

Article 10 made BNA Act apply. Sec 109 BNA ACT says: Lands ... shall belong to the Provinces, ... subject to ... any interest other than that of the Province in the same.

Power to legislate for Indians and Indian lands passed to Dominion.
Indian title (an interest other than that of the Province) passed to Dominion.

3 parties: Prov. Indians

Jump to 1872

W Powell (Commissioner) - trying to set up an Indian service.

1877 Dominion Realizes that Native Title never extinguished.

Indians getting more angry

(A)

David Mills, Minister of Interior, to Ind Comm Powell for BC Govt

Indian war seemed imminent in interior
Accused Province of unjust treatment

(Province cast as villain)

"I do not know whether the Government of Canada were fully aware of the condition of things at the time British Columbia was admitted into the Union, whether they were aware that the Govt of Brit Col had undertaken to deal with the public lands of that Province without first having extinguished the Indian title. But, however this may be, there can be no doubt whatever that no arrangement between the Govt of Can and the Govt of Brit Col could take away the rights which the Crown has always recognized as belonging to the Indian Natives".

"Should anything so disastrous as an Indian war overtake the Prov of Brit Col, I do not believe that the Prov authorities would be permitted to deal with any portion of the lands claimed by the Indians until the Indian title had been first extinguished by making them reasonable compensation"

"I have no doubt whatever that as guardians of the aboriginal inhabitants ... the Gov of Canada have the right to insist upon the extinguishment of this title before the Prov Govt assume absolute control of these lands..."

"The Govt have no desire to raise this question if it can be avoided... (and he thought that the Indians would be satisfied with a generous policy on Indian reserves)

No Mr Lundy still has to settle the so-called land question

So: shocked to find the Indian title not extinguished
-if there was a war they would insist on it being extinguished (didn't seem to realize that the responsibility for it had passed to him)
-but put his faith in RESERVES WITHOUT TREATIES.

1887 What were the Indians thinking? (From 1871 there were three parties involved:

- Province
- Dominion
- Indians.)

(5)

Sept 1887 Commission to Enquire into the Condition of the Indians of the Northwest Coast

(Reserve Commissioner had been wound, laying out little reserves for them)

Indians wanted: TREATY
Payment for lands outside the reserves
Larger reserves