

Forging Linkages & Finding Solutions A BC Treaty Commission Conference for First Nations

Grand Chief Stewart Phillip, President of the Union of BC of Indian Chiefs First Nations Political Panel – October 31, 2008

Good morning everyone. I too would like to express my gratitude and respects to the Coast Salish People for the privilege of being on their territory to participate in this discussion here this morning. I would also like to thank the BC Treaty Commission for the kind invitation to participate in this panel.

Just a word on the introduction, I am no longer the chief of the Penticton Indian Band as of last Wednesday night, after serving our community for the last 24 years on council. We had our elections. Joan and I made a decision after the last election, some four years ago, that it would be my last term. We held our elections and a young man, Jonathan Kruger, is now the chief of the Penticton Indian Band. He's 37 years old. He served two terms on our band council. Our terms at the Penticton Indian Band are four years in length, so he has eight years of council experience.

Last night we had nominations for the balance of the band council positions and I was quite interested in the outcome. There were nineteen nominated. My wife Joan was among those that were nominated and another council member who, at one time back in the early 70's, was one of my students. I was the education councillor back in the day. But the point I'm making here is Joan and Joanie were by far the oldest nominees out of nineteen.

Change is taking place in our communities. Quite often we talk about the demographics of aboriginal people in this country. We talk about 70 per cent being below the age of 35, and so on and so forth. It's beginning to manifest itself in our community elections and our leadership is becoming younger and younger.

As I sat here listening to my colleagues, I was glancing around the room and I notice there's less and less gray in the room and that's a reflection of the times that we find ourselves in. I began to think back to when I first got involved and many, many of the leaders that were carrying forward the issue of what was then known as native title are no longer with us.

I remember the discussions in our community hall back in those days and a lot of that discussion was carried on in our language, as were the discussions at our band council table. We know that's no longer the case.

When the issue of native title was being fought by those leaders to whom we owe so much to, I think it's helpful to remember the attitudes of Canada and the Province of British Columbia at the time. Back in those days Trudeau was the prime minister and we all know that when he swept to power it was very similar to Barack Obama. There was something described in the national press as Trudeau-mania and when Pierre Elliot Trudeau came to power, he enjoyed incredible support across this country. One of the first things he decided he should engage himself in was the White Paper Policy, which was an initiative to basically legislate us out of existence.

When the *Calder Case* went forward in '73, or there about, he was asked about his opinion of native title and he said something to the effect that just because some historical might-have-beens believe they have title, it doesn't necessarily make it so. When the *Calder* decision came down and we began that journey forward to achieve full recognition of our aboriginal title, he was once again asked about the outcome of that decision, and he said, "Obviously they have more rights than we originally thought."

Here in British Columbia it's been reported that Alan Williams was the attorney general of the Socreds and his views were more racist in their texture. He said, "Just because a bunch of rag tag Indians stumbled up and down the Rocky Mountain Trench doesn't mean they hold title to the land."

That's the attitude that existed back in those days, and there hasn't been a lot of progress since. When you really look at the truth of the matter, Harper has achieved a stronger minority government and we all know that the heart and soul, the inner core of the Conservative Party of Canada, centres on individual rights. They are absolutely opposed to the notion of collective rights.

When Shawn described the efforts on behalf of Ed and me at the Assembly of First Nations national assembly to begin to lobby to change the Comprehensive Claims Policy, there was no success with the Liberal government. Mr. Nault was the minister at the time and after a number of letters and meetings that included the Department of Justice, the response was, "Why would we change the policy? The policy is being utilized and we're not hearing any complaints about the policy. So, it's our intention to continue with the 1986 Comprehensive Claims Policy, which we all know does not recognize title."

When the treaty process first started, we didn't have the advantage of the many, many court cases that have been handed down since that time, beginning with Delgamuukw. Yet the process has not reconciled itself with the legal principles of those Supreme Court decisions. Many, many of those decisions are within the reference that Regional Chief Atleo made in terms of us winning some 40 cases and yet the policy and the practice of both Canada and BC remain unchanged.

The Province of British Columbia, under great pressure, losing steadily in the courts, three and a half years ago came out with the so-called New Relationship and for the first time in approximately 13 years, the Union of BC Indian Chiefs was afforded a seat at the table, so to speak. The reason we made that decision was that the New Relationship was established for the purpose of recognizing, accommodating and reconciling our aboriginal title interests with those other interests that exist throughout the province. We saw it as a means, at long last, to have our aboriginal title interests recognized within our territories.

As our work has progressed over the last three and a half years, through the Leadership Accord, through the Leadership Council and our relationship with the Province through the New Relationship itself, we have advanced a proposal to essentially bring forward a BC aboriginal title and rights recognition act. That is still our intention and it's our hope this legislation will be brought forward in the spring.

There's a meeting that's going to take place later on in the month, November 25th and 26th. It's an All Chief's Meeting in regard to the recognition act agenda. In my view, it represents one of the most important opportunities and solutions to break the impasse in regard to the BC treaty process. I think it's important that we avail ourselves to be involved in that discussion.

Many of you were involved in the two sessions in Westbank in regard to legal strategies vis-à-vis the refusal of both the Province of British Columbia and Canada to recognize our aboriginal title interests and to continue to promote processes that do not recognize those interests. I think those meetings in Westbank were time well invested and I think we need to continue that work.

Last November, almost a year ago now, we met at Tsleil-Waututh and at the Chief Joe Mathias Centre over four days. At the end of that session we brought forward a declaration around our title and rights interests in British Columbia. I think that too is an important piece of work that needs to be fundamental to the collective work that we do from this point forward.

In my view, given the fact that the BC treaty process deeply divided our communities in this province over the last 16 years, I think the best outcome so far is the Leadership Accord. I'm very pleased, I'm very proud, that we were able to set aside our personal, political and ideological differences and come together in Richmond as we did on March 17, 2005 and sign off that Accord, which commits us to continue to work together for the well being of our children and our future generations. The commitment that was made was regardless of governments coming and going, regardless of processes coming and going. We need to understand that and we need to remain united in our efforts to deal with these issues.

We have a very, very long way to go in regard to the unresolved aboriginal title issue in British Columbia. I know that some First Nation communities have utilized the treaty process as a means to develop greater capacity, to document history, language and strength and cultural institutions and I commend those communities.

The thing I find unsettling is the fact that the issue is no closer at hand than it was 16 years ago and many of our communities are mired in a huge debt load. Quite often you hear the political rhetoric around negotiations versus litigation, and you often hear how expensive court cases are. But I would suggest we could have bought a number of court cases for the \$400 million debt load that is now being carried, not to mention the billion-plus dollars that have been expended over the last 16 years.

I know we're all aware of the deepening crisis in all of our communities. The absence of a robust economy has provided an opportunity for an underground economy to arise in most of our communities, if not all of them. It involves organized crime, drug trade and drug related and gang related violence. That issue is worsening as every year goes by. So there's a far greater urgency now than there was 16 years ago to bring this issue to a conclusion.

The Province has told us two things on a number of occasions. The first thing they essentially tell us is that we should be thankful for the many things they have done for us in the last three and a half years. They're quite upset that we're not as grateful as they would like us to be. Of course they talk about the FRO's and this and that and the other thing.

The second thing they give expression to is how great the resistance is within caucus and within cabinet and that we need to be mindful of that lack of support. We have said on a number of occasions that we're more than happy to meet with cabinet or the caucus and have a discussion around the good sense of resolving the land question in British Columbia based on the idea that a rising tide carries all boats. But they refuse to do that.

So the upcoming election in the spring is an important election for us. The work we do between now and the election is equally important. But, again, I feel good about the fact that we continue to collaborate in our efforts on moving this agenda forward. That has proven itself to be invaluable. But I think we need to have some pretty candid discussions from this point forward.

The last thing I would like to say, generally speaking I never have been able to support the model, the fundamental model of treaty making. I find it to be archaic, that it was something that probably worked back in the 1700 or 1800's; the notion of bringing forward consideration, so to speak, and getting the indigenous people to sign a document that provides the government with, essentially, title to our territorial lands.

It's a one-time only thing and I don't think that it comes anywhere near to meeting the standards of sustainability. I've always much preferred the model based on recognition, accommodation and reconciliation. Like all governments we would have ongoing access to the wealth from the resources within our communities to meet the growing costs of healthcare, education, economic development, infrastructure,

governance and all those things that will continue to represent line items in our budgets from now until the end of time.

I think that's the model we need to support. But collectively we need to put our hearts together and our minds together to be able to deal with this situation that we have in front of us.

It's been an interesting journey, the last 16 years, and I'm happy that we are where we're at in terms of our relationships. With that, I thank you for your patience and the opportunity to speak this morning.

Thank you very much for the questions and the comments. Huay Lim Lim.