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"Guilty as Charged" – The Tsawwassen Deserve Better

Ottawa—"Governments act as if it is permissible to bribe Indians to get the result they want in the Tsawwassen Treaty Ratification Referendum," said John Cummins, M.P. (Delta-Richmond). "It is an insult to natives and to Canadians when governments act as if Indians don't count."

When long-time Tsawwassen band member, Bertha Williams, in her letter to the Prime Minister, listed some of the corrupt practices used, the B.C. Minister of Aboriginal Affairs admitted that her litany of bribes was all true and claimed that everything was permissible because these unscrupulous activities would help Tsawwassen band members to better appreciate the advantages of the treaty. The *Vancouver Province* summarized his admission as, "Guilty as Charged."

While the B.C. Minister of Aboriginal Affairs claims that his hiring of election "consultants," his offering of free trips, his provision of funding to the band to promote the "Yes" side; and the \$15,000 grant to band seniors should the "Yes" side win are all in the public interest; the Minister has never provided the same funding to give band members a critical analysis of the impact of the treaty on their future quality of life.

Make no mistake, the Treaty is directly linked with the BC government's promotion of the Roberts Bank port expansion in the Tsawwassen front yard and the storage of thousands of containers on treaty lands in the Tsawwassen backyard.

Has the B.C. Government advised the community that the Treaty and related port expansion may make existing homes on the port side of the community uninhabitable? Has the B.C. Government explained how the development of the new 24-track rail yard on nearby farmland will negatively impact the homes of many of the long-time Tsawwassen band members?

The federal government, who also has been discretely spending money to advance one side, has been silent when confronted with the Bertha Wilson letter.

Both governments should know better. The federal government has a constitutional obligation to act in the best interests of aboriginals. The Supreme Court has described this "fiduciary responsibility," as a duty "to prevent exploitation." That special obligation to aboriginals binds the federal government in its own interactions with aboriginals and includes a responsibility to protect aboriginals from fraud perpetuated by third parties, including by the Government of British Columbia.

"The federal government has a duty to ensure that no one undermines or interferes with the right of Tsawwassen band members to vote freely. It is a duty they have failed," Cummins said.

This is not something the Band could do on its own. In addition, in this case, the Band government is in effect the "Yes" Committee promoting a "Yes" vote on July 25th and so is not in a position to act as an impartial arbiter to protect the integrity of the referendum.

If this were a federal referendum, Elections Canada would use the federal *Referendum Act* of 1992 to prosecute:

- Anyone who offers a bribe to influence a voter;
- Anyone other than registered Referendum Committees who spend more than \$5000; and
- Registered Referendum Committees who spend more than 56.4 ¢ per voter (in 1992 dollars)

"Mindful of the regulation of spending under the federal *Referendum Act*, the federal government must show the same concern for maintaining the integrity of the treaty ratification referendum process that it is required by law to exercise if the referendum were governed by the federal *Referendum Act*," said Cummins.

If this were a provincial referendum, Elections B.C., a non-partisan office of the B.C. Legislature, would use the B.C. *Referendum Act* of 1996 to oversee the referendum. Premier Campbell has announced that there will be a second referendum on electoral reform to be conducted at the same time as the 2009 provincial election. He has given an undertaking that there will be public funding of "Yes" and "No" Referendum Committees and neutral public information available from the Electoral Boundaries Commission. That implies that the Government of British Columbia will stay out of the promotion of one side or the other, something the B.C. Minister of Aboriginal Affairs has failed to do in the Tsawwassen Treaty Ratification Referendum.

"Long-time members of the Tsawwassen Band must be accorded the same rights as other residents of British Columbia by the Government of British Columbia."

"Tsawwassen Band members continue to be Canadian citizens and must be accorded the rights of Canadian citizenship by the Government of Canada, namely the right to vote in a referendum without other levels of government engaging in corrupt practices that undermine the free exercise of their right," Cummins concluded.

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