

Native rights — governm

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When 200 members of the Native Youth Association provided an alternative to the Changing of the Guard on Parliament Hill the morning of August 31, the tourists didn't know which way to look. Voicing traditional and not so traditional chants, the native youth had just come from a peaceful 24 hour occupation of the Indian Affairs building, a few blocks away. (But the headlines had been stolen from them by an angry demonstration of striking railway workers the previous day.)

When smashed filing cabinets from the Office of Assistant Deputy Minister of Indian Affairs and Northern Development, John Ciaccia, were found on the roof of the building, with many of their contents missing, more white people sat up and took notice.

Following an anonymous tip to the news magazine, the Last Post, the missing files were recovered from lockers in a Montreal railway station on September 23, but not before copies had been sent to a variety of news media. In co-operation with Akwesasne Notes, the native paper with the largest circulation, Canadian University Press presents a picture of Indian relations with the federal government — an analysis of what was in the missing documents.

The Quebec provincial government, in conjunction with the James Bay Development Corporation, is constructing a massive hydro-electric project in northern Quebec that will have profound effects on the Cree Indians and the Inuit (Eskimos) living in the region.

The native people claim they've never given up the title to the land being used for the project and that the development will seriously alter their lives and make it difficult for them to earn a living.

The indigenous people, environmentalists and other supporters are now involved in a complicated legal and political campaign to halt the project. The James Bay scheme involves the damming of major rivers, the flooding of native settlements and hunting lands, the opening up of the areas to white tourists and businesses, and, as environmentalists point out, the destruction of the area's present ecology.

Recently, Quebec Superior Court Judge Malouf granted the request of the native population of James Bay for a temporary injunction halting work on the hydroelectric project. This decision was researched and written over a period of five months. About thirty-six hours later, The Quebec Court of Appeal suspended the injunction. Lawyers for the native population are going to take their case to the Supreme Court of Canada in the hopes of reinstating the injunction. All this legal hassling seems to have destroyed any chance of a negotiated settlement between the government of Quebec and the Indians and Eskimos of James Bay.

The federal Liberals chose the 'parti rouge' over native peoples' rights

Although the federal government is entitled to intervene on behalf of the native people in the legal proceedings, it has refused to do so. Confidential documents leaked a year ago indicate that the government's own legal advisors believed that a refusal to protect native people and

other federal interests, including navigable waterways, airports, and radio communications could leave the federal government open to a damage suit. But the Department of Indian Affairs adopted a position of non-intervention saying that to do otherwise "would be paternalistic."

At a meeting in May 1972, the federal government's Committee on Federal and Provincial Relations decided "to support the Indian claim to an 'interest' in the project area 'other than that of the Province'" and asserted that "the federal government has a vested interest in the settlement of the Indian claim." The committee was prepared to adopt "all recourses open to it...to achieve provincial recognition of the Indian interests"... including... "withholding support for the power project or approval of or assistance towards various aspects of it."

Documents leaked a year ago show that the Quebec government demanded that the federal government not intervene. So, within a month of the May 1972 committee meeting, federal paddle wheels were going full-steam in reverse and the recently released documents show that the Cabinet committee then decided to peddle a much softer line. The federal government expressed "its concern to the province of Quebec that it (the Quebec government) has decided that the federal government cannot participate in the negotiations..." But it decided to "maintain up-to-date awareness of (the) project (and) keep the James Bay Development Corp. aware of the broad range of federal concerns and interests."

At a June meeting, the cabinet's committee reminded itself that "specialized contracts (should be) kept in proper perspective to the total relationship between the governments on the James Bay projects." In other words, support for the native people should not interfere with relations with the Quebec government. It seems that destroying the Inuit and Cree nations had become an acceptable "if not a small" price to pay to avoid further federal conflicts with Quebec.

Government attempts to buy off native people

The confidential documents reveal that Indian Affairs Minister Jean Chretien proposed the federal government settle with the native people at a cost of more than \$3 billion and many millions of acres of land. The documents, dated last April, if applied to the Yukon and British Columbia alone, would cost more than \$600 million and more than 26 million acres of land. After the release of this information, Chretien said he "had nothing to be ashamed of."

(Chretien's proposal is similar to the settlement the American government made in 1971 to Alaskan Indians, a settlement which most Indian people regard as a rip-off. The Alaskan settlement was not based on an actual assessment of land value but on what the Indians thought the US Congress would accept. The Indians gave up all land rights in return for some land and villages, cash settlements, and very low mineral royalties.)

Chretien's documents said it was clear "that the native people had the right to use

and occupy the land, and have lost it." The paper ruled out a settlement through legislation or by reference to the Supreme Court of Canada and favoured negotiations. "Negotiations offer the only real prospect of acceptable comprehensive settlements oriented to the future, and are the most flexible alternative," the paper says.

The document rejects as an "unacceptable bargaining position" a statement of rights issued by the National Indian Brotherhood and endorsed by the House of Commons standing committee on Indian Affairs and Northern Development. The statement of rights claimed that native people have aboriginal rights which include ownership of and sovereignty over the land.

The issue of aboriginal rights is at the crux of the dispute between the government and the native people. The recent court ruling in the Northwest Territories which allowed the native people to file a caveat declaring their interest in the land demonstrates that they may have legal justification in claiming that they still own much of Canada and that many of the treaties are invalid.

And the Indians feel that any settlement would jeopardize the special status they enjoy under the Indian Act. The federal government would likely, if cash settlements were accepted, greatly reduce their level of financial support to the Indians. While Indians would get lump sum settlements, many fear these would be deducted from future government financial support and that Indians would lose some of their present rights. As well, non-status Indians would not be covered by these settlements. Indians want the right, which presently resides with the government, to decide who is and who is not an Indian.

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