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MEMORIAL OF

The Conference of Friends of the Indians of British Columbia

To

HIS ROYAL HIGHNESS

THE GOVENOR GENERAL OF CANADA

IN COUNCIL

May it please your Royal Highness:

I address your Royal Highness on behalf of "The Conference of Friends of the Indians of British Columbia," a non-political body of citizens of that Province specially interested in the Indian people, organized for the purpose of bringing about a just and satisfactory solution of the problem presented by existing conditions.

We desire first to request your Excellency's attention to the fact that the twenty-five thousand Indians of British Columbia regard as the charter of their rights the proclamation which was issued by King George Third in the year 1763, by which the title of the Indian tribes was recognized, and it was enacted that these tribes should be protected in the possession of their lands until the same had been purchased from them by the Crown.

On 2nd November, 1874, the then Minister of the Interior, in a letter addressed to the Government of British Columbia, said:

"A cursory glance at these documents is enough to show that the present state of the Indian land question in our territory west of the Rocky Mountains is most unsatisfactory—and that it is the occasion, not only of great discontent among the aboriginal tribes, but also of serious alarm to the white settlers.

"The guaranteeing the aborigines of British Columbia the continuance of a policy as liberal as was pursued by the local Government seems little short of a mockery of their claims. If there has not been an Indian war it is not because there has been no injustice to the Indians, but because the Indians have not been sufficiently united.

"In laying the foundation of an Indian policy in that Province on the same permanent and satisfacory basis as in the other portions of the Dominion—the Government of the Dominion feel that they would not be justified in limiting their efforts to what under the strict letter of the terms of union, they were called upon to do. They feel that a great national question like this—a question involving possibly in the near future an Indian war, with all its horrors, should be approached in a very different spirit, and dealt with upon other and higher grounds.

"The policy foreshadowed in the provisions of the 13th clause of British Columbia Terms of Union is plainly altogether inadequate to satisfy the fair and reasonable demands of the Indians. To satisfy these demands, and to secure the good will of the natives, the Dominion and local Governments must look beyond the terms of that agreement—and be governed in their conduct toward the aborigines by the justice of their claims, and by the necessities of the case."

In a report presented in January, 1875, the then Minister of Justice declared that the claim of these Indians was well founded and that they were entitled to an interest in the lands of British Columbia. In that report the Minister expressed the opinion that to treat these lands as the absolute property of the Province is "an assumption which completely ignores, as applicable to the Indians of British Columbia, the honor and good faith with which the Crown has in all other cases since its sovereignty of the territories in North America dealt with their various Indian tribes."

In September, 1876, Lord Dufferin, then Governor-General of Canada, in an address delivered at Victoria, said:

"From my first arrival in Canada I have been very much preoccupied with the condition of the Indian population in this Province. You must remember that the Indian population are not represented in Parliament and consequently that the Governor-General is bound to watch over their welfare with especial solicitude. Now, we must all admit that the condition of the Indian question in British Columbia is not satisfactory. Most unfortunately as I think there has been an initial error, ever since Sir James Douglas quitted office, in the Government of British Columbia neglecting to recognize what is known as the Indian title. In Canada this has always been done; no Government, whether provincial

or central, has failed to acknowledge that the original title to the lands existed in the Indian tribes and communities that hunted or wandered over them. Before we touch an acre we make a treaty with the chiefs representing the bands we are dealing with, and having agreed upon and paid our stipulated price—oftentimes arrived at after a great deal of haggling and difficulty—we enter into possession, but not until then do we consider that we are entitled to deal with an acre. The result has been that in Canada our Indians are contented, well affected to the white man and amenable to the laws and government.''

From the time at which Lord Dufferin delivered the address, from which the above quotation is made, the successive Governments of British Columbia have persistently refused to recognize the claim of the Indians.

In August, 1910, the ''Friends of the Indians'' presented to Sir Wilfrid Laurier, then Prime Minister of Canada, a memorial from which the following are extracts:

''We feel sure you will agree with us in thinking it fundamentally necessary that the question of Indian title, which for forty years has been an issue between the Indian tribes and the local Government, and has now been brought to the front by the Indian movement, should at the earliest possible date be decided by the Judicial Committee of His Majesty's Privy Council.

''In view of the fact that the Indians claim to hold the rights which they assert by virtue of the proclamation of King George Third and under the protection of the British Crown, it would seem to us that only by securing a decision of the Judicial Committee can full justice be done to them and their sense of injustice removed.'' . . . . .

''In concluding, may we be permitted to say that in our judgment it is a truly great question and one of Imperial scope with which you are called upon to deal.

''In the course of an interview on the subject of the land question held at Victoria in 1887 between representatives of the Naas River and Fort Simpson Indians and the Premier and other members of the Provincial Government, one of the Naas River Indians summed up their object in these words: 'We want justice to be done to us.'

''We believe that this appeal which now comes from the united Indian tribes of the Province should be answered.

''We believe that the great principles of British justice should in their entirety be applied to the treatment of native races, and we earnestly and confidently ask that your Government will make these principles

the foundation of their dealing with the petition of the Indian tribes of British Columbia.''

In August, 1910, Sir Wilfrid Laurier met the Chiefs and other delegates of several of the Indian tribes and assured them that the matter of their claims would be submitted to the Judicial Committee of the Privy Council, as had been asked by the Indians in the petition which in March, 1909, they presented to His late Majesty King Edward, and the then Secretary of Sates for the Colonies, which petition was subsequently referred to and considered by the then Government of Canada.

Notwithstanding the repeated requests of the then Government of Canada, the advice of the Province's one Counsel, who approved of the questions to be laid before the Judicial Committee prepared by the Department of Justice, and submitted to him and to the Counsel for the Indians, the representations of the ''Friends of the Indians'' and those of the Indians themselves, the Government of British Columbia refused to consent to a reference of the question of Indian title to the Judicial Committee of the Privy Council. The situation arising from such refusal was brought by the ''Friends of the Indians'' and the Moral and Social Reform Council of Canada before the then Government of Canada on 26th April, 1911, when Sir Wilfrid Laurier in answer to the delegation said:

''The British Columbia Government contends that the Indians have no claim. If the case could be referred to the Supreme Court and the Privy Council it would bring the matter to an issue at once. Unfortunately, Mr. McBride would not agree to that submission. He only agreed to leave out of the question the very thing we want to have a decision upon. We do not know if we can force a Government into court. If we can find a way I may say we shall surely do so, because everybody will agree it is a matter of good government to have no one resting under a grievance. The Indians will continue to believe thay have a grievance until it has been settled by the court that they have a claim or that they have no claim. There is one thing which I am very happy to say we can do, and that is to submit to the Imperial Government the report which you request us to send. Mr. McBride has himself asked that the report of the interview with the Indians be sent to the Imperial authorities. We shall also refer to them the views you have just laid before us.''

The report then promised having been sent to the Imperial Government, representations were made to the Secretary of State for the Colonies, who in a despatch sent to the Governor-General of Canada on 6th July, 1911, said:

''As your Ministers are aware, this question of the position of the Indian land claim in British Columbia has been for some long time pressed upon my predecessors and myself. . . . . .

"At the same time I desire to express my earnest hope that the Provincial Government or the Dominion Government, or both, will find it possible to take early steps to arrive at an equitable solution of this troublesome case."

On the 8th January last at Ottawa nine Indian Chiefs, representing the interior tribes of British Columbia, waited upon the Prime Minister of Canada and presented their claim.

From the formal statement then handed to the Prime Minister we quote the following:

"We have reached a critical point, and unless justice comes to our rescue, we must go back and sink out of sight as a race. We have been told there is no issue, but we think there is a very clear issue, and our reason for being here is to press for an equitable settlement of the same, and an adjustment of every question concerning us and our relationship with your Government and that of British Columbia.

"In conclusion, we urge you most earnestly to give us an immediate reply, stating what your Government is prepared to do regarding a settlement of these matters, which are of so much moment to us, so that we may carry your answer back to our people, and place it before them on our return."

One of the Chiefs concluded his adderss to the Prime Minister with these words:

"The whole country has been taken from us without treaty or agreement, and without compensation of any kind, and the cities have come later, and the railways later, and these things have been built on our lands."

The Prime Minister, in the course of his reply, said:

"That the petition and all the words they have said to us will be read with great care and considered, and that word will be sent to Mr. Clark with regard to these matters."

On the 15th January last the Premier of British Columbia, in addressing the Legislative Assembly of that Province, declared that his Government was determined to stand firm in the position which had been taken in respect to the Crown lands of the Province and would refuse to "consider for a moment" the claim of the Indians. In the same address the Premier stated that his Government hoped soon to reach an arrangement with the Government of Canada with regard to Indian Reserves.

On the 23rd January last the "Friends of the Indians" waited upon the Government of British Columbia and presented definite proposals by which it was hoped the way would be opened for an equitable settlement.

By letter dated 15th April last the Government of British Columbia refused to adopt these proposals upon the ground that there was no question to be settled.

In an interview had on 7th May last with the Prime Minister of Canada and other Canadian Ministers, the "Friends of the Indians" presented among other things the following view:

"First of all, let me express the earnest hope that your Government in this whole matter will put first things first. What I mean by this is that there are many matters to be adjusted between the Indians and the Government of the Province, and that there are many matters to be adjusted between the Indians of British Columbia and the Government of Canada; but there is one matter that is fundamental, and that is the question whether the Indians have any rights. I believe from this conclusion there is no escape whatever. It would seem to us to follow from that, that no progress can be made with any other matter until that which is fundamental has been first decisively dealt with. Before that an attempt to deal in advance with other matters which might be suggested, and which have been suggested by Mr. McBride himself on some occasions in British Columbia would aggravate the situation."

In June last Mr. J. A. J. McKenna, a special representative of Canada, appointed by your Excellency in Council, proceeded to British Columbia and there remained until the mouth of October.

During the month of July last and succeeding months, in an interview had at Hazelton with Chiefs of the Skeena River Indians, and in interviews given to the press, the Premier of British Columbia declared that his Government would not under any circumstances recognize the claim made by the Indians of the Province.

On 30th July last Mr. McKenna addressed the Chiefs and other delegates representing the interior tribes of British Columbia assembled at Spence's Bridge.

From the report of the address made by Mr. McKenna upon that occasion furnished to us by the Chairman of the gathering, we quote the following:

"After the Indians were through, Mr. McKenna made a speech to them, in which he traced the history of various countries, where a stronger

race had supplanted a weaker, and the latter had been forced to accept the terms of the former. The same thing had happened here in British Columbia, and the Indians must accept the inevitable. Progress and development could not be stopped.''

It clearly appears from reports in our hands that upon occasion of other gatherings of Indians held at various other places, Mr. McKenna expressed to the assembled Indians similar views.

We fully expect that Mr. McKenna's report of his investigations and negotiations will contain a valuable contribution to the discussion of the matters involved. At the same time we feel compelled to take issue with that view regarding native races which lies at the bottom of his whole dealing with the situation, as shown in the addresses mentioned. Now, for the first time, a representative of Canada has practically informed the Indians of British Columbia that they must consider themselvse conquered peoples and cannot be permitted to assert that they have rights in respect of the lands of their forefathers. This he has done in direct opposition to the British principles embodied in the proclamation of King George Third, and to the statements of Lord Dufferin and the Canadian Ministers to which we have above referred, and to Canadian practice heretofore adopted in dealing with the Indians.

At a meeting held at Vancouver on 29th August last, the ''Friends of the Indians'' passed the following resolution:

''That in view of the letter of the Government of British Columbia, dated 15th April last, refusing to adopt the proposals for settlement made by the ''Friends of the Indians'' on 23rd January last, upon the ground that there is no question to be settled, and in view of the clearly defined attitude of Premier McBride evidenced by recent utterances, we re-affirm the necessity of securing at the earliest possible date a decision of the Judicial Committee of His Majesty's Privy Council regarding the claims of the Indians of this Province.''

It has recently been announced in the press of British Columbia, apparently upon authority of the Government of that Province, that ''a settlement of the Indian reserve question'' has been reached between the Government of British Columbia and the representative of Canada, and requires only the ''formal approval'' of the Government of Canada.

With regard to this announcement we desire to point out, and strongly emphasize, that the whole effort of the Government of the Province to secure the making of a so-called settlement under the provisions of Article 13 of the Terms of Union is based upon the view advocated by that Government that the Indians have no aboriginal rights. We trust

that the Government of Canada will, without hesitation, refuse to approve any such "settlement" for we are convinced that a real settlement of the Indian land question will never be brought about by any such arrangement.

At the time of our interview of May the long-standing issue between the Indian tribes and the local Government had reached an acute stage, and the constant refusal to recognize the claim of the Indians and the oft-repeated and unavailing appeals of the Indians for justice had brought about an exceedingly serious situation.

The experience of the past six months has proved that the view which we then expressed was well founded. An attempt has been made to deal with other matters in advance of dealing with the claim of the Indians, and as the result of this attempt, combined with the utterances of the Premier of British Columbia, the situation has been so far aggravated as to demand the immediate and most serious attention of the Government of Canada. We have strong reason for believing that, if the Government of Canada should now approve the arrangement regarding reserves which has been made, without first decisively dealing with the fundamental matter of the claim of the Indians, the situation will thereby be further aggravated, and that an entirely hopeless situation fraught with the gravest danger may be created.

In the judgment of Lord Dufferin, it was an "initial error" that the Province had not then made a bargain with the Indian tribes for a surrender of their claim. It seems clear to us that the only remedy, other than a judicial determination of the rights of the Indians, which can hopefully be applied to the increasingly serious situation which has arisen from that "initial error" is that a bargain should now be made with the Indians.

If the present Government of the Province, as declared by the Premier, is unwilling to apply that remedy, and if, as again and again declared, the Indians are willing to submit their claim to the "white man's court in London" and abide by the result, it seems to us that the position so taken is unanswerable, and that the determination of their rights by the highest tribunal of the Empire, which they repeatedly demand, cannot be withheld without violating the fundamental principles of British justice.

Dated at the city of Toronto the 4th day of November, 1912,

P. D. McTAVISH,
Vancouver, B.C.,
Chairman.