle of compensation in respect of all aboriginal lands and other rights of the Indian Tribes of British Columbia, responsibility for which has already been conceded by the Dominion of Canada, and of which as the Allied Tribes submit the first item consists of the full expenditure required for establishing such rights of the Indian Tribes and bringing about an adjustment of all matters now requiring to be adjusted.

4. The assurances which on behalf of the Dominion of Canada have from time to time been given to the Indian Tribes of British Columbia and in particular that of Sir Wilfrid Laurier and those of the present Minister of the Interior.

5. The lands and funds held by the Dominion of Canada in trust for the Allied Tribes and being the full beneficial property of the Allied Tribes.

Therefore the Allied Tribes now formally demand from the Dominion of Canada payment of the sum of one hundred thousand dollars being the total amount of such expenditures already incurred, and further demand from the Dominion of Canada that full provision be made for paying all additional funds which hereafter shall be required for such expenditures as shall be agreed upon between the Allied Tribes and the Dominion of Canada, or if necessary shall be determined by the Judicial Committee of His Majesty's Privy Council.

Dated at the City of Ottawa the June, 1926

Chairman of the Executive Committee of Allied Tribes

To Honourable CHARLES STEWART,
Superintendent General of Indian Affairs,
Ottawa.
22. The Government of Canada having definitely agreed as is above shown that the Dominion of Canada will facilitate securing from the Judicial Committee of His Majesty's Privy Council decision of the Indian lands controversy, the General Counsel of Allied Tribes entered upon discussion with the Minister of Justice regarding the particular method by which the securing of such decision will be facilitated, and offered to suggest for consideration of the Minister of Justice common ground which might be reached by the Government of Canada and the Allied Tribes in connection with the carrying forward of the independent judicial proceedings of the Allied Tribes.

23. In presenting this Petition to the Parliament of Canada as the Supreme Body representing the Dominion of Canada, the Allied Tribes declare that, while it is necessary for them to demand what they consider to be their rights from both the Province of British Columbia and the Dominion of Canada and even to contest the validity of an Act of the Parliament of Canada, they desire and intend to act toward all Ministers of the Crown, all Members of both Houses of Parliament and all others concerned in a thoroughly reasonable and conciliatory way and that their one central objective is, by securing judicial decision of all issues involved, to open the way for bringing about an equitable and moderate settlement satisfactory to the Governments as well as to themselves.

Therefore the Petitioners humbly pray:-

1. That by amendment of Chapter 51 of the Statutes of the year 1920 or otherwise the assurance set out in paragraph 11 of this Petition be made effective and the aboriginal rights of the Indian Tribes of British Columbia be safeguarded.

2. That steps be taken for defining and settling between the Allied Indian Tribes and the Dominion of Canada all issues requiring to be decided between the Indian Tribes of British Columbia on the one hand and the Government of Canada on the other hand.

3. That immediate steps be taken for facilitating the independent proceedings of the Allied Tribes and enabling them by securing reference of the Petition now in His Majesty's Privy Council and such other independent judicial action as shall be found necessary to secure judgment of the Judicial Committee of His Majesty's Privy Council deciding all issues involved.
4. That this Petition and all related matters be referred to a Special Committee for full consideration.

Dated at the City of Ottawa, the 10th day of June, 1926.

Peter R. Kelly,  
Chairman of the Executive  
Committee of Allied Tribes.