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FROM THE ANISHINABEK (THE OJIBWAY, OTTAWA, POTOWATOMI, DELAWARE AND ALGONQUIN NATIONS) TO THE PARLIAMENT OF THE DOMINION OF CANADA:

November, 1980

1. Identification
2. On Relations
3. On Existing Rights and Status
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We are the Anishinabek.

The Creator placed all things on this Island. He directed that we should all live together in harmony. The birds, the fish, the animals and the plants, like ourselves, shared to survive. Our families, our clans, chose to live in communities of a size best suited to our hunting and fishing and farming. Each of these communities had and knew its own territories, its own resources.

We have been called Ojibways or Chippewas, Ottawas, Delawares, Potowatomis, Algonquins. We are nations whose languages are similar, whose cultures are close, whose lands are often shared. For years beyond memory we have been confederated; our Chiefs have met and acted together for the benefit of our people.

Today we number over 40,000 people on our lands to the north of the Great Lakes. We are a distinct people. We have a distinct territory, and our own lands. We have our own laws, languages and forms of government. We survive as nations today.

All our lands are known to us: we continue to use them as the source and support of our lives and communities, both in an economic sense and in a spiritual way. Each place has its name and its importance to us. Let any who doubt our connection with these lands live with us, observe our ways. Though we have shared our lands through Treaties, we have never separated our people and our lands in our minds.

OUR TERRITORY AND COMMUNITIES

Our communities and the governments of our nations are tribal in nature. They are suited to the needs and the character of our people.

The people together in council made all important decisions. By election or by heredity, they chose an "Ogimah" or "Chief", responsible to them, to guide and advise them. "Anikeh-Ogimauk", or "Councillors", assisted the Ogimah in his work. This system, although modified as a result of the imposition of Canadian laws, survives today.

Our governments are, and have been, as much government as the people wanted or needed, and no more. We have never accepted the concept that a majority has the right to force others to follow its ways. We have concluded instead that we can take the time to seek solutions that will be acceptable to all our people. In our tribal communities, we cannot live in ways that divide us: we are one people.

Our Ogimauk also met together in what has been called Grand Councils of the nations. We have said that we have been confederated for years beyond memory, and this is so. The purpose of the Grand Councils was to discuss and decide matters which concerned all our communities; matters of war and peace, of territory and law. These things remain so today, and our Ogimauk continue to meet in Council in the same manner.

ON RELATIONS

The main purpose of our Grand Councils has been to conduct our relations with other nations.

We have alliances and Treaties with other tribal nations in the four directions.
To the south, with the Nadoweg, the Iroquois Confederacy.
To the east, with the Abenaki and the Mi'kmaq Nationimouw, the Micmacs.
To the north, with the Mashkegons, the Anishnabeg-Aski.
To the west, with our relations on the other side of the lakes and the Lake of the Woods, and with the Plains Cree.
With these nations, we have maintained economic and military alliances as well as formal and informal social and cultural relations.

With European nations, as well, we have Treaties.

The first European nation we met with was France. In trade and in war, we became the allies, not the subjects, of the King of France. For over a century, our alliance brought advantages to France and to ourselves. When, in 1760, Great Britain defeated France in this country, Article 40 of the Articles of Capitulation of the French at Montreal made provision for us as "allies of His Most Christian Majesty"; that we should be maintained in the lands we inhabit, should we choose to remain there; "they shall not be molested on any pretense whatsoever, for having carried arms, and served His Most Christian Majesty...".

From 1760 to 1764, many of our people conducted a war against Great Britain in our country. The war ended with a Treaty at Niagara of peace and friendship with the British Crown. This Treaty lies at the foundation of our relationship with the Crown of Great Britain for the next two centuries, and has been our guide in our relations with the Dominion of Canada.

In 1764, we received an invitation to attend a Council at Niagara from Sir William Johnson, the Superintendent-General of Indian Affairs, in the name of the Crown. We met at that place in July of 1764. The representatives of twenty-four nations met with the representative of the British Crown.

Sir William Johnson informed those nations of the King's Royal Proclamation of October 7, 1763, which recognized their rights to their lands and which would serve to protect them from the King's subjects. He renewed the friendships in the name of the Crown with those nations already connected with Great Britain. With those nations with no such formal connections, he established relations in the name of the Crown.

Those nations he described as "the Western or Lakes Confederacy". That Confederacy included, according to his records, the Chippewas, Ottawas, Menominees, Sauks, Foxes, Winnebagoes, Crees, Hurons, Algonquins, Nipissings and Toughkamiwons.

The Treaty of Niagara was both the end of hostilities between parts of our nations and Great Britain and the beginning of a relationship of particular significance to both our nations and Great Britain. It was ratified at Detroit shortly afterward, and on many occasions since that time.

Our relationship with the Crown of Great Britain has always been described as a silver Covenant Chain. It is a relation of mutual friendship and protection. This Chain was described by Sir William Johnson in 1775:

> "...upon our first acquaintance we shook hands and finding that we should be useful to one another entered into a Covenent of Brotherly love and mutual friendship. And tho' we were at first only tied together by a rope, yet lest this rope should grow rotten and break we tied ourselves together by an Iron Chain. Last time or accidents might rust and destroy this Chain of Iron, we afterwards made one of Silver, the Strength and Brightness of which would subject it to no decay. The ends of this Silver Chain we fix't to the immoveable Mountains, and this in so firm a manner that no Mortal enemy might be able to remove it. All this my Bretheren you know to be Truth. You know also that this Covenant Chain of Love and Friendship was the Dread and Envy of all your Enemies and ours, that by keeping it bright and unbroken we have never spilt in anger one drop of each other's blood to this day. You well know also that from the beginning to this time we have almost every year, strengthened and brightened this Covenant Chain in the most public and solemn manner. You know that we became as one body, one blood and one people. The same King our common Father, that your enemies were ours, that whom you took into your alliance and allowed to put their hands into this Covenant Chain as Bretheren, we have always considered and treated as such".

In July of 1764, this Covenant Chain was well known as the symbol of the relations between Great Britain and the Iroquois Confederacy. At Niagara, we agreed that we would enter it as well. In the name of the Crown, Sir William Johnson entered into this compact with us.

At the end of our deliberations at Niagara, Sir William Johnson stated:

> "...there now only remains for us to exchange the Great Belt of the Covenant Chain that we may not forget our mutual Engagements.
>
> I now therefore present you the Great Belt by which I bind all your Western Nations together with the English, and I desire you will take fast hold of the same, and never let it slip, to which end I desire that after you have shewn this Belt to all Nations you will fix one end of it with the Chipeweighs at St. Mary's whilst the other remains at my house...
>
> I exhort you then to preserve my words in your hearts, to look upon this Belt as the Chain which binds you to the English, and never to let it slip out of your hands".

This Treaty was preserved on a Belt of Wampum, This was the convention in this country at the time, as our people did not have writing, and because paper would not last. Both the belt and the tradition of the Chain have been passed down through the generations of our leaders, and this relationship remains strong in our minds. Over the two centuries since the Chain was made, we have renewed our alliances often, through subsequent Treaties, and with our blood.

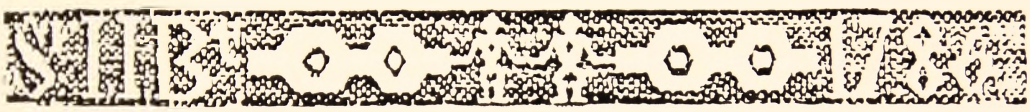
The nature of the Covenant Chain is that of a compact, a political union in which the participating nations are like links of a chain. Each link retains its identity, as each nation continues to conduct its internal affairs. The purpose of the making of the Chain, as of any compact between nations, is to create the strength and protection that flow from unity in a common purpose.

Our conventions and traditions require periodic renewal of our relations. We have called this "removing tarnish from the Chain", and strengthening it thereby. The Treaty at Niagara included a promise by Sir William Johnson of presents to the citizens of the Indian nations, an annual delivery of the King's bounty as a measure of his esteem that would last "as long as the sun shines, the rivers flow, and the British wear red coats". The presents were delivered each year for nearly a century, and we took the occasion of the annual presents to renew and remind one another of our commitments, to renew the Chain.

When, in 1776, the King's Colonies to the south declared their independence, we were called upon by the King's representatives to aid him in his war. We did so, and fought for Great Britain against the United States in that war. The Indian nations in the Covenant Chain were significant allies of Great Britain. Though some nations preferred to treat this war as a quarrel between the King's children, who were not our people, we remembered our commitments and, in the end, suffered as a result.

When the King lost his lands to the south, and made his peace with the United States of America, he abandoned his claim to a right against other nations of Europe to purchase our lands. The peace we made with the United States of America was a separate peace, for the King did not have the power to make Treaties in our name. From 1785 on, our nations have made a number of Treaties with the United States of America. Our ability and our right to make such Treaties has never been subject to question.

Though parts of our nations' lands now lay within the borders of the United States of America, as that border had been agreed upon between the United States and Great Britain, our nations and the British Crown continued to deal with each other as we had before the boundary line was drawn. The annual presents were distributed to our citizens from both sides of the border, and at Councils held for that purpose, the Covenant Chain of friendship, alliance and protection was renewed and reaffirmed. One article of evidence of the renewal of the Chain was the Belt presented to the Chiefs in 1786 by Sir John Johnson, the Superintendent General of Indian Affairs and the successor to Sir William Johnson.



In 1793, when we were dealing with the United States of America on matters of our land and our rights, Lord Simcoe, the Governor of Upper Canada, addressed us in the King's name. On June 22, 1793, he told our Chiefs:

"Children and Brothers;

You show your wisdom, established on experience, when you say that your Father has never deceived you, and that you have always found you may confidently depend on him.

You may confidently depend upon the King your Father: He will never deceive you: and so strongly is the love of truth impressed by his example and orders on all who are the delegates of his power in this country, that the youngest of our chief warriors would be degraded from that character was he capable of deceit or falsehood".

"The documents, records and Treaties between the British Governors---in former times and your wise fathers, of which in consequence of your request authentic copies are now transmitted to [illegible], all establish the Freedom and Independency of your Nations.

Children and Brothers;

These authentic papers will prove that no King of Great Britain ever claimed absolute power or sovereignty over any of your lands or territories that were not fairly sold or bestowed by your Ancestors at Public Treaties. They will prove that your natural Independency has ever been preserved by your predecessors, and will establish that the rights resulting from such independency have been reciprocally and constantly acknowledged in the Treaties between the Kings of France formerly possessors of parts of this continent, and the Crown of Great Britain".

Our independence was not merely recognized: it was encouraged. During the decade from 1784 to 1794, while Great Britain was in a state of peace with the United States of America, we were engaged in a defensive war against that nation, which, as we have said, resulted in a separate peace with separate Treaties.

In 1812, the King called upon us again for military aid against the United States, and once again we complied with his request and respected the promises made in our compact. It is undisputed that our military forces played a vital part in the preservation of British control over its colonies in North America. The sacrifices we made were great, not only in terms of losses of people, but because many of our lands within the United States were lost to us as a result of the war. Our alliance with the Crown was strong but costly.

In 1815, in the Treaty of Ghent between Great Britain and the United States of America, our rights were mentioned and our people were referred to in a manner that indicates that we are distinct from the Citizens of the United States and the subjects of Great Britain. Our right to pass and repass freely through our territory was confirmed and recognized in that Treaty, as it had been in the "Jay Treaty" of 1794.

After the War of 1812-1814, the British view of our sovereignty did not change. The policy of the British Government was expressed by Lord Bathurst on December 27, 1814:

> "It is very desirable that any Treaty of Peace which we conclude with Indian Nations or Tribes actually at War with us, should be expressed in terms which denote the Independence of the Nations or Tribes with which we are treating, and you will intimate to the friendly Nations that in their Treaties with the United States of America they ought to adhere as much as possible to the terms used in their former Treaties with the United States, describing themselves as "Nations" not "Tribes" wherein it had been formerly the practice to so designate themselves.
>
> You will assure the friendly Nations that Great Britain would not have consented to make peace with the United States of America, unless those Nations or Tribes which had taken part with us, had been included in the pacification".

After the War of 1812-1814, there was a large immigration of the King's subjects into what was then called Upper Canada. We entered into a new kind of Treaty with the Crown at that time: the land surrender. In many places, and at many times, we willingly shared our lands with the King's subjects, and in exchange received tokens, mere pittances. Those Treaties of surrender dealt only with our exclusive right to occupy the land: in each case, we reserved lands for our own use, and in each case the very fact that the Treaty was being made was an acknowledgement of our rights and standing as nations.

Yet these "surrenders" were not enough. The british subjects pressed into those lands we had reserved for ourselves, destroying our means of living as they searched for the minerals, the timber and the soil itself. We did not give our consent to this. To the north of Lake Huron and Lake Superior, Treaties were made only after these people had destroyed many of our resources. In other places within our territories, there have been no Treaties or purchases to this day.

Typical of the feelings of the Chiefs of those days were those of Shinguaconse, Little Pine, of Garden River, when he wrote to the Governor at Montreal in 1849:

> 'When your white children first came into this country, they did not come shouting the war cry and seeking to wrest this land from us. They told us they came as friends to smoke the pipe of peace; they sought our friendship, we became brothers. Their enemies were ours, at the time we were strong and powerful, while they were few and weak. But did we oppress them or wrong them? No! And they did not attempt to do what is now done, nor did they tell us that at some future day you would.
>
> Father,
>
> Time wore on and you have become a great people, whilst we have melted away like snow beneath an April sun; our strength is wasted, our countless warriors dead, our forests laid low, you have hunted us from every place as with a wand, you have swept away all our pleasant land, and like some giant foe you tell us "willing or unwilling, you must now go from amid these rocks and wastes, I want them now! I want them to make rich my white children, whilst you may shrink away to holes and caves like starving dogs to die". Yes, Father, your white children have opened our very graves to tell the dead even they shall have no resting place".

"Father,

Was it for this we first received you with the hand of friendship, and gave you the room whereon to spread your blanket? Was it for this that we voluntarily became the children of our Great Mother the Queen? Was it for this we served England's sovereign so well and truly, that the blood of the red skin has moistened the dust of his own hunting grounds, to serve those sovereigns in their quarrels, and not in quarrels of his own?

...

Father,

We begin to fear that those sweet words had not their birth in the heart, but that they lived only upon the tongue; they are like those beautiful trees under whose shadow it is pleasant for a time to repose and hope, but we cannot forever indulge in their graceful shade---they produce no fruit.

Father,

We are men like you, we have the limbs of men, we have the hearts of men, and we feel and know that all this country is ours; even the weakest and most cowardly animals of the forest when hunted to extremity, though they feel destruction sure, will turn upon the hunter.

Father,

Drive us not to the madness of despair. We are told that you have laws which guard and protect the property of your white children, but you have made none to protect the rights of your red children. Perhaps you expected that the red skin could protect himself from the rapacity of his pale faced bad brother".

Since the making of the Covenant Chain, we have called the King of Great Britain our "Great Father" and we have called his personal representative in this country our "Father". The relationship these words indicate is one which has a specific meaning in our diplomatic conventions, well known to the British who agreed to that relationship. It denotes protection and care from the parental sense to the national sense. It does not import a duty of obedience or the status of "subjects" to us.

Just as the King and his representative have been called "Fathers", his governments and subjects in this country have been called "Brothers" by us. They were, and remain, the children of the same Great Father. As such they gained no powers over us: they are our equals and our allies.

We have always understood well the separation between the Crown and its governments in this country: we have always looked to the Crown as our Protector against the many violations of our rights that the Governments have committed. Our Treaties, beginning with the making of the Covenant Chain in 1764, have been with the Crown, and not with any Government.

In 1860, the Imperial Government transferred its responsibility for the administration of lands and monies the Crown was holding in trust for us to the government of the Provinces. While this was done without our consent, we remained assured that the responsibility rested with the Crown.

In 1867 the British Provinces in North America formed a compact of their own. They confederated, forming a federal government, to be known as the Dominion of Canada. This confederation was ratified and enacted by an Act of the Parliament of Great Britain, the British North America Act.

By Section 91(24) of the British North America Act of 1867, the legislative jurisdiction over "Indians and lands reserved for the Indians" was placed in the Parliament of Canada.

We were assured that these transfers would have no effect on the rights of our nations. Indeed, the same Crown was still the source of the powers of the Governments making the laws.

Since 1867, though, the Government of Canada has enacted laws which purport to govern every aspect of our internal affairs. We have not consented to these laws. We have made no Treaties with the Government of Canada: that Government did not have the capacity to make Treaties in its own name until very recent times.

Our position with respect to the Government of Canada's rights and powers is identical to that expressed by the Six Nations in 1924:

> "By that Act (the British North America Act of 1867) the Dominion Parliament is vested among other powers with the power to legislate in respect to Indians. That meant the power to legislate for Canada in respect to relations with Indians. The Imperial Parliament, up to that time never having pretended to possess a sovereign right to legislate over the (Indian nations), cannot be deemed to have intended to bestow a greater right upon the Parliament of the Dominion of Canada. Neither can that Act by the language used be deemed to authorize the Dominion of Canada to ignore the obligations of the Imperial Government oustanding under a prior Treaty...".

Though we have never made any Treaty with Canada, we have in practice dealt with its Government as the agent of the Crown. In doing so, we do not consider that we have given up any of our rights to govern ourselves, or to our existence as a distinct people.

In every war the Crown has called upon us for our aid, we have sent our warriors. At no time has the Crown made any pretense that we were subject to conscription under the laws of Canada: our participation in those wars was both voluntary and in fulfilment of our Treaty obligations. Our promises are matters which we have preserved and remembered.

The recognition of our rights and sovereignty can be found in British documents and communications from the earliest times of our relations. The Covenant Chain itself is such recognition. We have cited examples of the communications to show that our independence was an accepted fact, and a state which Britain, our ally, encouraged.

Though we have preserved our memory of the Covenant Chain, and fully understand the nature of our relations with the Crown, it is apparent to us that Canada has no such memory and no such understanding.

When our representatives requested, on October 19, 1977, whether the Govenment of Canada considered itself bound by the terms of the Treaty of Niagara of July, 1764, the Minister of Indian Affairs replied:

> "...our officers are attempting to locate copies of the original and I would be grateful if you could forward a copy of this treaty to me...I should add that the Government of Canada takes the position that it is only bound by treaties made on behalf of Her Majesty the Queen in areas within the present boundaries of the Dominion of Canada".

When asked the same question with respect to the Treaty of Detroit, which confirmed the Treaty of Niagara in 1764, he replied:

> "Moreover, the question of whether or not the Government of Canada is obligated to Indian people or bound by treaties executed in the United States is a matter which could only be resolved by the presentation of a claim alleging such obligations and specifying the nature of the obligations. Until such time as a claim is made and the treaty examined in the light of the claim I am not able to address this issue and therefore my answer at this time is that I do not know (whether the Government of Canada considers itself bound by this Treaty)".

We were unaware of any rule of international law that states that a nation is bound only by those Treaty obligations contained in Treaties signed in its own territory. The Crown entered into relations with our Nations in our territories, and many of our people were drawn to what is now Canada as a result of invitations from the Crown's representatives.

The conduct of the Government of Canada, in its legislation and in its policies over the past century and more, is the subject of our submissions on the violations of our rights. The nature of our relations with other nations, and of our present conditions, is known.

We remain Nations today, by choice linked to the Crown of Great Britain by a Covenant Chain of friendship, protection and alliance.

ON OUR EXISTENCE AND RIGHTS TODAY

We are Nations.

We have always been Nations.

We have voluntarily entered into a relationship of friendship and protection with the Crown, which we have for two centuries referred to as the Covenant Chain. In placing ourselves under the Crown's protection, we gave up none of our internal sovereignty.

We have never concluded any Treaty with the Dominion of Canada, nor have we ever expressly agreed to accept the Dominion of Canada in place of Great Britain as the party responsible under the British obligation to protect us.

We retain the right to choose our own forms of government.

We retain the right to determine who our citizens are.

We retain the right to control our lands, waters and resources.

We retain our rights to those lands which we have not surrendered.

We retain the right to use our languages and to practice our religions, and to maintain and defend all aspects of our culture.

We retain those rights which we have in Treaties with other nations, until such time as those Treaties are ended.

We retain the right to choose our own future, as peoples.

The only process known to international law whereby an independent people may yield their sovereignty is either by defeat in war or by voluntary abandonment of it formally evidenced. Our Nations have never yielded our sovereignty by any formal abandonment of it. We have never been conquered in war by any power on earth of which there is either record or tradition.

ON REMEDIES:

We have no formal relations with Canada. These many years we have dealt with Canada, we have understood that its Government has been acting on behalf of the Crown.

We have watched Canada grow toward a state of independence from its mother country. We can acknowledge that the structures created in the first British North America Act may require change to accommodate the present nature of Canada and the Government it requires today.

The Government of Canada is seeking patriation of the constitution of this country today. We have no disagreement with the concept that there should be Canadian control of changes in the Canadian constitution. Our concern is that the changes that are proposed may seriously affect our rights. Our rights, like our relations with Canada, are not secure today.

We are therefore opposed to any patriation of the constitution of Canada unless the rights of our nations are recognized and protected.

We have no desire to control Canada's future: we seek only to control the future of our own people, and to ensure that our existence as peoples and as nations is secure as long as the sun and the moon endure.

There are two things that we require in the constitution of Canada. These will provide for our place in this country, and will be the basis for the relations we will establish with Canada in the future.

First, our rights must be recognized.

Second, those rights must be protected against arbitrary or unilateral change.

1) RECOGNITION:

a) Pre-existing rights:
Our nations and our rights were not created by British or Canadian law. The recognition of the rights in the constitution of Canada should make it clear that these are rights which have existed and continue to exist. Similar language is found in the Canadian Bill of Rights:

> "It is hereby recognized and declared that in Canada there have existed and shall continue to exist...".

b) Positive statement:
Protection by implication is insufficient: we know this because "backhanded" protection has been the kind of recognition our Treaties have received in Canadian legislation in the past. The only reference to Treaty rights in the Indian Act of Canada is the statement in Section 88 of that Act that provincial laws of general application apply to Indians in the province, unless those laws are inconsistent with the terms of any treaty. This form of protection has resulted in Canada's courts concluding that all federal legislation, including Regulations made by Ministers, is superior in law to the rights of our nations guaranteed in the Treaties.

Similarly, in the proposed Canada Act, the only section which purports to mention our rights does so, as the marginal note indicates, as if they were "undeclared rights":

Section 24:
> "The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada, including any rights or freedoms that pertain to the native peoples of Canada".

Translated into less obscure language, we take this statement to mean: "If you have any rights, Canada by this document does not deny their existence at this time".

Our rights are not "undeclared", and we resent any attempt to reduce them to this status. The terms of the Treaties and other political relations we have with the Crown are clear to us, and we are prepared to state them clearly and positively for inclusion in Canada's constitution.

c) "Nations or Tribes":

In the Royal Proclamation of October 7, 1763, which remains a constitutional document of Canada today, we are referred to as "Nations or Tribes of Indians". In 1814, Lord Bathurst ordered Colonial authorities to use those terms in dealings with Indian nations, and to advise us to use those terms in dealing with the United States of America. We did so, and our Treaties with the Crown describe us as "Nations" or "Tribes".

The term "native peoples" contained in the proposed Canada Act suggests that our rights are derived from our racial characteristics: our rights are political in nature, and the terminology used in the Constitution of Canada should reflect that.

By using the term "Nations or Tribes of Indians", the provisions of the constitution will be consistent with earlier constitutional documents, as well as with the nature of the rights to be recognized.

d) Treaty rights:

In 1973, Her Majesty the Queen stated to the Chiefs in Alberta: "You may be assured that my Government of Canada recognizes the importance of full compliance with the spirit and the terms of your Treaties",

Though this statement is unequivocal, we have not seen that assurance carried into fact. Even those rights clearly guaranteed in the Treaties have been held to be subject to the statutes and regulations of Canada, and often of the provinces.

We have also received indications that the Government of Canada does not consider itself to be bound by the terms of Treaties between our nations and the Crown when those Treaties were signed before 1840, since the British North America Act only binds Canada to the obligations of the Province of Canada since the Act of Union of 1840.

The Government of Canada has stated to us, through the Minister of Indian Affairs, that it does not consider itself bound by the provisions of Treaties between Indian nations and the Crown where those Treaties were signed in locations outside the present territorial limits of Canada. The Treaty of Niagara of 1764 and the Treaty of Detroit of that year were both signed in British dominions, but outside the boundaries of what is now Canada. This position also allows Canada to deny any obligation under the Crown's Treaties with the Six Nations.

The Government of Great Britain, on the other hand, states that its obligations under Treaties with our nations have devolved upon the Government of Canada pursuant to the Statute of Westminster of 1931, and that it no longer has any ties with us.

We therefore find ourselves in the position of having Treaties with the Crown which no Government under the Crown will accept any responsibility for.

The question of which manifestation of the Crown is bound to us, and obliged to carry out the terms of the Treaties, is not clear. We have no desire to see a severance of the existing relationship between the Parliament of Great Britain and the Parliament of Canada in constitutional matters as long as this question remains so unclear.

If the responsibility and obligations of the Crown under all its Treaties with our Nations has actually devolved to Canada, we wish to see a clear statement to that effect in the constitution of Canada.

Furthermore, we wish to see a provision in the constitution of Canada that these Treaties are binding on Her Majesty, and are not subject to the kind of unilateral abrogation that we have experienced in the past century.

The United States of America recognizes that its Treaties with our nations are "the supreme law of the land". We can expect no less from the Crown.

We also wish to have it clearly understood that our capacity to enter into Treaty relations has not been altered in any way, unless by clear stipulation to the contrary in a Treaty itself.

e) Internal affairs:

Many of our problems and the sources of many of our grievances have been the interference in our internal affairs by the Government of Canada.

Our early Treaties provided that neither we nor the Crown would interfere in each other's internal affairs, and we wish this principle to be recognized in a manner which will bind Canada to comply with it.

In particular, we desire that the following be recognized in the Canadian constitution:

-our right to determine who our citizens are, and who are the members of our communities;

-our right to determine our own forms of government, and to control our governments;

-our right to control our lands and the resources of those lands;

-our right to use our own languages in all ways, and to practice our religions, and to preserve and practice our own cultures;

-our right to control and determine the education of our children;

-our right to determine our relationships with the other governments of this land.

We also want to clarify that any rights which we have, as nations, and which have not been given up by Treaty, are rights which we retain.

2) PROTECTION:

Recognition of our rights in the constitution of Canada will not in itself be a solution if that part of the constitution is subject to being changed without our consent.

a) The "Federal connection":

Since 1867, it has been the federal government of Canada that has had the responsibility of dealing with us as an agent of the Crown. The federal government has held both lands and funds in trust for us. The revised constitution would clarify that relations with us would remain the responsibility of the federal government.

b) Relations with provincial laws:

Within our lands and territories, it must be clear that our laws take precedence over the laws of the provinces.

c) Entrenchment:

We believed that the Treaties we made were binding on the Crown. Today, we have found that they can be "superseded" by even minor federal laws.

Her Majesty's word, pledged in the Treaties, has not been enough to protect our rights from being affected by unilateral acts of the Government of Canada. We require stronger protection, in the form of actual entrenchment in the constitution.

That entrenchment would take the form of a provision that the section recognizing and declaring our rights would not be subject to change in respect of the rights of any Indian nation without an agreement on those changes between that nation and the federal government of Canada.

This "entrenching" section would also provide that it would not be itself subject to change except by such agreements.

This provision is, in effect, an "amending formula". Just as the rights of the provinces are not to be affected by unilateral acts of other governments, but may be changed pursuant to agreements between the governments affected, so we seek to include an amending formula in the constitution to protect our rights.

d) Manner of entrenchment:

There are a number of ways in which the recognition and protection of our rights could take place.

Within a patriated Canadian constitution, the rights could be provided for by including sections in the proposed Resolution of the Parliament of Canada to be approved by the Parliament of Great Britain.

An alternative could be an Act of the Parliament of Great Britain recognizing and protecting our rights, which would continue to be binding on Canada. An amendment of this Act, or its "patriation", could take place upon agreement between the federal government and the Indian nations.

It is the strength of the protection, not the manner in which the protection is provided, that is important. We have reluctantly concluded that the Government of Canada will not respect our rights unless it is effectively bound to do so. The many violations of our rights stand as evidence of Canada's past performance. What we seek is not control over Canada's constitution, but merely control over our own futures, and an assurance of that control.

3. SAMPLE PROVISION:

We have not had the time necessary to fully study all the implications of the proposed Canada Act, 1980. What we are tentatively proposing ourselves is therefore not a final document. It contains the essence of what we require, but it is not a detailed review of the Canada Act as it concerns us, nor is it worded with all the precision and legality of a final version.

We provide this as an example of the kind of recognition and protection of our rights we have been referring to.

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1. The Royal Proclamation of October 7, 1763 remains a part of the Constitution of Canada insofar as it provides for the rights of the Nations or Tribes of Indians with whom the Crown is connected, or who live under its Protection.

2. The Treaties made between Her Majesty and the Nations or Tribes of Indians are binding on Her Majesty and the Nations or Tribes of Indians, and form a part of the Constitution of Canada.

3. It is hereby recognized and declared that in Canada there have existed, and shall continue to exist, the following rights of Nations or Tribes of Nations:

   a) the right of a Nation or Tribe of Indians to determine its own citizens;

   b) the right of a Nation or Tribe of Indians to determine its own form of government, and to control that government;

c) the right of a Nation or Tribe of Indians to control its own lands and natural resources;

d) the right of a Nation or Tribe of Indians to determine and control the education of its children;

e) the right of a Nation or Tribe of Indians to use, practice and maintain its own language in all aspects of its existence and within all parts of its territory;

f) the right of a Nation or Tribe of Indians to all aspects of self-determination within Canada;

g) the right of a Nation or Tribe of Indians to exercise, and the right of its citizens to exercise, any right guaranteed or provided for in a Treaty between that Nation or Tribe and Her Majesty;

h) all rights of Nations or Tribes of Indians which existed at the time those Nations or Tribes came into contact with Britain or Canada, or entered into Treaty relations with Her Majesty, and which have not been surrendered by Treaty.

4. The provisions of this Part shall not be subject to change by any Act of the Parliament of Canada or the Legislative Assembly of any Province,

except that, pursuant to an agreement between any Nation or Tribe of Indians and Her Majesty, the Parliament of Canada may make an Act which alters the provisions of this Part as they affect that Nation or Tribe.