

Bill No. 11 of 1966

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AMERINDIAN LANDS COMMISSION BILL, 1966.

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A. BILL

Intituled

An Ordinance to provide for the establishment and functions of an Amerindian Lands Commission.

WHEREAS the Government of British Guiana has decided that the Amerindians should be granted legal ownership or rights of occupancy over areas and reservations or parts thereof where any tribe or community of Amerindians is now ordinarily resident or settled and other legal rights, such as rights of passage, in respect of any other lands where they now by tradition or custom *de facto* enjoy freedoms and permissions corresponding to rights of that nature;

AND WHEREAS the British Guiana Independence Conference, 1965, recognised the aforementioned decision of the Government and agreed that a Commission should be established by law for the purpose of implementing that decision and having the functions, *inter alia*, of determining the extent of any such areas and reservations or parts thereof and the nature and extent of the rights which the Amerindians or any of their tribes now *de facto* enjoy in respect of such areas, reservations or other lands;

AND WHEREAS the aforementioned Conference

- (a) agreed that provision may be made by law for conferring on the Amerindian people or any of its tribes in exchange for rights over or in respect of any area, reservation or other land that have been or otherwise would be conferred on them in pursuance of the aforementioned decision of the Government, rights over or in respect of other land, provided that those rights are not less favourable to those on whom they are conferred than are the rights for which they are exchanged;
- (b) envisaged that provision would be made for the vesting of rights in individuals as well as communities; and

- (c) acknowledge that nothing in the aforementioned decision of the Government or conclusion of the conference was intended to prejudice the rights of persons other than Amerindians, and that the aforementioned arrangements must have regard for the Government's plans for the development of natural resources but without prejudice to any normal rights of compensation:

NOW THEREFORE —

RECOGNISING that the principles embodied in the aforementioned decision of the Government will be enshrined in the Constitutional instrument pertaining to an Independent Guyana; and

ACKNOWLEDGING that it is the policy of the Government to assist the Amerindians to the stage where they can, without disadvantage to themselves, be integrated with the rest of the community:

A.D. 1966. Enacted by the Legislature of British Guiana:—

Short title.

1. This Ordinance may be cited as the Amerindian Lands Commission Ordinance, 1966.

Interpretation.

2. In this Ordinance —
“Amerindian” has the meaning assigned to it in the Amerindian Ordinance;
“Commission” means the Amerindian Lands Commission established under this Ordinance;
“the Minister” means the Minister responsible for Amerindian affairs; and
“the relevant date” means the 19th December, 1965.

Establishment and functions of Commission.

3. There shall be an Amerindian Lands Commission which shall be charged with the following functions —

- (a) to determine the areas of British Guiana where any tribe or community of Amerindians was ordinarily resident or settled on the relevant date including, in the case of Amerindian Districts, Areas or Villages within the meaning of the Amerindian Ordinance, the part, if any, of such District Area or Village where any tribe or community of Amerindians was ordinarily resident or settled on the relevant date, and to identify every such tribe or community with as much particularity as is practicable;
- (b) to recommend, with respect to each such tribe or community of Amerindians, whether persons belonging to that tribe or community shall be given rights of tenure with respect to the areas of residence or settlement determined under paragraph (a) above or with respect to such other areas as the Commission may specify, being areas in relation to which such rights of tenure would be no less favourable to such persons than similar rights held in relation to the areas determined as aforesaid;
- (c) to recommend with respect to each such tribe or community of Amerindians, the nature of the rights of tenure to be conferred in accordance with any recommendation under paragraph (b) above;
- (d) to recommend, with respect of each such tribe or community of Amerindians, the person or persons in whom such rights of tenure shall be vested; and where the Commission recommends that the legal and beneficial interest in such rights shall be differently held, to recommend the terms and conditions under which such legal rights shall and such beneficial rights shall be conferred;

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- (e) to determine, with respect to each such tribe or community of Amerindians, what freedoms or permissions, if any, other than to reside or settle, were by tradition or custom enjoyed on the relevant date by persons belonging to that tribe or community in relation to any area of British Guiana, including areas other than those in which such persons were ordinarily resident or settled on that date;
- (f) to recommend, with respect to each such tribe or community of Amerindians, what rights, whether by way of easements, servitudes or otherwise, most nearly correspond to any freedoms or permissions determined under paragraph (e) above, and the person or persons to whom such rights shall be granted in substitution for the freedoms and permissions aforesaid;
- (g) to make such recommendations in relation to all or any of the matters aforesaid as may to the Commission seem appropriate;
- (h) to report to the Minister with respect to the matters set out in paragraphs (a) to (g) above.

4. The Commission shall consist of a Chairman and not more than four other members appointed by the Minister. Composition of Commission.

5. The Minister may, at the request of the Commission appoint one or more assistant Commissioners to inquire into, and report to the Commission upon such matters as the Commission think fit. Assistant Commissioners.

6. The Minister shall appoint a Secretary to the Commission, and may appoint such other officers of the Commission as he may determine for the purpose of assisting the Commission in the discharge of their duties. Secretary and Officers.

7. The Commissioner of Lands and Mines shall, wherever practicable, assist the Commission by making such surveys and supplying such plans as may be required by the Commission in the discharge of their functions. Surveys and Plans.

8. The Commission shall have power to act notwithstanding a vacancy among their members, and any two members of the Commission shall form a quorum for the purpose of discharging any of the functions (other than of reporting) of the Commission. Quorum.

9. The Commission may make such rules for their own guidance, the conduct and management of the proceedings before them and the times and places for such proceedings as they may from time to time think fit. Procedure.

10. The Commission shall have the powers of the Supreme Court — Powers.

- (a) to summon witnesses;
- (b) to examine witnesses on oath; and
- (c) to call for the production of books and documents;

Provided that nothing in this Ordinance shall preclude the Commission from taking evidence otherwise than under oath.

11. (1) All persons summoned to attend and give evidence, or to produce books, plans, or documents, at any sitting of the Commission shall be bound to obey the summons served upon as fully in all respects as witnesses are bound to obey subpoenas issued from the Supreme Court and shall be entitled to the like expenses as if they had been summoned to attend the Supreme Court on a criminal trial, if the same shall be allowed by the Commission, but the Commission may disallow the whole or any part of such expenses in any case, if they think fit. The procedure for the payment of such witnesses Witnesses.

shall be the same as nearly as may be for the payment of witnesses in the Supreme Court, and they shall be paid at such time and in such manner as the Commission may direct.

(2) If any person —

- (a) on being summoned as a witness before the Commission, makes default in attending; or
- (b) being in attendance as a witness, refuses to take an oath legally required by the Commission to be taken, or to produce any document in his power or control legally required by the Commission to be produced by him, or to answer any question to which the Commission may legally require an answer; or
- (c) does any other thing which would, if the Commission had been a court of law having power to commit for contempt, had been contempt of that court;

the Chairman of the Commission may certify the offence of that person under his hand to the Supreme Court, and that Court may thereupon enquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the Court.

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(3) Any person who shall wilfully give false evidence under oath before the Commission concerning the subject matter of such inquiry shall be guilty of perjury under section 327 of the Criminal Law (Offences) Ordinance, and be liable to be prosecuted and punished accordingly.

(4) No person giving evidence before the Commission shall be compellable to incriminate himself, and every such person shall, in respect of every evidence given by him before the said Commission be entitled to all the privileges to which a witness giving evidence before the Supreme Court is entitled in respect of evidence given by him before such Court.

Immunity of Commission.

12. No member of the Commission shall be liable to any prosecution, action or suit in respect of anything done by him as such member.

Proceedings to be public.

13. (1) Subject to the provisions of subsections (2) and (3) of this section, the proceedings of the Commission shall be held in public.

(2) If in their opinion it is expedient to the public interest or for the due discharge of their duties so to do, the Commission may direct that any part of their proceedings shall be held in private.

(3) The Commission shall determine who may be present at any time when any part of their proceedings is being held in private:

Legal representation.

14. The Commission may authorise any person giving evidence or any person who appears to them to have an interest in the subject of the proceedings before them to be represented at such proceedings or any part thereof.

OBJECTS AND REASONS

At the British Guiana Independence Conference, 1965, all Parties to the Conference recognised the interests of Amerindians as the indigenous people of Guyana and the Conference agreed upon special arrangements, including the early enactment of legislation, with regard to their property and other rights. The details of these arrangements are set out in Annex 'C' to the Report of the Conference (Cmd. 2849). This Bill seeks to give effect to the decision of the Conference for the establishment of an Amerindian Lands Commission. The functions of the Commission as specified in clause 3 of the Bill follow the detailed arrangements in this regard set out in Annex 'C' of the Report of the Conference.

P. A. REID

Minister of Home Affairs.

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