

SUBMISSION OF GRAND CHIEF ROLAND TWINN,
TREATY 8 ALBERTA,
TO THE HOUSE COMMITTEE ON ABORIGINAL AFFAIRS
REGARDING SECOND READING OF BILL C-428
23 April 2013

Thank you for agreeing to listen to the message I have brought to the Committee from the Chiefs of Treaty 8 Alberta.

I believe this is an occasion for which the most courteous, honourable thing to do is to be frank.

This Bill has been described as a “stepping stone”.

But a stepping stone to where?

This is a stepping stone backwards.

We have to look at the history.

The preamble of the bill describes the *Indian Act* as a “patronizing” “outdated” “archaic” colonial document.”

But the *Indian Act* does not just stand out there all alone, an out-of-place artifact of an otherwise healthy relationship.

The *Indian Act* is just one part of an ongoing oppressive colonial relationship which began not with the early years of settlement, but rather with the Confederation of Canada and establishing a government in which the settlers were to have control.

The *Indian Act* was passed by a Parliament, acting as colonial masters, as “An Act for the Gradual Civilization of the Indians”.

On occasion, there comes a time in our lives as human beings, in the affairs of societies and nations, when something happens which causes us to stop in our tracks, to realize we may not be on the right path, to realize we have not been true to ourselves, or that we are involved in matters which require fundamental change.

I suggest to this Committee that you are at one of those fundamental paradigm change moments in your consideration of Bill C-428.

I urge you to not concentrate on the content of the Bill, but rather on what it is that you are doing.

I urge you to see what is happening right here in this room through the eyes of the First Nations, through the eyes of a future generation who will look back and pass judgment on us.

And I ask you to see it through the lens of Canadian law.

I suggest to you, with deep respect, Members of Parliament, that the *Indian Act* is not just a “colonial document”, but that you at this very moment are engaged in a very colonial act, presuming that you have the right to pass a law which would intervene in our jurisdiction, in our nations, in our affairs.

From the beginning, our relationship with the settler people and their Crown was through treaties.

Those are the defining future-looking understandings together with their spirit and intent, to govern that relationship perpetually.

The treaties did not contemplate that your governments would reciprocate our generosity and goodness of opening up portions of our lands for your peaceful immigration and settlement by passing something called an *Indian Act* which pretends to intervene in every aspect of our lives.

When the *Act for the Gradual Civilization of the Indians* was passed, do you think that the Members of Parliament who cast their vote considered what gave them that right to pass that imposition?

The very title of the Act indicates they saw themselves as superior beings, engaged in a charitable enterprise to bring the uncivilized some measure of civilization.

I believe they considered that they were doing the right thing, a commendable thing.

It is only now 137 years later that we can see the embarrassing shame, the racism, the smug comfortable sense of superiority of that first *Indian Act*.

And look what is happening now in 2013:

Any change in the *Indian Act* which does not have the deep meaningful involvement of the First Nations and the people whom it affects is not worth even talking about.

It has already been condemned to failure and rejection because of the faulty process which has produced it.

In 1969, the government issued a White Paper.

It called for the termination of everything “Indian” in Canada.

There would be no more reserves, there would be no more Indian Act, there would be no more treaties because there would be no more Indians. The word “Indian” would be banned from the law books.

That move caused a negative reaction which brought the Indigenous Peoples of Canada to their feet in protest right across the country.

They were joined by churches, labour unions, citizens groups, academics. After it became clear the opposition would continue to grow, the Government withdrew the 1969 White Paper.

In 1978, Noel Starblanket, then president of the National Indian Brotherhood, and its executive called a Conference on “Self-Government” for the Chiefs of Canada.

The Government was at that time proposing “Amendment of the *Indian Act*”, and funds were made available for the “*Indian Act* Amendment Process.”

Again the voice of the Chiefs was loud and clear – there was to be no “piecemeal tinkering with the *Indian Act*” was the slogan.

The *Indian Act* could not be cured by cosmetic changes.

It would be wrong to even try to improve it.

The very concept was flawed.

It was defective from the core.

In 1982, Canada patriated its constitution, and with it, s. 35 which recognizes and affirms our fundamental rights and the treaties.

It added s. 52, which says that anything that Parliament does which conflicts with our rights, any law that it passes contrary to our rights, is invalid.

That was 31 years ago.

Parliament should have dedicated itself to reviewing Canadian law to be sure that it was consistent with the new Constitution and s. 35.

Instead, it has just pretended that nothing has changed.

This review of this Bill C-428 is another effort which pretends that nothing has changed.

And yet s. 35 and s. 52 together mean that anything this Bill does, anything this committee does, anything which conflicts with our treaties and our rights, is invalid right from the start.

You cannot fix an unjust unconstitutional colonial *Indian Act*.

Your efforts to fix it up inadvertently validate it.

Change a few words here, drop a section there,
and we have a new and improved *Indian Act*.

The problem, you see, is not in the document.

The problem is not in the *Indian Act*.

The problem is in the relationship.

The problem is in refusing to honour the Treaties
which have given the Crown the right
to exercise its conditional sovereignty here in Canada.

The problem is in the distorted history, the political thinking,
the attitudes which gave birth to the Act.

The very assumption that Parliament has the right to unilaterally change the *Indian Act* is proof to us that the old relationship, the colonial relationship, is still solidly in place.

If you believe you do have a right to tell us what to do, to make laws governing us, tell me where you got that right?

If we didn't give it to you, tell me who else has the authority to give you that right?

The very fact that this committee held its first hearing on this Bill *in camera*, in secret, that we would be excluded from it – we who are the very persons the Bill is about – is deeply, deeply offensive.

It is fundamentally wrong that this could have occurred.

What were you told by departmental officials?

I know – you can't tell us – it was “in camera”.

And yet this was the Committee, after all, which recently passed Bill C-27, a bill purported to force us to be “transparent” and “accountable”.

In fact, this Bill, C-428, was said to be for the purpose of “creating greater transparency and accountability for First Nation residents.”

And yet the Committee is holding hearings on the Bill in secret.

In this hearing, you are expecting six witnesses to set out their positions in less than one hour because someone has told you the Committee must finish its work in another week or two.

That is disrespectful of our treaty relationship.

Until you are willing to engage with us
in the development of a relationship which
recognizes our sovereignty,
recognizes our right to govern ourselves,
recognizes international law,
nothing is going to change.

Through you, Mr. Chair,
I invite the Honourable Member who is the author of Bill 426
to take leadership in promoting discussions
on doing away with the existing colonial relationship
that has done so much damage to our nations and people,
robbed us of realizing our full potential,
kept us from making our full contribution
to the development of Canada.

Success in that venture of building the new relationship
will change the future of Canada, and I invite the participation
of each member of this Committee to that work.

You can start by asking that this Bill be withdrawn.