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From CWIS

PETITION BY THE
INDIAN PEOPLE OF CANADA
TO HER MAJESTY QUEEN ELIZABETH II

DATED at the city of Ottawa,
November 1980.

The Indian Nations of Canada submit this petition to Her Majesty, asking that Her Majesty may graciously bring to the attention of the Parliament of the United Kingdom our most serious objections to the proposals of the Government of Canada to amend the Constitution without due regard having been given to our rightful place in the Canadian Confederation.

We urge Her Majesty to refuse the patriation of the Canadian constitution until agreement is reached between Canada, the United Kingdom and the Indian Nations which will embody in the Constitution those essential obligations, undertakings, and agreements which the British Crown solemnly caused to be made with the Indian Nations of Canada and those conditions necessary to enable the Indian Nations to achieve self-determination within the Canadian Federation.

The petition of the Indigenous peoples of Canada, shows that:

1. We are the original Nations of 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 the early settlers arrived in our Indian territory we welcomed those who respected our Sovereignty and treated them with peace and friendship. Those who disrespected our Sovereignty and our territorial boundaries were at war with us.
3. Who were these settlers? We learned that they came under the authority of the Royal Majesty in the United Kingdom and wanted to live in our land and benefit from its riches. Who was the Royal Majesty? We learned that she was the head of a large and powerful family representing a Nation, just as our leaders represented our Indian Nations. Our leaders wanted to make sure that our sovereign nations were dealing with the representatives of another sovereign nation. They asked:

Is it true you are bringing the Queen's kindness? Is it true you are bringing the Queen's messengers' kindness? Is it true you are going to give my child what he may use? Is it true you are going to give the different Bands the Queen's kindness? Is it true you bring the Queen's hand? Is it true you are bringing the Queen's power?

✓f Aboriginal title and rights - (Crest National aspects - Canada

(Qu'Appelle Treaty, 1874)

And the leaders were told:

What we have heard yesterday, and you represented yourself, you said the Queen sent you here, the way we understood you as a representative of the Queen. We have understood you yesterday that Her Majesty has given you the same power and authority as she has, to act in this business...

(Treaty 3, 1873)

4. We were told that the Royal Majesty had power to protect us and would hold to her promises, we met with her representatives and agreed how our separate Nations would live together. We allowed the Royal Majesty to establish her government and her people in our land on the following terms:
 - a) Our Sovereignty would always be respected by the Royal Majesty and her subjects.
 - b) Her 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) The Royal Majesty agreed to keep her promise which would bind her government and our Indian Nations forever.
5. Listen now to the promises made by the Royal Majesty's representatives to our Indian Nations:

"No government, whether provincial or central, has failed to acknowledge that the original title to the land existed in the Indian tribes...Before we touch an acre we make a treaty with the Chiefs representing the Bands we are dealing with, having agreed upon and paid the stipulated price...we enter into possession."

(Earl of Dufferin, Governor General of Canada, 1876)

"The Kings rights with respect to your territory were against the Nations of Europe;...But the King never had any rights against you but to such parts of the Country as had been fairly ceded by yourselves with your own free consent by Public convention and sale. How then can it be said that he gave away your lands? So careful was the King of your interests, so fully sensible of your rights, that we would not suffer even his own people to buy your lands, without being sure of your free consent and of ample justice being done you...You desire the Kings protection, you desire his power and influence may be exerted to procure you

peace and to secure your rights."

(Montreal, March 10, 1771 His Excellency
Lord Dorchester)

And the Kings representatives reported to him:

I remark in the first place that the provisions of these treaties must be carried out with the utmost good faith and the nicest exactness. The Indians of Canada have...an abiding confidence in the government of the Queen, or the Great Mother, as they style her. This must not, at all hazards, be shaken.

(Lieutenant Governor Morris & Right
Honourable Lord of Dufferin, 1880)

6. The promises and obligations of the Royal Majesty were set out in the Royal Proclamation of 1763, and in the treaties negotiated by the Royal Majesties and the Indian Nations. The Royal Proclamation says:

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.

7. The Royal Majesty and the Indian Nations have never consented to change this agreement as set out in the Royal law and treaties. For some of our Indian Nations who made Treaties with the Royal Majesty, as these Treaties continue to bind the Indian Nations, so they continue to bind the Royal Majesty and her government. However, many of our Indian Nations did not enter into Treaties. Over 40% of the land in Canada is unceded Indian Territory, some of which is being illegally occupied by Her Majesty's subjects.
8. Our confidence has been shaken. We must talk now about the government of Canada. The government of Canada has been entrusted with the administration of Her Majesty's promises to the Indian Nations. Where did Canada get this authority? The jurisdiction to fulfill the obligation to us rests with the United Kingdom. It is through an act of Her Majesty's Parliament in Great Britain that Canada has been delegated to administer the Royal obligation. What has the government of Canada done with this trust? For years the government of Canada has been expropriating our land and resources, illegally settling our land and systematically trying to assimilate our people undermining the authority of our Indian governments.

We have protested persistently against these expropriations. For example when the Nishga Tribes asserted that their land in British Columbia was illegally claimed by the province Sir James Lougheed, leader of the government in the Senate on

June 2, 1920 said:

"If Indians have claims anterior to Confederation or anterior to the creation of the two Crown colonies in the province of B.C. they could be adjusted or settled by the Imperial authorities. If its claim be a valid one...as to the Indian tribes of B.C. being entitled to the whole of the lands in British Columbia this government cannot disturb that claim. That claim can still be asserted in the future."

Rather than assisting Indian Nations and realizing their claim the government has passed legislation to assimilate us. In the early 1920s 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. Legislation continues to exist which expropriates our hunting and fishing rights. Even by 1948 in British Columbia and in Canada we couldn't vote in provincial or federal elections if we lived on reserves.

9. 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.

10. 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 Government, 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.

This strategy was basically accepted by the government and is their policy today.

At the 11th Annual General Assembly of the Union of B.C. Indian Chiefs in October, 1979, the Indian Nations Aboriginal Rights Position Paper was accepted, and presented to the federal government. The federal government has chosen not to respond to it in any real manner.

11. The Indian Nations oppose patriation. We know that the federal government's policy to terminate Indian status and reserve land would be fully achieved through patriation. 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. Is it that position which is not denied? Our rights are not entrenched in the proposed patriation. After patriation the federal and provincial governments would have the full authority to eliminate the very obligations owed to us and which made Canada possible. Section 15 of the Charter adds to the problem of saying that there shall be equality without regard to race. What will happen to our Indian people? Will our reserves be ended because Indians will be seen to have a preferred position because of race?
12. The government of Canada has refused to listen to what the Indian Nations say about patriation. We have asked to be involved in the constitutional discussions between the federal and provincial governments, and we have been refused. We traveled across this country to appear in front of the Joint Parliamentary Committee on the Constitution to be told that we won't be listened to. Prime Minister Trudeau has deliberately prevented our voice from being heard...

It is not possible for the government of Canada to suppress our Indian Nations by refusing to listen to us. Is it possible to think that we will not exist because a government refuses to recognize us? Our Indian Nations existed long before the government of Canada did, and we have survived despite the actual neglect by this government for our physical needs and their efforts to assimilate us.

13. 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 in Great Britain will be participating in breaches of treaty, international law and breaches of international covenants of which both Canada and Great Britain are signatories.

An opportunity exists to elevate the constitutional amendment to an exercise in

statesmanship and nation building.

14. This is a course which we would welcome because it offers the possibility of creating a place for us in Canada's federal system consistent with our rights as Indian Nations. We have given long and serious consideration in many assemblies of our people to the ways in which our special status can be integrated into Canada's federal system. We are convinced that this aim can be accomplished without destroying our nationhood or terminating our historical and legal rights. This process, however must take place before the Constitution is amended.
15. We propose that representatives of the Indian Nations, Great Britain and Canada enter into internationally supervised discussions outside Or Canada to:
 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 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 lands protection, water resource 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 to oversee future relations between indigenous peoples and countries with which they are associated.

16. As the last recourse, we propose to take whatever other measures are necessary to separate Indian Nations permanently from the jurisdiction and control of the Government of Canada, if its intentions remain hostile to our peoples, while insisting upon the fulfillment of the obligations owed to us by Her Majesty the Queen.

We humbly pray that Her Majesty gives serious consideration to this petition which is being submitted on behalf of the Indian Nations, we respect - fully request that our grievances be given an immediate remedy, and in view of the deadlines which the Government of Canada has established, that a response be provided by December 3, 1980.

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