



## FIRST NATIONS SUMMIT

### **Royal Proclamation still relevant on 250<sup>th</sup> Anniversary**

As we approach the 250<sup>th</sup> anniversary of the Royal Proclamation we reflect on where we started as a nation and where we still need to go. On this historic anniversary, we contemplate the relevance of the Royal Proclamation of 1763 in resolving the outstanding land question in British Columbia.

The Proclamation is considered by many First Nations to be a form of a magna carta, recognizing the pre-existing First Nations as sovereign peoples with rights and title to lands and resources and codifying the Crown's acknowledgement of our self-governing Nations.

This is clearly evidenced in the content of the Proclamation, which largely codifies the rules governing the assertion of Crown sovereignty in North America. Through the historic document, King George and his Privy Council explicitly acknowledged the continuity of Aboriginal title, requiring the Crown to negotiate and conclude treaties with Aboriginal peoples before land could be acquired by the Crown alone for use and occupation by settlers. Further, the Proclamation provided that it was just, reasonable and essential to the interests of the Crown that the "Nations or Tribes of Indians" be undisturbed in their traditional lands.

This significant instrument made trade and settlement possible and resulted in the conclusion of a number of treaties throughout most of Canada. However, in most of the Province of BC, with a few exceptions, treaties were not entered into; therefore legal issues relating to land and resource rights have yet to be resolved.

In BC, we have witnessed many successive provincial governments maintain the notion that the Proclamation has no legal effect in BC. This destructive mindset originated with Joseph Trutch, an official of the colonial government, who held the view that Indians have really no rights to the lands they claim, nor are they of any actual value or utility to them and could not see why Indians should retain the lands. The problem created by Trutch and subsequent BC provincial governments has largely been dropped in the laps of 21st century BC citizens to resolve.

In modern day Canada, we simply can't afford to ignore the significance of the Royal Proclamation as Joseph Trutch and others have. With Confederation, the First Nations – Crown relationship has regrettably been guided by federal control under the constraints of the *Indian Act*, not by the principles articulated in the Proclamation.

Further, the Supreme Court of Canada has clearly established that the Proclamation applies in BC. As affirmed by the court, "The obligation of honourable dealing was recognized from the outset by the Crown itself in the Royal Proclamation of 1763 ... in which the British Crown pledged its honour to the protection of Aboriginal peoples from exploitation by non-Aboriginal peoples". In the seminal case of Calder, the same court held that the Proclamation must be regarded as a fundamental document upon which any just determination of original rights rests.

So, where is it that we need to go as a Nation and how can we arrive at that destination? The time has arrived for all Canadians to move into an era of recognition and reconciliation between First Nations and the Crown.

Although there is general recognition of Aboriginal title and rights, far too often these rights exist without an effective remedy. There are many solutions that have the potential of moving us to where we need to be. Such solutions include the negotiation of modern-day treaties, agreements and other constructive arrangements, consistent with the principles of the Proclamation.

Governments seem to have forgotten the commitment made by the Crown in the Royal Proclamation. While the process of negotiations is not without its challenges, the First Nations Summit remains optimistic that the promises that these treaties, agreements and other constructive arrangements contain will benefit all Canadians and realize the original intent of the Proclamation.

**First Nations Summit Political Executive**

Grand Chief Edward John

Cheryl Casimer

Robert Phillips