

DOCUMENT: BILPART2.TXT

PETITION AND BILL OF PARTICULARS ON THE POLITICAL STANDING OF
INDIGENOUS TRIBES AND BANDS UNDER THE PROTECTION OF THE BRITISH
GOVERNMENT IN THE FACE OF IMPENDING CANADIAN INDEPENDENCE

TO

His Excellency The Secretary-General of the United Nations

BY

Indian Nations in Canada

Requesting urgent actions by the United Nations Secretary-General
to prevent the imminent breaches of International law and Human Rights
being implemented by the Governments of Britain and Canada against the
Indigenous Peoples of Canada.

B I L L O F P A R T I C U L A R S

1. We are the original Nations in Canada. Our ancestors lived in
harmony with this land before the arrival of European settlers. We
have been given this sacred birthright by the Creator to live in
harmony with the Creator on this land through all our generations.
2. When Great Britain wished to establish a colony in Indian territory
now know as Canada, she reached agreements with the Indian Nations
who claimed the land and

resources as its original inhabitants. These agreements were based
upon the Sacred Trust of Civilization and were embodied in the Royal
Proclamation of 1763 and the various Treaties with separate Indian
Nations dating from 1693 to 1956. The concluded obligations in the
agreements are as follows:

- a) Our Sovereignty would always be respected by the
Royal Majesty and her subjects.
- b) They Royal Majesty would protect our Indian Nations
against harm from other European Nations
- c) Our Indian territories would be protected against
settlement by the Royal Majesty's subjects unless we
consented to their occupation of our land through
Treaty.
- d) If our title was ceded it would be through a fair
and open process; once title was ceded the

obligations would continue to bind the parties forever.

A portion of the Royal Proclamation states:

"And whereas it is just and reasonable, and essential to Our Interest and the Security of our Colonies, that the several Nations or Tribes of Indians with whom we are connected, and who live under Our Protection should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to, or purchased by Us, are reserved to them, or any of them as their hunting grounds.

The Treaties and agreements entered into between the British Crown and the Indian Nations are legally binding agreements with consequences in International law.

3. The Government of Canada was entrusted with the administration of Great Britain's obligations to the Indian Nations through Section 91(24) of the B.N.A. Act 1867, an Act of the Parliament of Great Britain. This section states that the federal government of Canada has jurisdiction over "Indians and Lands reserved for Indians".
4. Canada has not fulfilled its trust obligations to the Indian Nations. Rather the Government of Canada has for years expropriated our land and resources, illegally settled our land and systematically tried to assimilate our people, undermining the authority of our Indian Governments.

Over 40% of the land in Canada is Indian territory which has never been ceded by the Indian Nations. This land is being illegally claimed and occupied by the Governments of Canada. Other examples of the illegal expropriation of land and resources include:

- a) Legislation which reduces Reserve land without the consent of the Indians
- b) Legislation which allows provincial governments to expropriate, without compensation, and without our consent, up to 1/20 of reserve land.
- c) In the early 1920's legislation was passed outlawing our spiritual practices. Another law passed in the same period made it illegal to form an association to press land claims.
- d) Legislation continues to exist which expropriates our hunting and fishing rights.
- e) Until 1960, Indians were not entitled to vote in federal elections if we lived on reserves.
- f) Our spiritual practices subject us to prosecution under provincial game laws.
- g) Legislation compels Indian children to attend

residential schools away from our communities and our cultures.

5. Not only have the Indian Nations been faced with blatantly illegal legislation, but the persistent and insidious policy behind its legislation reveals the federal government's objective to exterminate the very identity of the Indian Nations and its people.

In 1969, the Prime Minister of this Country said:

"While one of the things the Indian Bands often refer to are their Aboriginal Rights and in our policy the way we propose it, we say we don't recognize Aboriginal Rights...It's inconceivable I think that in any given society one section of the society have a Treaty with the other section of the society...But I don't think that we should encourage the Indians to feel that their Treaties should last forever within Canada..."

He said, with respect to the stated Indian request for a preservation of Aboriginal Rights:

"And our answer -- it may not be the right one and it may not be the one which is accepted...our answer is no."

In a Submission to the federal Cabinet on NATIVE CLAIMS POLICY: COMPREHENSIVE CLAIMS dated July 29, 1979, said:

- a) Indian title is to be extinguished for money and certain concessions many of which would be of a temporary nature.
 - b) Any confirmation of Indian title is explicitly rejected as a basis for agreements.
 - c) Any powers or authority transferred to Indians are to be consistent with non-Indian political institutions, i.e. municipal-type administrations which can be tied later into provincial laws and institutions.
 - d) The concept of Indian Governments, as a way of confirming Indian special status, is explicitly rejected.
 - e) Provincial participation in negotiating claims settlements is regarded as essential (aside from any legal requirements for this) because one important aim is to shift jurisdiction over Indians to the Provinces.
6. We have persistently protested against these laws and policies of expropriation. Our Indian Nations throughout the 19th and 20th Centuries have petitioned both Britain and Canada to stop these illegalities. When challenged by the Indian Nations, the federal government of Canada has said our remedy is with Britain. In the

International arena, as recently as 1979 at Geneva, Canada stated to the Human Rights Sub-committee on Racial Discrimination that the primary responsibility for the Indigenous People lay with Britain.

Yet at the same time Canada tries to foster the myth that the Indian Nations and the disposition of our rights and property are within the domestic domain of Canada. Canada presumes to defend its actions by asserting that the self-determination of the Indian Nations must be "disallowed" or limited on grounds of preventing "dismemberment of states".

7. Canada is not able to hide behind either of these ruses to avoid International scrutiny of its treatment of the Indian Nations.

In the City of Rotterdam, between November 24th and 30th, 1980, the Members of the Jury and other bodies of the Fourth Russell Tribunal came together in order to consider alleged violations of the rights of the Indians of America.

In hearings representations from Indian Nations in Canada, the Tribunal noted:

"It may well be that the most severe persecution in human history, lasting for almost five hundred years, has been mounted against the Native Peoples of the Americas...During the hearings we have been impressed by the invincible determination of the Indian Nations who do not seek to impose their way of life on others but who, with dignity, demand respect for the right to their unique identity in a pluralistic world."

The Tribunal made its decision on November 30, 1980, indicting the Government of Canada for breaches of International law and violations of the Universal Declaration of Human Rights to which Canada is a signatory. The Tribunal recommended the following:

- a) "The States of the Americas, in any dispute about the infringement or violation of the autonomous and cultural rights of the Indian peoples; to engage in good faith negotiation to seek a peaceful settlement of the dispute; and to refrain from taking recourse to any procedure, which is not mutually agreed upon."
- b) "Treaties and Agreements made with Indigenous Nations or groups shall not be subject to unilateral abrogation. In no event may municipal law of any state serve as a defence to the failure to adhere to and perform the terms of Treaties and Agreements made with Indigenous Nations or groups. Nor shall any state refuse to recognize and adhere to Treaties or other Agreements due to change in circumstances where the change circumstances has been substantially caused by the state asserting that such change has occurred. (N.G.O. Conference on discrimination against Indigenous populations, Geneva, 1977)."

c) "American States must immediately bring a halt to the gross and continuous violations of the rules and principles recognized under International law. States should implement measures to prevent further violations of the basic human rights and fundamental freedoms of the Indian Peoples. Those existing national laws which forcefully assimilate Indigenous Peoples against their will and violate their basic rights defined by International standards should be annulled."

8. The federal government of Canada proposes to place before the British Parliament a Resolution for a Joint Address to Her Majesty the Queen requesting the patriation of the Constitution of Canada. This would be the finalization of Canada's independence. This would also finalize the federal government's policy to terminate Indian status and reserve land.

There is no mention of the obligations owed to us in the proposed Resolution. We are only mentioned in Section 24 of the Charter which says that the Charter cannot be used to deny our existing Rights and Freedoms; but the government tells us they do not accept that we have Aboriginal Rights. The rights of our Indian Nations to to survive culturally, economically and politically are not protected by the proposed patriation. In fact after patriation the Federal and Provincial governments would have the full authority to eliminate the very obligations owed to us which made settlement in Canada possible. S. 15 of the Charter adds to the problem by saying that there is equality between individuals but our collective rights as Nations are denied.

Throughout the Constitutional discussions, when our Indian Nations were refused participation and in the Constitution Act as proposed, the Canadian Government has revealed its intention of forcing the Indian Nations to politically integrate into Canada, against our will, to deprive us of our political identity, against our will and to suppress the fact that our Indian Nations and our territories constitute distinct political communities outside the Canadian State.

9. The issue of the Indian Nation's participation in the patriation process came before the Russell Tribunal in November 1980.

The Jury found that Canada has failed to involved the Indian Nations in the current Constitutional process. It further concluded that Indian rights have not been considered in the proposed Canada Act 1980. The Tribunal adopted the Declaration presented by the Indian delegation which stated that "Indian Peoples have the right to exist as distinct People of the world, the right to the possession of their own territory, and the right to sovereign self-determination".

10. If Her Majesty the Queen and her government in Great Britain patriate the Canadian Constitution under the terms proposed by the Federal Government of Canada Her Majesty the Queen and her government of Great Britain will be participating with Canada in breaches of Treaty, International law and breaches of International

covenants of which both Canada and Great Britain are signatories.

United Nations members agree to respect "self-determination of peoples". (U.N. Charter, Article 1(2); G.A. Res. 2625 (XXV), 24 October 1970, Preamble). "(A)ll peoples have the right of self-determination (and) to freely determine their political status." (International Covenant on Economic, Social and Cultural Rights, Article 1(1), and "(T)he will of the people shall be the basis of the authority of government" in all countries." (Universal Declaration of Human Rights, Article 21(3), U.N. Doc. A/118, 10 December 1948.) A people's "inadequacy of political, economic or social preparedness should never serve as a pretext for delaying independence" or the exercise of self-determination. (Declaration on the Granting of Independence to Colonial Countries and Peoples, Art. 3). As a "people", the Indian Nations of Canada have a right to choose their own political destiny.

P E T I T I O N

1. In recognition of the foregoing, the Indian Nations in Canada seek and request the immediate intervention of the United Nations Secretary-General on our behalf to support and provide international supervision over a tri-lateral meeting between representatives from the Government of Britain, Government of Canada, and the Indian Nations at a neutral city. The intercession of the U.N. Secretary-General is urgently requested to facilitate participation in this special meeting, to formally resolve all outstanding disputes between the parties prior to the conclusion of the process undertaken by Canada and Britain known as "Canadian Constitutional Patriation". We specifically urge the U.N. Secretary-General to undertake the following actions:
 1. Initiate contact with the Governments of Canada and Britain, urging their immediate and unconditional participation in tri-lateral negotiations on the political status of the Indian Nations of Canada, as well as their Agreement to suspend constitutional patriation processes until these negotiations are concluded to the satisfaction of all parties.
 2. Gain Agreement between the parties concerning the role of the United Nations as an international presence to supervise the proceedings, once negotiations are convened.
 3. Request and secure an official of the International Court of Justice to serve as official arbiter during the life of these negotiations.
2. The proposed Tri-Lateral Negotiations of the Political Status of Indigenous Peoples of Canada, convening under international supervision, must have an agenda which includes -- but is not

limited to -- the following:

1. Review and define the present roles and responsibilities of all parties involved in the existing "tri-lateral" relationship, including the Indian Nations, the Canadian Government and the British Government.
2. Define in detail the full meaning and extent of the political association between Britain and the Indian Nations in Canada.
3. Define and agree in detail on the full area and boundaries of territories occupied and/or owned by the Indian Nations of Canada.
4. Define in detail the means by which existing and future conflicts may be resolved between an Independent Canada and Indian Nations.
5. Define and determine the extent and amount of payments owed to Indian Nations of Canada by the Canadian Government for lands and natural resources already confiscated or expropriated by the Canadian Government and/or its agents; and agree to the method and terms for payment.
6. Define the terms for political existence between the Indian Nations of Canada and the Canadian Government.
7. Define the equalization payment plan between the Canadian Government and the Indian Nations.
8. Define the alternatives for individual Indian citizenship in addition to their own natural citizenship.
9. Define and agree to the necessary measures to ensure that each Indian Nation can exercise the full measure of self-government, within the Canadian Confederation.
10. Define the roles and authorities of the various parties in matters related to fishing, wildlife, religious land protection, water resources management and control, use and development of minerals, petroleum resources, timber, and other natural resources.
11. Define the terms of a Treaty which will codify the Agreements above, as well as define the measures necessary to settle the unresolved lands and other territorial claims.
12. Agree upon the formation of an International Indigenous Trust Council within the United Nations

Copyright Policy

Material appearing in the Fourth World Documentation Project Archive is accepted on the basis that the material is the original, unoccupied work of the author or authors. Authors agree to indemnify the Center for World Indigenous Studies, and DayKeeper Press for all damages, fines and costs associated with a finding of copyright infringement by the author or by the Center for World Indigenous Studies Fourth World Documentation Project Archive in disseminating the author(s) material. In almost all cases material appearing in the Fourth World Documentation Project Archive will attract copyright protection under the laws of the United States of America and the laws of countries which are member states of the Berne Convention, Universal Copyright Convention or have bi-lateral copyright agreements with the United States of America. Ownership of such copyright will vest by operation of law in the authors and/or The Center for World Indigenous Studies, Fourth World Journal or DayKeeper Press. The Fourth World Documentation Project Archive and its authors grant a license to those accessing the Fourth World Documentation Project Archive to render copyright materials on their computer screens and to print out a single copy for their personal non-commercial use subject to proper attribution of the Center for World Indigenous Studies Fourth World Documentation Project Archive and/or the authors.

Questions may be referred to: Director of Research
Center for World Indigenous Studies
PMB 214
1001 Cooper Point RD SW Suite 140
Olympia, Washington 98502-1107 USA
360-754-1990
www.cwis.org <<http://www.cwis.org>>
usaoffice@cwis.org <<mailto:usaoffice@cwis.org>>

OCR Software provided by Caere Corporation