

THE RESERVE RIGHT TO FISH

Whose fault is it that I hadn't sufficient food to eat this year?—Who was the cause of our poverty—It was not my fault that today we are poor—I was stopped from providing themselves with food—When they came to stop me they told me if I did not obey I would be put in jail.

Chief Paul Heena of Lillooet addressing the McKenna-McBride Commission in 1914



In July of 1978 the Lillooet Band asserted their guaranteed reserve right to fish, in spite of a closure set by the Federal Fisheries Department. Last July, the Fisheries Department decided that since the salmon count was low on the Fraser River, a restriction would be set prohibiting Indian food fishing. The Lillooet Band took a stand, exercising their exclusive right to fish guaranteed by law. The results of their stand were seen in an historic court trial during the week of April 17-20, 1978. On April 17 the trial of Bradley Bob vs. the Queen was tried in Lillooet. Charged at separate fishing incidents were: Reynold Joe, Les Edmonds, Jim Fountain, Billy Sampson, David Spinks, Vic Adolph Jr., Frank Link and Clifford Kirkpatrick. The results of these cases will rest on the decision handed down on the Bradley Bob case. Because of the huge support by members of the Lillooet, Fountain and Bridge River Bands, as well as surrounding cities and reserves., defense counsel Louise Mandell and Stuart Rush requested that the trial be moved to the Thunderbird Hall on the Lillooet reserve. Permission was granted, and the Hall was set up with chairs allowing all of the concerned members to observe the proceedings.

The legal defense argument was based, in part, on the exclusive right

to fish granted by a Royal Commission in 1881. The Guaranteed reserve right to fish is an argument that dates back many years. It is not only a legal question of a people's right to fish; it is a question of people's right to a way of life.

TRADITIONAL FISHING IN B.C.

Fishing has been a way of life for most Indian people on the coast and in the interior where traditionally, fish were plentiful. Long ago, the time spent on the banks of the Fraser River fishing and curing the catch was a time of sharing and learning. In that sense, not much has changed. What has changed, is that now Indians are told that they cannot go on with the traditional ways any longer. Indians are told that they cannot fish, and they cannot share; they cannot learn the old ways. Testimonies at the Bradley Bob trial show that the belief in our exclusive right to fish has been passed on from generation to generation.

The traditional methods of fishing have been passed on from our grandfathers. Young people today have the same knowledge regarding the runs,

salting, canning and drying of fish as people shared hundreds of years ago.



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After the day of arrests and salmon confiscations last July, the people gathered back at the Band hall to discuss their next steps.

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In the old days the time spent together on the river banks was a time of respect, learning, and sharing. Young children were taught the importance of food fishing by actually taking part in the activities. When very small they watched their parents, and as they became older they were able to cut the fish and learn more. By the time the children were twelve years old, they were then ready to learn how to fish.

In the evenings the people got together to share stories. They gathered at the fishing rocks, the same place where they fished during the day, and educated their children. In those days the rocks, the fishing, the traditional way of life was the education.

RECOGNITION OF B.C. INDIAN FISHING RIGHTS

After B.C. joined Confederation in 1871, both the Dominion and the provincial governments officially recognized and confirmed Indian fishing rights in this province. But neither level of government could agree on the size of land reserves to be set aside for Indians. Because of this disagreement it was decided that a joint Indian Reserve Commission be created to set aside Indian reserves in B.C., with a provincial representative, a federal representative and a

representative for both levels of government. It was a three man commission with Alexander Anderson representing the federal government, Archibald McKinlay representing the provincial government, and Malcolm Sproat appointed as joint commissioner representing both levels of government.

The Indian Reserve Commission was established in 1875-1876 and for over twenty years, travelled around the province setting apart small fishing reserves and establishing exclusive fishing areas for Indians in

On April 18, 1979, Judge DeBolt (centre) agreed to move the trial back to Thunderbird Hall on Lillooet Reserve so that more people could hear the proceedings.



B.C.

Both the federal and provincial governments instructed their representatives that Indian people should be allowed to carry on their way of life with no disturbances. In the case of the Lillooet tribe the way of life was fishing. The Minister of the Interior on behalf of the Dominion Government warned the Commission that, "you should be careful... not disturb the Indians in the possession of any villages, fishing stations... They should rather be encouraged persevere in the industry or occupation they are engaged in, and with that in view should be secured in possession of the villages, fishing stations..."

The Indian Reserve Commission worked in 1876-77 setting aside exclusive fishing rights through fishing stations, with the authority to do so granted from the Minister of the Interior.

O'REILLY AS SOLE COMMISSIONER 1880-1898

In 1880, Peter O'Reilly became the sole Indian Reserve Commissioner. Like the Commission before him, O'Reilly made fishing reserves and also reserved exclusive fishing areas to the Indians. Although the Department of Marine and Fisheries disputed the authority of the Indian Reserve Commission to set aside

exclusive fishing areas, O'Reilly continued to do so until his retirement in 1898.

McKENNA-McBRIDE COMMISSION

In 1913 a Royal Commission with joint federal-provincial representation was established; it is often referred to as the McKenna-McBride Commission. The Commission was intended to settle outstanding differences between the federal and provincial governments relating to Indian reserves in B.C.

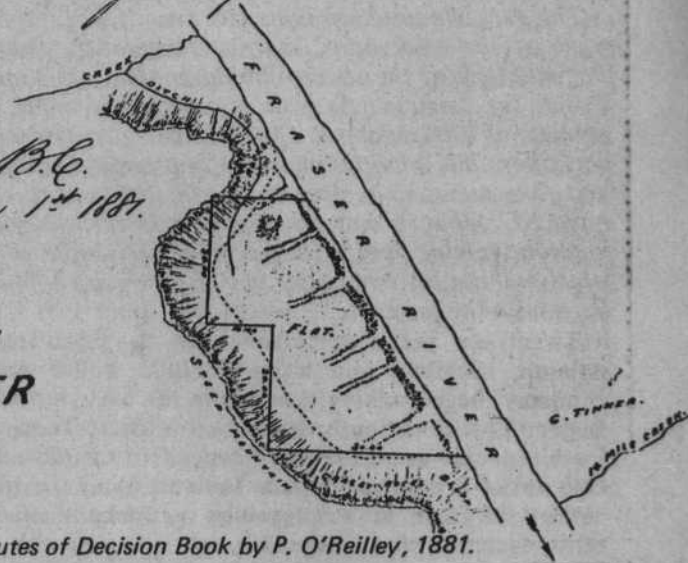
While travelling through the province, the McKenna-McBride Commission was told by the Indian people that the promises of exclusive fishing rights by the previous Commissions were not being kept. Continual disregard for their fishing stations made the Indians very concerned about their fishing rights, and they questioned the Commission about the issue.

The McKenna-McBride Commission was not able to find out from law officers of the federal government whether they had, in fact, the authority to grant exclusive fishing rights to the Indian people. The McKenna-McBride Commission then went on to confirm the fishing locations set aside by the previous Commission, and continued the policy of granting exclusive rights to fishing.

The exclusive right of salmon fishing on both sides of the Fraser river, from 1/2 mile South of Bridge river, upstream to the Mountain Indians fishery.

*Bridge river. B.C.
September 1st 1881.*

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SKETCH OF RESERVE FOR
BRIDGE RIVER INDIANS



Taken from Minutes of Decision Book by P. O'Reilly, 1881.

In 1916, the McKenna-McBride Commission reconfirmed the decision of the Indian Reserve Commission of 1878-1889 to grant the Lillooet Tribe the exclusive right to fish:
Lillooet Tribe: Minute of Decision of August 31, 1881:

"The exclusive right of salmon fishing on both sides of the Fraser River is reserved from the mouth of Cayoosh Creek, upstream to One-half (1/2) mile below Bridge River, a distance of

about Four (4) miles; also on the left bank of the Fraser River from the mouth of Cayoosh Creek downstream a distance of three (3) miles; also on both banks of Seton Creek downstream One-quarter (1/4) mile from Seton Lake."

On July 17, 1978 Bradley Bob was fishing in an area that in 1881, was set aside for the Bridge River Band's exclusive right to fish.

During the days of the trial, the people and the court visitors had traditional salmon dishes for lunch and during the last noon break there was drumming and dancing.

