

BRIEF OF THE TREATY NO.7 TRIBES

OF ALBERTA

Presented to the Special Joint Committee
of the Senate and of the House of
Commons

BY

CHIEF JOHN SNOW, SR.

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Mr. Chairman, Honourable Members of the Special Joint Committee² on the Constitution of Canada, ladies and gentlemen, I want to thank you for the opportunity to speak to you today.

I stand before you as a Treaty Indian from Treaty No. 7 of Alberta, and as an elected member and Chief of the Wesley Band of the Stoney Tribe, and as a concerned citizen of this great island, known today as Canada.

I have been an advocate of Indian Treaty rights and aboriginal rights even before I was elected Chief of my tribe. I was first elected 12 years ago and I was re-elected for my 7th term of office last week on the 11th of December 1980. Therefore, I will speak for my people of Treaty Seven on this very important constitutional matter.

In the brief time as an elected member I have witnessed, and I have been a participant in some of the most important events affecting my people, the first citizens of this Great Island.

I recall very vividly my first visit to the capital city of Canada, and my first meeting with the then newly-elected Prime Minister and his Cabinet colleagues in Confederation building. As many of you recall, the purpose then, over a decade ago was to present the Red Paper to Prime Minister Trudeau, and then Minister of Indian Affairs Minister, Jean Chretien.

Back then the issues were almost the same as they remain today. Yes, there have been many changes since then - some good and some bad. Back then, we were fighting for our survival against a unilateral proposal to change the Indian Act and to end the Dept. of Indian Affairs and to place Indian people under provincial jurisdiction.

Mr. Chairman, I do not think it is an exaggeration to state, here before this Committee today and before the citizens of this country, that the proposal before this Committee regarding the patriation of the Constitution of Canada, will be the decisive "battle" that determines Canada's relationship with the first citizens of this Great Country.

Our future is at stake. Our culture is at stake. Our sacred rights as aboriginal peoples of this Great Island are at stake.

This threat to our cultural and political survival is not new to us. It was the main concern of our forefathers who signed peace treaties with the Queen's treaty Commissioners just over 103 years ago, on Sept. 22, 1877 at Blackfoot Crossing. We accepted the hand of peace with the new white visitors and immigrants; the missionaries, the NWMP, the ranchers and finally the settlers. Suddenly, we found ourselves herded onto small parcels of surveyed lands, called Indian Reserves.

We had little choice. The buffalo were exterminated. Food was scarce. Disease continued to kill our people in unprecedented numbers. We were called a vanishing race.

But we survived through faith in the Great Spirit, who guided us through difficult times and who helped us retain our traditional culture, our values, our beliefs, and preserved our humble experience. We have survived despite the strongest measures to have us assimilate into the growing Canadian society. Our children were sent to boarding schools - but most of them returned home to their families and learned the traditional ways. We were forbidden to travel off the reserve without a pass from the Indian Agent and our people were followed by the Police.

Our religion was outlawed by the Indian Act for many years

until a new Indian Act was passed in 1951. Our petitions for additional reserve lands are repeatedly turned down or ignored. Our requests for the fulfillment of treaty rights regarding health, education, housing, economic assistance and Indian self-government are only minimally responded to. Indian programs, under-funded to begin with, are the first to feel the effects of government spending cut backs. The recent report by the Auditor General of Canada provides ample proof of mismanagement by the Dept. of Indian Affairs.

For over one hundred years Indian people have been subjected to the autocratic and paternalistic rule of government officials despite our attempts to change these attitudes. My own tribe - the Stoney Indians living along the foothills of the Rocky Mountains - have sent numerous petitions requesting the redress of our treaty grievances. These letters now sit on the shelves of the Public Archives of Canada.

Our leaders were instrumental in organizing the League of Indians during the 1920's and 1930's which culminated in the formation of our present provincial organization, the Indian Association of Alberta.

Ever since 1930, when the transfer of natural resources was legislated by the British Parliament, we have been caught between the federal government and the provincial government. Prior to 1930, our understanding was that we were co-owners with the federal government of the natural resources in our Treaty areas outside the reserve boundaries. Our own bitter experience over our rights as treaty Indians to hunt, fish, gather and trap on Crown lands - a right supposedly entrenched in the 1930 Transfer Act - has taught us that we must be suspicious of new government legislation when it comes to preserving our treaty rights.

It seems that we are constantly fighting new government legislation - both federal and, increasingly, provincial - that continues to undermine and compromise our treaty rights to education, medical services, economic assistance and our right to self-determination as an Indian nation. It is our concern for these rights and the need to constantly remind the federal government of its trust responsibilities until we again assume self-government which caused us to present the Red Paper in 1970; it is why we held the march on Parliament Hill in 1974; and it is why we felt it necessary to emphasize our concerns by arriving on the Constitution Express here in Ottawa just two weeks ago. The Constitution Express was not a protest march. It was not a plan to occupy the Indian Affairs offices or to storm Parliament Hill with placards and catchy slogans. It was a reasoned and thoughtful and vital response to another government initiative that is of fundamental importance to us.

We want to emphasize our rights as the first citizens of this continent, long before Canada was founded as a colony of France and then Great Britain. We want to assert our rights of self-determination as indigenous peoples in North America. Patriation of Canada's Constitution offers a unique and unprecedented opportunity for the Canadian Parliament and for the people of Canada, to redress the long litany of broken promises.

I do not plan to give a clause by clause analysis of the Constitution proposals. That has been eloquently and thoroughly done by other national organizations of Canada's indigenous peoples. The Inuit Committee on National Issues and the National Indian Brotherhood have prepared an extensive brief but owing to a lack of consensus on strategy (and I want to emphasize that it is a difference of opinion on political strategy and not a lack of concern over the Constitution issue itself) the National Brotherhood has postponed a formal presentation to this Committee. We are part of the NIB.

The over-riding concern of Canada's Indian people is to have recognized in the Constitution, as it is presently in the BNA Act, the special status and relationship of Canada's aboriginal peoples.

With all due respect to the members of this Special Joint Committee, we believe that this Committee cannot fairly and equitably deal with the issue of aboriginal and treaty rights without direct representation by aboriginal peoples on the committee. We should be sitting as part of this Committee, as direct decision makers and contributors to the Constitution. We are as much partners to Canada as the French and English peoples, indeed even moreso, as we welcomed and helped show the original European immigrant how to survive in this land. Unless we as Indian people are on this Special Joint Committee our presentation here today will most likely be ignored and our paper will be lost in the shuffle. We were not and are not merely observers to the treaties. We were and still remain Tribes and Nations.

We refuse to let this Committee, or the Department of Indian Affairs, or indeed, the Canadian Parliament, arbitrarily determine our future and our special status and rights as aboriginal peoples. Thus, we are disappointed that we have been refused participation as equals in the Constitution negotiations. (Elder's story of white man not listening to words of wisdom of the elder borther; Jake Rabbit's story).

It is difficult to know how to respond to a proposal that perpetuates the continuing lack of recognition of self-government and self-administration as Indian nations, the same as when we signed the peace treaties. WE WANT TO REITERATE HERE, OUR WILLINGNESS TO REMAIN A VITAL PART OF CANADIAN NATIONHOOD, AND TO PARTICIPATE IN THE PARTNERSHIP OF NATION BUILDING. But before patriation of the Constitution takes place, we want Parliament to acknowledge, fulfill and honour the treaty rights promised 103 years ago, when Her Majesty's representatives negotiated with our

leaders at the treaties. The patriation of the Constitution should not be rushed. July 1, 1981 is too soon to patriate the constitution. Our treaty rights must be specifically enshrined in the Constitution; we are not willing that our future and our heritage should be at the mercy and benevolence of the Canadian Parliament, and arbitrarily administered through the bureaucratic department of Indian Affairs and the restrictive Indian Act.

Therefore, the Stoney Tribe of Alberta will not recognize the "Canadian Constitution 1980" until such time as our views are recognized by the Canadian Parliament, on whose behalf Treaty No. 7 was signed in 1877. We the original peoples of this land have close ties with this land. We are part of this land, and this land is part of us. We are concerned about our future, and the future of our children. We as Indian people have special rights and we want a voice in the House of Commons and the Senate in a renewed federation. The time has come for us as Indian people to have a place and to have representation in Parliament similar to that of the aborigines of New Zealand. Until such time as we are guaranteed these rights, we will remain opposed to the Constitution as it is presently written. If this country is to remain united, the federal government must listen to the concerns of its original peoples. There is much talk about separation in Western Canada but we do not support this view at this time. We the Stoney Tribe do not want to see our country broken up into pieces by foreigners who came to this land. We want to live in a united Canada, one Canada, a strong Canada, and this will only come about when the federal government starts to listen to its original people, and the provinces. There is something seriously wrong when a federal government in a democratic land lacks representation across Canada and will not listen to its original people. We hope and pray that you will hear us and take note and act in accordance with our requests

before patriation of the Constitution.

We call on this Special Committee and all Canadians, to give recognition and support to our position that Treaty No. 7 and all other treaties and agreements with Canada's aboriginal people, be recognized and honoured by Parliament before Patriation is carried forth.

Thank you for your time and thoughtful consideration to these views of my people.

Presented by Chief John Snow Sr., Wesley Bank, Stoney Indian Tribe, Morley, Alta.

TREATY #7 POSITION
ON THE
1980 CANADA ACT

The Chiefs and Councils of the Treaty #7 area respectfully submit the following brief in response to current government proceedings to its proposed patriation of the British North America Act.

Treaty #7 takes the unified position of complete rejection of the unilateral terms under which the Trudeau government proposes to patriate the Constitution. Treaty #7 will initiate and incorporate all necessary elements, and legal components at our disposal, towards rightful participation and negotiation of our concerns prior to patriation.

Our position results from Government recognition, and our assertion that we possess rights derived from original inhabitancy through our ancestry in this country from time immemorial. We further avow that this position is legally bound and affirmed through the inauguration of various Acts and Declarations made over the years. For example, the Royal Proclamation of 1763, under the auspices of the Court of St. James, 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"

"And we do hereby strictly forbid, on pain of our displeasure all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our especial leave and license for that purpose first obtained".

To further clarify our position, we offer the following quotation from an 1870 address to the Queen from the Canadian Senate and House of Commons following the acquisition of the Hudson s Bay Company territories by Canada:

"And furthermore that, upon the transference of the territories in question to the Canadian Government, the claims of the Indian Tribes to compensation for lands required for purposes of settlement will be considered and settled in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines".

This declaration gave legislative recognition of aboriginal rights and the Government proceeded to enter into agreements with Indians, on behalf of Her Majesty, Queen Victoria.

The proposed Charter of Rights and Freedoms accompanying the Constitutional amendment Bill does not acknowledge the existence of Treaty and Aboriginal Rights. It only says that these rights may exist, and they will not be limited if it is found that they do. The language provisions of the Charter promotes the "Two Founding Nations" concept. However, we as Indian Nations, having many different languages, had a direct hand in building our Country, now known as Canada. The true founding nations are the Indian Nations and the European Immigrants.

With the foregoing premise, we in Treaty #7 recognize the Treaty of 1877 as but a necessary portion of a total enactment of the process required under International Laws in the acquisition of land for settlement from aboriginal inhabitants.

The standards we pose today, standards that should have been used in the Treaty process, are to be the basis of Treaty #7 efforts to achieve a gainful bargaining status for a secure place within a Canadian Constitution. There are six measures of activity that must be adhered to in making a Treaty.

- Terms and conditions must be proposed and given to all parties involved for their consideration.
- These terms and conditions must be negotiated.
- The negotiated agreement must be properly endorsed and witnessed.
- The endorsed agreements must be ratified to introduce the required formalization of a Treaty.
- Empowerment of the Treaty must be passed through legislation.
- Implementation of all its ingredients must be carried out fully.

On April 29, 1980, Prime Minister Trudeau himself promised the hundreds of Indian Chiefs assembled in Ottawa to work closely with us "IN REFORMING THE CANADIAN CONSTITUTION IN WAYS WHICH WILL BETTER SECURE THE RIGHTS AND STATUS OF THE ORIGINAL PEOPLE OF THIS LAND". Unfortunately, there has been absolutely noconsultation since that time.

On October 17, 1980, as contained in the COMMONS DEBATES, Mr. Trudeau states: "I have suggested and I repeat that as soon as we have the constitution back in Canada with the basic rights entrenched, we will be happy to go into a next phase where we would put native rights as one of the first items on the agenda and deal with it then. In the meantime, I am very happy to see our ministers and officials attempting to work out with Indians and with Inuit leaders ways in which that

We firmly believe, based on historical evidence, that once the British North America Act is patriated there will be no assurance that our special constitutional status and rights will ever be protected in law. Therefore, our central position is that the Government of Canada guarantee and entrench our Treaty Rights in the New Constitution before it is patriated. The protection of Indian rights and Indian lands must be maintained in any constitutional amending formula.

In view of Trudeau's lack of positive responses to our direct requests for equal participation in the Constitutional talks, and more specifically, to deal with Indian issues before patriation, it is our intention to seek public support in making the Prime Minister aware of his obligations in this regard. Obligations that he has shouldered through nomination and election to his office as Canadian Advocate for Her Majesty and Administrator of Her dictates as outlined in Her Treaties with Indian Nations.

Furthermore, we wish to serve notice that the Treaty #7 Chiefs will proceed to lay before Her Majesty and the British Parliament, our position, and simultaneously register, at the HAGUE, our grievances and concerns.

The 1980 Canada Act cannot be accepted by our people until such time that all elements of our Treaty(s) through Aboriginal rights have been properly executed and implemented.