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UNION OF B.C. INDIAN CHIEFS

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CUT-OFF

THE STORY OF
**PENTICTON INDIAN
LANDS**

TAKEN BY THE McKENNA—McBRIDE

COMMISSION IN 1913

WHAT ARE THE CUT-OFF LANDS?

In November 1913 the Royal Commission on Indian Affairs for the Province of British Columbia (the McKenna-McBride Commission) ordered 14,575 acres taken from the reserves of Penticton Indian Band. Indian Reserve No. 1 was reduced by 14,060 acres, some of it valuable land. Two smaller reserves, Nos. 2 and 2A were taken away altogether.

The McKenna-McBride Commission made these cut-offs despite the protests of Penticton Indian Band and contrary to the powers granted to the Commission under the McKenna-McBride Agreement and Federal and Provincial Orders-In-Council.

These then are the cut-off lands. They are lands taken by the McKenna-McBride Commission against the expressed wishes of the Band.

HISTORICAL BACKGROUND OF THE MCKENNA-MCBRIDE

ROYAL COMMISSION

The McKenna-McBride Royal Commission was set up in 1912 to settle a dispute between the Federal and Provincial governments. This dispute had been going on since 1871 when British Columbia joined the rest of Canada.

The first attempt to solve this dispute was in 1875 when the Indian Reserve Commission was set up. The Indian Reserve Commission (1875-1910), often called the Joint Commission, is different from the McKenna-McBride Commission (1912-1916).

The job of the Indian Reserve Commission was to allot and survey Indian reserves. Over a period of 35 years it did this for a majority of the reserves in British Columbia.

The work of the Indian Reserve Commission did not stop the dispute between the two governments. Both governments claimed that they "owned" Indian reserve land. The Province claimed the right to disallow any reserve that the Indian Reserve Commission allotted and protested the amount of land that the Indian Reserve Commission set aside as reserves.

Finally, in 1910 the continuing dispute over the size, location, and administration of Indian reserves stopped the work of the Indian Reserve Commission.

MCKENNA-MCBRIDE AGREEMENT 1912

To settle this long dispute over Indian reserve lands, the Federal and Provincial governments made the McKenna-McBride Agreement. J.A.J. McKenna was a Special Commissioner appointed by Ottawa to negotiate with the Province. Richard McBride was the Premier of British Columbia from 1903 to 1915.



"it would be difficult to mention any agreement ever concluded by any government so fruitful of benefit in proportion to its cost...."

No Indians were consulted during these negotiations or about the McKenna-McBride Agreement. No Indians were appointed to the Commission that the Agreement set up.

Under the McKenna-McBride Agreement, the Federal Government agreed that no land was to be cut-off a reserve unless the Indians gave their consent. Penticton Indians clearly did not agree to any cut-offs.

The McKenna-McBride Commission also had the power to allot additional reserve lands. It did this mostly on the North Coast and in the North Interior. No additional lands were set aside for Penticton Indian Band.

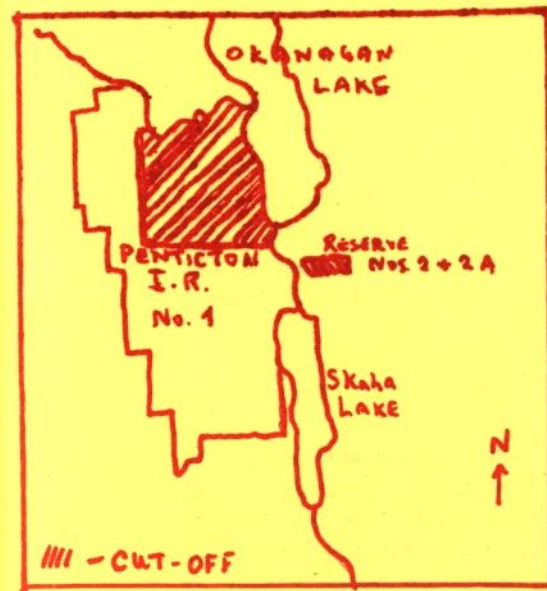
WHAT WAS PENTICTON BAND'S POSITION IN 1913?

The McKenna-McBride Commission met with the Penticton Indian Band on 8 October 1913 and explained that no land could be cut-off without the consent of the Indians.

The Band strongly opposed any reduction in their reserves and gave no consent to the cut-offs. The possibility of cut-offs at Penticton was not even mentioned by the Commission.

One Band Member said:

"I don't want to sell my land, and I don't want to have any land cut up - I don't want to lend my land because I love my land."



Lands taken from Penticton in 1913 were important to the economy of the Band. Some of it was cultivated in hay fields, gardens, and orchards. Much of it was valuable grazing land and contain stands of timber.

Chief Edward Michel clearly stated the Band's position:

"...we would not like to have this land cut-off. We have no land to spare on this reserve."

Penticton Band also made claims about hunting rights in their tribal territories and stressed its concern for water rights. Some Band members were reluctant to testify because the McKenna-McBride Commission had no authority to deal with these issues nor with the question of Native Title.

WHY THE LANDS WERE LOST?

Penticton Band's position was clear - no cut-offs. The powers of the McKenna-McBride Commission were clear - no cut-offs unless the Indians agreed. Then how did it happen that Penticton Indian lands were taken?

- Local Business Groups

The day after the Commission met with the Indians, it met with the mayor of Penticton and members of the Associated Boards of Trade of the Okanagan Valley. These interests told the Commission that they wanted Reserve Nos. 2 and 2A and portions of Reserve No. 1. The mayor claimed that "thousands acres was lying useless" due to lack of irrigation. He asked the Commission's help in obtaining some of it.

- Testimony of the Indian Agent

A month later, in November 1913, the Commission met with the Indian Agent of Okanagan Agency, J. Robert Brown. He testified that Reserve Nos. 2 and 2A contained merchantable pine, but that under the Department of Indian Affairs policy Indians were not allowed to sell the timber. The Commission reasoned that since the Indians could not log these reserves, they could not make proper use of them and therefore did not need them. So Reserve Nos. 2 and 2A were cut-off.

- The Water Rights Dispute

Water is essential to productive lands in the Okanagan Valley and water was a key factor in the Royal Commission's taking of Penticton Indian lands.

In 1913 the rights to water in the streams of the Penticton area were confused. Penticton Indians had been granted water rights by the Indian Reserve Commission when the reserves were established in 1877. Over the years some of these rights had been lost due to the Province's water policy; a policy which discriminated against Indians.

Penticton Indians protested to the McKenna-McBride Commission this infringement of their water rights. Antoine Pierre of Trout Creek said:

"The town people of Summerland have taken all the water and my trees are dying for want of water.

The Indian position on water rights was supported by T.J. Cummiskey, Inspector of Indian Agencies. He said that "many complaints ...as to whitemen...totally ignoring any rights which the Indians may have are-only too true.

Again discrimination against Indians by the McKenna-McBride Commission underlies the decision to cut-off the land. Because Penticton had lost water rights and could not finance costly irrigation projects, they had "more land than they reasonably require." Therefore the lands were to be taken away.

CONCLUSION

The injustice and hypocrisy of the McKenna-McBride Commission's decisions are obvious. A just settlement to this long outstanding grievance of Penticton Indian Band is urgent.

TESTIMONY AT MCKENNA-MCBRIDE COMMISSION'S

MEETINGS WITH PENTICTON INDIAN BAND,

8 OCTOBER 1913

FRANCOIS TIMOYKIN, PENTICTON BAND MEMBER:

I am going to tell you how the Indians used to live a long time ago, ...It is not because the whiteman has come that we make our living - we have been living before the whiteman came and now you ask us how we got along. We got along from the land - it is our father and mother - we get our living just like milk from the land, therefore we have no land to sell - it would be just like selling our bodies...

CHAIRMAN J.A.J. MCKENNA:

Did you not hear Commission White say that the land could not be sold unless the Indians consent to it?

FRANCOIS TIMOYKIN:

Yes.

CHAIRMAN MCKENNA:

Well, it will not be cut up unless the Indians consent to it.

But one month later the Commissioners took away the land.