



**PRESENTATION TO THE STANDING COMMITTEE ON**

**Bill C-51**

**PUBLIC SAFETY AND NATIONAL SECURITY**

**March 12<sup>th</sup>, 2015**

**NATIONAL CHIEF PERRY BELLEGARDE**

**9:45 a.m.**

***CHECK AGAINST DELIVERY***

[traditional greeting]

Bill C-51 is the subject of a great deal of commentary and controversy. First Nations have a long history in this country of dealing with laws that threaten our rights so we are always on guard against any legislation that could affect our rights, our citizens and our traditional territories.

The key issues at stake in Bill C-51 are the State's power to place individuals or groups under surveillance, to monitor their everyday activities, to create criminal offenses that affect our ability to exercise our legally recognized rights, and the overall relationship of State power to fundamental human and Indigenous rights.

On these issues, First Nations have expertise and hard experience to offer this Committee, the government and Canadians as a whole.

First Nations people are often forced to take a stand against actions or initiatives by governments that refuse to respect or protect our rights. These activities are often deemed "protests" when in fact we are only calling on Canada to obey its own laws, which include the recognition and affirmation of inherent Aboriginal rights and Treaties in Canada's own Constitution.

So at the core of this discussion for First Nations is the unfinished business of balancing federal and provincial laws and authorities with the inherent jurisdiction and sovereignty of First Nations. At its core, this discussion is about reconciliation - reconciling Canada's claims to sovereignty with our pre-existing rights, title and jurisdiction, and Canada's Treaty obligations.

We need to finish that work. It is the way forward. But until we do, First Nations as individuals and as nations will assert our fundamental civil and political rights. We've had to do this many times in the past in the face of a history of imposed, oppressive laws - laws that we are always told are good for us and good for Canada. But in fact they were outright attacks on our identity and our rights.

We have suffered under laws that banned our cultural and spiritual practices, laws that denied our right to vote, laws that prevented us from going to court to fight for our rights, laws that gave the State the power to steal our children and assault their minds and bodies, to try and kill our languages and traditions. We have been subjects of surveillance and suspicion, and seen as a threat for as long as this country has existed. Why? Because our cultures, values and laws place a priority on protecting the lands and waters, they place primacy on sharing and sustainability. Canada knows that our existence as peoples and nations qualifies and calls into question its claims to absolute sovereignty. But our people survived and prevailed over all the assaults against us because our ancestors and Elders stood up for our people and our rights. And this generation is not going to forsake our ability to protect our lands and territories and rights that has ensured our survival.

We will continue to assert our inherent sovereignty and sacred responsibility to protect the land and the waters. We have the right to be decision-makers in any activities that affect our lands and territories. Our laws and legal traditions embrace a balanced view of security, development, environmental protection and fundamental rights. We have deep and strongly held traditions that respect individual autonomy, freedom of speech and how to balance these for the collective good. Canada can learn from this.

That is the history and perspective we bring to this Bill. We believe in the right to safety and security but the federal government's rush to ram this legislation through is undemocratic and it violates our individual and collective rights.

We have many concerns with this legislation. **First, the proposed *Security of Canada Information Sharing Act* sets out an overly broad definition of “activity that undermines the security of Canada”.** We see this as a euphemism for an “excuse to spy on” First Nations when they exercise their collective and individual rights. Our people could find themselves under increasing surveillance because of the broad, vague concepts and activities covered by this phrase. It clearly goes way beyond the current Criminal Code definition of “terrorist activity.”

The ‘for greater certainty clause’ that excludes “lawful” advocacy, protest, dissent and artistic expression is not adequate to deal with complexities of

the ongoing task of reconciling First Nations law and jurisdiction with Canada's asserted sovereignty.

This government often invokes the rule of law. We would like some rule of law that respects our constitutionally protected rights and our fundamental human rights. The days are gone when absolute parliamentary supremacy trumps human rights and First Nations rights. But we still see this government struggling to accept the Constitution Act of 1982 - both Part 1, the Charter, and Part II which recognizes and affirms our Treaty and Aboriginal rights. Both sets of rights are at stake in Bill C-51.

First Nations maintain that Bill C-51 will infringe our freedom of speech and assembly, our right to be free of unreasonable search and seizure, our right to liberty, our fundamental rights as peoples under section 35 of the *Constitution Act, 1982*, our Treaty rights and our right to self-determination. Our right to self-determination— recognized in the *United Nations Declaration on the Rights of Indigenous Peoples*— includes the right to protect and make decisions about activities and laws affecting our lands and waters. But there is a balance between rights and security and we can find it through dialogue with one another as nations. Unfortunately, the process for developing this legislation did not meet the federal government's duty to consult and accommodate and on that point alone is subject to challenge in the courts if the government tries to impose it on us.

Bill C-51 sets up conditions for conflict by creating conditions where our people will be labelled as threats – threats to critical infrastructure or the economic stability of Canada - when asserting their individual or collective

rights as First Nations citizens. This is not an abstract argument for our people. We've been labelled as terrorists when we stand up for our rights and our lands and our waters. We can see how First Nations have been lumped in with terrorists and violent extremists when they are asserting their fundamental rights and jurisdiction as in the recently leaked RCMP memo entitled "Criminal Threats to the Canadian Petroleum Industry". I am submitting as part of this presentation.

First Nations have an unmatched record as peaceful peoples in the face of the most appalling human rights abuses, which is particularly exceptional when we remember the unrelenting assaults on our values, laws, jurisdiction and fundamental human rights.

We are peace-loving peoples but we will push back against assaults on our most basic liberties. We stand with the many other Canadians who are not willing to forfeit their fundamental rights and freedoms, who are demanding that this government engage in more careful crafting of important legislation. Canada must do better and must do more to meet its constitutional and Treaty responsibilities to First Nations.

I leave you with a statement directed not just at this Committee but to all Canadians. First Nations know better than anyone how easy it is for government to ignore, erode and eradicate our most basic human rights and freedoms **until you barely recognize the land you're living in.**

First Nations deserve better, Canadians deserve better. We cannot turn our backs on our hard won human rights and we cannot turn our back on

the Indigenous rights, Treaties and title on which this country was founded. We can do better and we must do better.

First Nations will vigorously oppose any legislation that does not respect and protect our rights. First Nations will stand up for the rights of our people and our responsibilities to our traditional territories.

We make the following recommendations:

- 1) That the Government withdraw the Bill and consult properly with First Nations about its impacts on our rights.
- 2) That the Government discuss with First Nations options for a review process to examine all federal legislation that can impact the assertion of our section 35 rights.

## **Appendices**

RCMP Memo