the then Minister of Justice until the latter gentleman ended the controversy with the following letter:

OTTAWA, 14th November, 1914.

The Reverend ARTHUR E. O'MEARA, B.A.,
Prince George Hotel,
Toronto, Ont.

SIR: It is in my view unnecessary to correct the narrative of your letter of the 26th ultimo, because except in the two points which I am going to mention it is immaterial to any question now under consideration.

As to your remark that it has always been the view of those advising the Nishgas that the only feasible method of securing a judicial determination of the rights of the Indians of British Columbia is that of bringing their claims directly before His Majesty's Privy Council, I wish you would realize and endeavour to convince those whom you describe as advising the Nishgas that this Government has no power or authority to refer a question directly to His Majesty's Privy Council; that the only constitutional method of obtaining the judicial view of His Majesty in Council relating to a question limited to the internal affairs of Canada is by appeal from the local tribunals, and that His Royal Highness' Government is determined for these reasons, which have been so often explained to you and those whom you profess to represent, not to advise or concur in any proceedings looking to a decision in which the courts of the Dominion shall not have an opportunity to express their views. If, therefore, it be possible for me to make any statement here which can consistently with the amenities of official correspondence, impress you with the futility of urging upon this government a reference direct to the Judicial Committee, I beg of you to consider that statement incorporated in this letter.

The policy of the Government with regard to the British Columbia Indian question is very clearly stated in the Order in Council of 20th June last, and you should, I think, be able to perceive that one of the conditions upon which further progress may be made is that the Indians shall come under the obligation defined by the first enumeration of the Order in Council. You state that the Order in Council has been brought before the Nishgas Indians, and that they will, as soon as possible, place their answer before the Government. So far it is well, but when you say that it is clearly necessary that before the Nishgas answer they should be advised regarding the procedure of the courts, and demand to be informed under the authority of what enactment and for what reasons a reference to the Exchequer Court is proposed, I may I trust be permitted to observe that the essential question for consideration of the Nishgas is as to whether, if their alleged title be upheld by the ultimate tribunal, they are willing to surrender that title in consideration of benefits to be granted in extinguishment according to the ancient usage of the Crown. I think it would be a pity that this question should be obscured or involved in the difficulties which you have encountered about the procedure, and which the Indians presumably would be no better able to understand. Therefore, without making any further attempt to explain the procedure which perhaps could not succeed within the compass of an ordinary letter, I suggest that the Indians should be permitted to consider the question in which they are really interested imagine sufficient discernment to perceive, if their deliberations be not influenced to the contrary, that a question of procedure is at present quite irrelevant; but if necessary you may unhesitatingly assure them that no point of procedure will be permitted to prejudice a decision upon the merits of the case, and that the Government will see to it that the proceedings are brought and conducted in such a manner as to provide for the admission of all the facts and arguments which are material to the controversy.

May I be allowed to add that in view of what I have stated I do not propose to consider the procedure until it is ascertained that the Indians have acquiesced in the conditions of the Order in Council which are preliminary to any procedure.

I have the honour to be,
Sir,
Your obedient servant,

(Sgd.) C. J. DOHERTY,
Minister of Justice.

The Indians did not acquiesce in the conditions of the Order in Council as the Right Honourable C. J. Doherty informed their Counsel in the above letter they would have to do before he would move farther in the matter. Consequently, there was no further action on the part of the Dominion Government.

A change of tactics was adopted in June, 1926. In that month a Petition embodying the Indian claims, based on aboriginal title, was presented to Parliament. The session then in progress terminated abruptly and action on the Petition was not taken until the present session, when the Petition in question was referred to your Committee for enquiry and report.

Having given full and careful consideration to all that was adduced before your Committee, it is the unanimous opinion of the members thereof that the petitioners have not established any claim to the lands of British Columbia based on aboriginal or other title, and that the position taken by the Government in 1914, as evidenced by the Order in Council and Mr. Doherty's letter above quoted, afforded the Indians full opportunity to put their claim to the test. As they have declined to do so, it is the further opinion of your Committee that the matter should now be regarded as finally closed.

While making this declaration the Committee wish to state that they are impressed by the fact that the Indians of British Columbia receive benefits which are in excess of those granted by Treaty to Indians in other parts of Canada. Comparison of these expenditures will be found in the statements made by the Deputy Superintendent General of Indian Affairs at pages 15-17 of the printed evidence. It is clear that they are not discriminated against; that reserves have been set aside for them sufficient for their needs, and that the obligation for Indians assumed by the Dominion when British Columbia entered Confederation has been generously fulfilled. In considering the extent of this bounty the Committee could not fail to notice from facts submitted that it had exceeded the benefits which appertain to Indian treaties, and that if a treaty had been made, the compensation would have been in comparison much less than the generous expenditures now made on behalf of the Indians in British Columbia, which amounted to $690,683 in 1925-26.

As it was the desire of your Committee to give the very fullest and most sympathetic consideration to all the claims of the Indians and to give them every opportunity to state any existing hardships or disabilities under which

they suffered as residents of the province owing to their native blood, all branches of the subject were dealt with, and by questioning the witnesses and eliciting information from departmental officers, the Committee came into possession of a mass of interesting facts in connection with the various subjects under review. The Indians, in claiming aboriginal title, had given to the provincial government under date of November 12th, 1919, an exhaustive statement of the case, and set forth " conditions proposed as a basis of settlement." It is thought to be highly desirable that your Committee should review these claims and inform Parliament of the extent to which the conditions are at present being met, and to make recommendations that would tend to meet the conditions proposed, where they are not already provided for. It is thought well to deal with these conditions under each sub-head in sequence as shown at page 36 of the Proceedings, and to make such remarks as are relevant:

(1) That the Proclamation issued by King George III in the year 1763 and the Report presented by the Minister of Justice in the year 1875 be accepted by the two Governments and established as the main basis of all dealings and all adjustments of Indian land rights and other rights which shall be made.

The subject matter of the foregoing paragraph has already been dealt with by your Committee in their Finding contained in the recommendation hereinbefore made, and further comment thereon is, therefore, unnecessary.

(2) That it be conceded that each Tribe for whose use and benefit land is set aside (under Article 13 of the 'Terms of Union') acquires thereby a full, permanent and beneficial title to the land so set aside together with all natural resources pertaining thereto; and that Section 127 of the Land Act of British Columbia be amended accordingly.

(5) That adequate additional lands be set aside and that to this end a per capita standard of 160 acres of average agricultural land having in case of lands situated within the dry belt a supply of water sufficient for irrigation, be established. By the word " standard," we mean not a hard and fast rule, but a general estimate to be used as a guide, and to be applied in a reasonable way to the actual requirements of each tribe.

(6) That in sections of the Province in case of which the character of available land and the conditions prevailing make it impossible or undesirable to carry out fully or at all that standard, the Indian Tribes concerned be compensated for such deficiency by grazing lands, by timber lands, by hunting lands or otherwise, as the particular character and conditions of each such section may require.

(7) That all existing inequalities in respect to both acreage and value between lands set aside for the various Tribes be adjusted.

(8) That for the purpose of enabling the two Governments to set aside adequate additional lands and adjust all inequalities there be established a system of obtaining lands including compulsory purchase, similar to that which is being carried out by the Land Settlement Board of British Columbia.

It may be stated at once that the reserves as set apart under Article 13 of the "Terms of Union" and allotted in the report of the Royal Commission on Indian Affairs for the Province of British Columbia, and confirmed by both governments, are held by the Dominion in trust for the full and permanent beneficial interest of the Indians, and all such natural resources pertaining thereto as *are the property of the Indians*. It is interesting to note the progressive steps which have been taken by the two interested governments in the settlement of the claims of the Indians for reserve lands. Such reserves as were set apart before Confederation were granted by the Colonial Government. After Confederation, the lands reserved were set apart by a Joint Reserve Commission, and later by a single Commissioner, and the reserves so set apart were scheduled by the province and appropriated as Indian reserves. As it was desirable to further and complete this work, and to allot reserves in territories which were becoming settled and in which it might be difficult later to get suitable lands for Indians, the two governments made an agreement known as the McKenna-McBride agreement, and later formed a Royal Commission on Indian Affairs for the Province of British Columbia; the duty of the Commission being to review and revise the whole reserve situation, to provide new reserves, and to have the power of disallowing reserve lands not required for Indian use, but in such cases preserving one moiety of the Indian interests. By this arrangement when final confirmation of the reserves was made, any provincial interests would disappear and the Dominion, in trust for the Indians, would have the full use and benefit of these reserves. The Commissioners visited all parts of the Province, and everywhere and at all times the Indians gave evidence as to their requirements, and it is clear that the Commissioners endeavoured to meet the wishes of the Indians wherever it was possible to do so and to give them adequate reserves.

After the report had been received by both governments, two competent officers of the governments were delegated to make a further examination into the needs of the Indians, and representative Indians were appointed to confer with these officers and to make further representations. This action was completed and the report of the Commission and a schedule of reserves was adopted and confirmed by both governments under the statutory provisions of Chap. 51, 1920. It is apparent that the average of agricultural land set up by the proposed conditions of settlement is not applicable to British Columbia, where the Indians generally cannot derive their subsistence from agriculture. The allotment of reserves, of which there are 1,573 in the province, preserves to the Indians in a remarkable degree their old fishing stations and camping grounds, and the action of the Commissioners was evidently extended to preserving Indian rights in traditional locations which the Indians had enjoyed in the early days.

(3) That all existing reserves not now as parts of the Railway Belt or otherwise held by Canada be conveyed to Canada for the use and benefit of the various Tribes.

This work is now in progress, and without delay the reserves confirmed by both Governments will be conveyed by the province to the Dominion.

(4) That all foreshores whether tidal or inland be included in the reserves with which they are connected, so that the various Tribes shall have full permanent and beneficial title to such foreshores.

The Indians have riparian rights on all reserves on tidal waters. The ownership of the foreshore being in the province, the Superintendent General of Indian Affairs endeavoured to obtain some concessions on behalf of the Indians in this regard. The Prime Minister of British Columbia under date of April 23, 1924, stated as follows:

The Honourable
The Superintendent General of Indian Affairs,
Ottawa.

DEAR SIR,—Referring to our conversation of yesterday and having reference to the fears expressed by the Indians that where their reserves fronted on the water, access to their lands might be interfered with by construction of wharfs, docks, booms or other obstructions erected or placed along any foreshore on account of ownership of such foreshore being in the Province, as I expressed myself yesterday, I would favour a

MEMBERS OF COMMITTEE FOR HOUSE OF COMMONS

HAY, Mr. F. WELLINGTON, *Chairman*

and Messieurs

Stewart, Hon. Charles *(Edmonton West)*,
McPherson, E. A.,
Bennett, Hon. R. B.,
Morin, L. S. R. *(St. Hyacinthe-Rouville)*,
Stevens, Hon. H. H.,
Boys, W. A.

WALTER HILL,
Clerk of the Committee for the Commons.

MEMBERS OF COMMITTEE FOR THE SENATE

Hon. HEWITT BOSTOCK, *Chairman*
(Speaker of the Senate)

and Hon. Senators:

Belcourt, N. A.,
Barnard, G. H.,
Green, R. F.,
Murphy, Chas.,
Taylor, J. D.,
McLennan, J. S.

A. H. HINDS,
Clerk of the Committee for the Senate.

ORDER OF REFERENCE

HOUSE OF COMMONS,

OTTAWA, March 8, 1927.

Resolved,—That a Special Committee of this House consisting of Messrs. Stewart (Edmonton West), Hay, McPherson, Morin (St. Hyacinthe-Rouville), Stevens, Bennett, and Boys, be appointed to meet with a similar Special Committee of the Senate, if such 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; and that such Committee have power to send for persons, papers and records, and to report from time to time by bill or otherwise.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

THURSDAY, March 24, 1927.

Ordered,—That 500 copies in English and 200 copies in French of evidence to be taken by the said Committee, and of papers and records to be incorporated with such evidence, be printed, and that Rule 74 be suspended in relation thereto.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

THURSDAY, March 31, 1927.

Ordered,—That the said Committee have leave to sit while the House is sitting.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

REPORTS OF THE COMMITTEES

FIRST REPORT

TUESDAY, March 22, 1927.

The Special Committee appointed to inquire into the claims of the Allied Indian tribes of British Columbia, beg leave to present the following as their First Report:—

Your Committee recommend that 500 copies in English and 200 copies in French of evidence to be taken, and of papers and records to be incorporated with such evidence, be printed, and that Rule 74 be suspended in relation thereto.

All which is respectfully submitted.

F. W. HAY,
Chairman.

Note.—This Report was concurred in on 24th March. *See Journals*, p. 393.

> British Columbia. . . . A party of Royal Engineers will be despatched to the Colony immediately. It will devolve upon them to survey those parts of the country which may be considered most suitable for settlement, to mark out allotments of land for public purposes, etc.

Here again is evidence of the recognition of the lands as belonging to the Crown. And the record shows that the land was surveyed and lots were later put on sale.

It is claimed that no conquest had ever been made of the territory of British Columbia. The historic records would seem to indicate that this is not accurate. All the posts of the Hudson's Bay Company were fortified and the officers and servants of the Company were prepared to resist hostile attacks. When a fort was established at Victoria a band of Cowichan Indians under Chief Tzouhalen seized and slaughtered several animals belonging to the whites. The official in charge, Roderick Finlayson, demanded payment for the animals, which was peremptorily refused. In this action Chief Tzouhalen was upheld by Chief Tsilatchach of the Songhees and the Indians attacked the fort, but were easily over-awed by artillery and later approached the fort to sue for peace. The historic records contain numerous other like references. The fort just mentioned was established at Victoria in 1848, and in 1849 Vancouver was made a Crown Colony. British Columbia (the mainland and Queen Charlotte Islands) was made a Crown Colony in 1858, and the two colonies were united in 1866. British Columbia entered Confederation on the 20th July, 1871.

The Report of your Committee on the proceedings may now be resumed.

At the outset it was made evident that the Indians were not in agreement as to the nature of their claims. For instance, the representatives of the Indian Tribes in the interior of British Columbia did not make any claim to any land of the Province based on an oboriginal title. The representatives of the Allied Indian tribes, on the other hand, practically rested their whole case upon an alleged aboriginal title through which they claimed about 251,000 square miles out of a total area of approximately 355,855 square miles in the Province of British Columbia. This latter point, for the sake of convenience, should be first dealt with, as its elimination will leave for consideration only matters in regard to which the Indians of British Columbia may be said to have a common interest.

Early in the proceedings it developed that the aboriginal title claimed was first presented 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 Indian mentality that if in pre-Confederation days the Indians considered 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 the view 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. (See page 224 for Mr. Kelly's evidence, also the dispatch of Mr. Pearse at page 227 to be found in full in a dispatch dated 21st October, 1868, from B. W. Pearse to the Chief Commissioner of Lands and Works in the Sessional paper of British Columbia 1876, 39 Vic. page 212-13). The fact was admitted that it was not until about fifteen years ago that aboriginal title was first put forward as a formal legal claim by those who ever since have made it a bone of contention and by some a source of livelihood as well.

The Committee note with regret the existence of agitation, not only in

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.

Counsel representing the Allied Indian Tribes continued to press the aboriginal title claim upon the attention of successive Governments, and although the Government was willing to litigate the claim, Counsel for the Indians sought permission to take the matter direct to the Imperial Privy Council, instead of first submitting it for judicial decision to the Courts of Canada. This the Government very properly declined to do; but at the same time it made a generous offer to the Indians, the details of which are embodied in an Order in Council passed on June 20th, 1914. The full text of this Order in Council was as follows:—

P.C. 751

Privy Council
Canada

Certified Copy of a Report of the Committee of the Privy Council, approved by His Royal Highness the Governor General on the 20th June, 1914.

The Committee of the Privy Council have had before them a Report from the Superintendent General of Indian Affairs, dated 11th March, 1914, submitting the accompanying memorandum from the Deputy Superintendent General of Indian Affairs upon the Indian claim to the lands of the Province of British Columbia, in which he concurs.

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 the 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 considerations 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 or 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.

All which is respectfully submitted for approval.

RODOLPHE BOUDREAU,
Clerk of the Privy Council.

The Honourable
The Superintendent General

however, of the opinion that no such assurance is necessary, as I think the principle of Riparian Rights would apply to any Indian reserves having water frontage to the same extent as Riparian Rights would apply to the same lands were such lands subject to the private ownership of any person other than an Indian. In other words, Riparian Rights would accrue to the Indians (through the Indian Department) to the same extent as they would apply to a white owner. I should be pleased if you would obtain the advice of your legal Department on this phase of the situation.

I am,

Yours faithfully,

(Signed) JOHN OLIVER.

(9) That if the Governments and the Allied Tribes should not be able to agree upon a standard of lands to be reserved that matter and all other matters relating to lands to be reserved which cannot be adjusted in pursuance of the preceding conditions and by conference between the two governments and the Allied Tribes be referred to the Secretary of State for the Colonies to be finally decided by that Minister in view of our land rights conceded by the two Governments in accordance with our first condition and in pursuance of the provisions of Article 13 of the "Terms of Union" by such method of procedure as shall be decided by the Parliament of Canada.

It would appear to be a sufficient answer to this condition to state that under the provisions of Article 13 of the "Terms of Union" a reference to the Secretary of State for the Colonies was only to be resorted to if the two governments failed to agree. They have agreed under statutory authority and the allotment of reserves is therefore concluded.

(10) That the beneficial ownership of all reserves shall belong to the Tribe for whose use and benefit they are set aside.

When the reserves are conveyed by the Province to the Dominion, which procedure is now in progress, they shall belong to the Indian Bands for which they are set apart. Tribal ownership is not recognized unless by desire of the Bands comprising the Tribe. If any such case arises due consideration will be given to all the surrounding circumstances.

(11) That a system of individual title to occupation of particular parts of reserved lands be established and brought into operation and administered by each Tribe.

Provision is already made in the Indian Act for the issue of location tickets which are equivalent to a title in fee simple. Indians of British Columbia are at liberty to take advantage of this provision at any time.

(12) That all sales, leases and other dispositions of land or timber or other natural resources be made by the Government of Canada as trustee for the Tribe with the consent of the Tribe and that of all who may have rights of occupation affected, and that the proceeds be disposed of in such a way and used from time to time for such particular purposes as shall be agreed upon between the Government of Canada and the Tribe together with all those having rights of occupation.

Apart from the emphasis which seems to be placed upon tribal ownership in this paragraph, it merely contains a statement of what is now the procedure of the Department as provided by statute.

rights shall after full conference between the two Governments and the Tribes be adjusted by enactment of the Parliament of Canada.

Your Committee heard evidence on the disabilities of the Indians of British Columbia arising from restrictive regulations regarding fishing, hunting and the use of water for irrigation purposes. The Indian Commissioner for British Columbia and the Director of Fisheries, of the Department of Marine and Fisheries, were heard on this subject. The fishing industry is a most important one in the life of the Indians, and at least one-third of the fishermen engaged in the commercial fisheries are Indians and a large number of Indian women are employed in the canneries. The chief complaint was against the restriction to take fish for food purposes, and in this matter the sympathies of the Committee are with the Indians; at the same time the necessity of preserving by adequate regulations the fisheries is paramount. By co-operation between the Department of Indian Affairs and the Department of Marine and Fisheries grievances have gradually disappeared and we would commend to the Government the desirability of having as close co-operation as possible not only between these two Departments, but between all the Departments of the Dominion Public Service that have to deal with problems affecting Indians or Indian reserves, and that in all cases an extremely sympathetic and liberal view of the Indian situation should influence regulations and their enforcement as against Indians. The amelioration of local difficulties must be worked out by local officers, and we are convinced of the importance of leniency in the enforcement of the regulations that might, if rigidly enforced, work hardship and even suffering upon Indians.

It must be recognized that Indians have had from the earliest times, special interest in hunting, and that in those regions where their subsistence is obtained from the hunt they should receive every consideration. It is clearly to the benefit of the Indians that there should be strict regulations to conserve the fur-bearing animals, and the Provincial regulations appear to have that in view. It is the duty of the Department of Indian Affairs to see that any privileges or rights which the Indians have under these regulations are taken advantage of to the fullest degree. In this connection it is noted that the Provincial authorities do not exact any license fee from Indians for hunting or trapping, and like exemption of Indians in so far as commercial fishing licenses is concerned might be considered favourably by the Department of Marine and Fisheries.

Water for irrigation, where this is a necessity for successful agriculture, is a matter of the utmost importance in certain districts of British Columbia. These affairs are regulated by the Province, and the Indians are on the same footing as ordinary citizens in the allotment of the available water. In the endeavour to obtain water records, the Department of Indian Affairs has been insistent in advocating the claims of the Indians to sufficient water for their reserve lands, and where success has not followed, it has been owing to the insufficiency of water for all claimants or from some inherent flaw in the original records. The number of cases of the latter class is, however, very small. We would recommend that the Department of Indian Affairs continue to give the most careful attention to the development of irrigation systems on the reserves so that the water may be utilized to the fullest extent, and we commend co-operation between the Department and the Water Powers Branch of the Department of the Interior.

(14) That in connection with the adjustment of our fishing rights the matter of the international treaty recently entered into which very

SECOND AND FINAL REPORT

MONDAY, April 11, 1927.

The Special Committees of the Senate and House of Commons appointed to inquire into the claims of the Allied Indian Tribes of British Columbia, as set forth in their Petition presented to Parliament in June, 1926, beg to submit their Second and Final Report:—

The Committees convened on March 22nd, 1927, and held prolonged sittings on March 30th, 1927, March 31st, 1927, April 4th, 1927, April 5th, 1927, and April 6th, 1927, at which the following witnesses were examined:—

Mr. Duncan C. Scott, Deputy Superintendent General of Indian Affairs;

W. E. Ditchburn, Indian Commissioner for British Columbia;

Mr. W. A. Found, Director of Fisheries;

Mr. John Chisholm, Assistant Deputy Minister of Justice;

Andrew Paull, Secretary of the Allied Indian Tribes of British Columbia;

Chief John Chillihitza, of the Nicola Valley Indian Tribes of British Columbia;

Rev. P. R. Kelly, Chairman of the Executive Committee of the Allied Indian Tribes of British Columbia;

Chief Basil David, of the Bonaparte Indian Tribe of British Columbia.

In addition to the foregoing witnesses, there also appeared the following Counsel who addressed the Committee on behalf of their respective clients, viz:—

A. E. O'Meara, Counsel for the Allied Indian Tribes of British Columbia;

A. D. McIntyre, Counsel for the Indian Tribes of the Interior of British Columbia.

As Interpreters for Chief John Chillihitza and Chief Basil David, there were also present:—

Mrs. Julian Williams and Mr. William Pierrish.

The evidence of the witnesses and the arguments of Counsel were taken down in shorthand and printed from day to day. The printed reports of such evidence and arguments also contain the documents and other material in writing that were submitted to your Committee by the witnesses and the Counsel who appeared before it.

It is thought proper to refer to the manner in which the evidence given by the Rev. P. R. Kelly, Mr. Andrew Paull, Chief Chillihitza and Chief Basil David, the Indian witnesses was presented. The Chiefs spoke through their interpreters, who translated the Indian language into English in a competent way. The evidence of Messrs. Kelly and Paull was given in idiomatic English, clearly and forcibly expressed, and both the matter of their evidence and the manner of presentation were highly acceptable to your Committee. Due praise should be accorded them, and the Indian members of their organization can be assured of the competent and thorough fashion in which they dealt with the case.

It may be informative to include here a brief historical retrospect which will summarize the facts regarding the occupation of the country now known as British Columbia.

On March 29th, 1778, the famous explorer Captain Cook with two ships (the Resolution and the Discovery) arrived at Hope Bay near Nootka, which place he made his headquarters and made repairs, and from which point he explored the coast northward until he struck the Arctic ice. The next year

the Sandwich Islands where the vessels had wintered and continued the explorations, again making Nootka his headquarters. During the next ten years many ships visited the coast exploring and trading. In 1788 Captain John Meares formed an extensive establishment at Nootka, and in 1799 two Spanish warships under Don Stephen Joseph Martinez appeared at Nootka and seized Captain Meares' buildings and settlement and ships, one of which named the Northwest American was the first boat to be built on the Pacific Coast. As a result of this action on the part of the Spaniards the British Government demanded of Spain restitution of Nootka and the territory tributary thereto, together with an indemnity for losses sustained. For a time Spain resisted this demand and it appeared that war would be the result, but finally a settlement was made by Articles of Convention of October 28th, 1790. The Articles of Convention were to be given effect to at Nootka, and Spain despatched Don Juan Francisco de la Bodega y Quadra while Britain entrusted her interest to Captain George Vancouver with instructions that he should explore the coast and then go to Nootka "to be put in possession of the buildings, districts or parcels of land which were occupied by His Majesty's subjects in the month of April, 1789, agreeable to the first article of the late Convention." These two parties met finally at Nootka but failed to agree as to the area that was to be delivered. Captain Vancouver insisted upon all of that area in which trading and exploration had been carried on by the British, while the Spaniards desired to restrict the area ceded to Nootka. During the following year Captain Vancouver continued his explorations to Alaska and the following year concluded his survey of the whole coast. Finally on March 28, 1795, the actual surrendering of the country was made to Lieut. Thomas Pierce of the Royal Marines by Brig.-General Alva and Lieut. Cosme Bertodano. The whole area claimed by Captain Vancouver was included in the transfer; which area included that territory later known as the State of Washington and the whole coast of British Columbia northward to the Alaskan boundary.

Two other explorers Simon Fraser and Alexander Mackenzie explored portions of interior British Columbia approaching from east of the Rocky Mountains. In each case these well known explorers mistook what was later called the Fraser River for the upper reaches of the Columbia River, indicating that it was considered at that early time that the British territory east of the mountains extended through to the mouth of the Columbia River.

In 1846, the boundary line between Canada and the United States was fixed at the 49th parallel by Great Britain and the United States after a period of warm dispute. Prior to this the British had claimed the territory now known as the States of Washington and Oregon, and it will be noted that these two Governments at that time recognized that one or the other were in possession of this area and by Treaty between the two countries fixed the boundary line.

Later a dispute arose as to whether or not San Juan Island was in British territory or American. The British Government maintained their right to this Island as evidenced by a despatch from Lord Russell to Lord Lyon, British Minister at Washington, dated August 24th, 1859, in which he said:

> Her Majesty's Government must therefore under any circumstances maintain the right of the British Crown to the Island of San Juan.

Again indicating that the land was viewed as belonging to the Crown. This dispute was finally settled by reference to the Emperor of Germany for arbitration in favour of the United States on October 21st, 1872.

In 1858 Lord Lytton wrote Governor Douglas instructions regarding the attitude of the British Government towards the Colony, and used the following language:

> You will keep steadily in view that it is the desire of this country