

# REFLECTION

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MILLIE POPLAR

*The following is an excerpt from the yet unpublished memoir of Vuntut Gwitchin Elder Mildred Poplar of Old Crow, Yukon, who was the head of UBCIC's Education Portfolio at the time of the patriation fight and a central organizer of the Constitution Express.*

FOR MORE THAN ONE HUNDRED years Indian Nations had been claiming Title and Rights, and now the talking was over. This was the historic moment when George Manuel would need all his political power of persuasion and strategizing to carry out, in one bold move, an action to slow down the patriation process, create national and international attention, and set for the people a vision of their Indian Government that would instill in them pride and allegiance in who they were. It was decided that band members of the Union of BC Indian Chiefs (UBCIC) would take a train to Ottawa. Any other avenue, like travelling by cars or buses, opened us up to a disgruntled public. We would be safer going by train. At the UBCIC Annual General Assembly the people came up with a major political action, and the Indian Constitution Express was born.

It was mid-October of 1980, and the next All Chiefs Conference of the National Indian Brotherhood (NIB) was scheduled for the end of November in Ottawa. Our goal was for the Express to make it there in time to join the meeting. With five weeks to complete all planning, organizing, and implementation George set the pace, working relentlessly around the clock with the staff and other Indigenous Peoples and allies across the country. The preparatory work was phenomenal.

At the end of October 1980, the Work Action Committee, which was made up of community people, met to plan this political action against patriation of the Canadian Constitution – an action that had to have world attention. From now on the UBCIC staff, band governments, and supporters would be operating on energy coming from where, we did not know. Mind you, our people across the country began to hold ceremonies and kept fires burning and prayed for the great fight facing

us. Some of the men went into the mountains to fast and prepare for the upcoming difficult journey.

George invited the staff to join in this major political action. Never, during his leadership, did he demand that anyone go and demonstrate. The members of the staff made up their own minds and went of their own free will. During one of our preparatory meetings, he advised us to go with the flow, to be disciplined and, especially, to be tight-lipped. He wanted to avoid giving the public or, especially, Trudeau the excuse to use our demonstrations to accuse him of inciting Indian people. George added that we were here to defend our rights and that, despite what people said, the lawyers who knew us and the Indian politicians said that our rights would be wiped out. We were here to defend our rights.

Rosalee Tizya, UBCIC's administrator, sent an advance team to Ottawa to organize public education relating to our issues, to find accommodations for everyone on the Indian Constitution Express, to set up meetings for the Chiefs, to negotiate with the Friendship Centre to accommodate our people for mealtimes, and to raise money for this major political and legal action. She assigned Chief Mike Leach to set up a security team to work with the Ottawa City Police. Chief Bobby Manuel was in charge of the Advance Team.

The working plans for the Indian Constitution Express had to be taken into the communities and explained in detail. Within the office, as the plans developed, poster-sized bulletins were produced that were sent to all UBCIC member bands. The staff members were expected to visit Indian bands in every region to explain the Constitution issue and the Indian position as well as to ask them to send representatives on the Express and to pay their own way. We hit the road two by two, but not before Rosalee encouraged us to meet with our people on their level and not to underestimate them. This was important as most of us saw the Canadian Constitution as a hard nut to crack. Frances O'Soup and I took the Fort Nelson, Fort St. John, and Prince George districts. In Fort Nelson, Chief George Behn listened to our explanation and what UBCIC wanted his band to do. He phoned his Member of Parliament, Frank Oberle, right in front of us and asked him if what UBCIC was saying on the proposed patriated Constitution was true – that it would extinguish Indigenous Rights. Frank Oberle told him, "Yes."

From there, we drove to Fort St. John and stopped at the Halfway Reserve. In this meeting, one Elder knew right off what we were talking about when we brought up the issue of Indian/Crown relations. He talked

about the many promises made by the Crown of England to the Indian people. He knew what the heart of the Constitution was.

More than anything, when Prime Minister Trudeau decided to remove all protection of Aboriginal Rights and Treaties from the patriated Constitution, it opened the door for our people to rethink our position as nations and the relationship we really had with Canada. He inadvertently created a path for us to dig into these historic facts on Indian/Crown relations. Many Indian leaders from across the country, along with their Elders, explained our relationship with the British Crown and why they felt Canada only administered policies to Indian Nations. This was good news for our people because we did have a strong fiduciary relationship that required our consent with regard to land and government. What Trudeau did was bring out the true state of the Indian/Crown relationship, thus making it clear that Canada had no business going as far as it had since 1867 to take over Indian lands. Now we had a legal argument: Canada had to have Indian Consent and could not arbitrarily remove its responsibility according to section 91(24) of the proposed amended Canadian Constitution. This was the time we quickly learned the new language of the international laws of self-determination and Indian Consent. This was the latest legal argument, and we felt confident that it could be powerful if exercised. It also meant we had to expand our political struggle at the highest level in Canada and England. The world became our podium. We had come a long way in just a short time and still had a long way to go.

As staff members, we were brought quickly into the fight for our rights at the highest level – the legal level – because this time we were going to fight in the international arena. Instead of just talking land claims and Aboriginal Rights under section 91(24) of the *British North America Act*, this was refined and viewed under the higher standard of sovereignty – that is, that we were sovereign nations. It was time to act as nations, not as little bands. Our people were entitled to fight for our rights under the international laws of self-determination: we had the right to choose how we wanted to live out our natural lives. No one had the right to force us to do otherwise. All of this formed the basis for re-establishing the nationhood of Indian Nations in Canada.

We had to find lawyers who could develop our argument for the Indian position on the Constitution at the international level. Rosalee called in people she felt were experts in international law as well as those who had political experience at the international level – Marie Smallface Marule of Lethbridge, Alberta, and Rudy Rýser from Olympia outside

of Seattle, Washington. Meanwhile, Louise Mandell, of UBCIC's in-house legal team, called on Douglas Sanders and Michael Jackson, both from the law department of the University of British Columbia. If the Indian Question in the Constitution had never been dealt with before, UBCIC was certainly taking on some big guns at home and abroad.

Rosalee supervised the legal arguments developed by the experts. They had to provide their plans to the Chiefs' Council for approval not only because it cost money but also because it had to reflect our peoples' position. Furthermore, the lawyers advised that it was necessary to file court action against Canada; therefore, in September 1980, nine Chiefs filed a court action against Canada for violating the rights of Indian tribes and to stop Trudeau from making any constitutional amendments without Indian Consent. This was UBCIC's own legal action, but we could not afford to put all our energies into it. On the political side, a delegation of fifty tribal representatives would be sent to New York to present our case to members of the United Nations. This meant the lawyers had to prepare legal arguments in the Canadian courts, at the United Nations, in the High Court of London, and at The Hague.

We may talk of George putting all his energies into the Constitution crisis, but Rosalee was like a generator directing the regular work, organizing teams of people to handle parts of the Express, working with the legal team preparing all the legal avenues UBCIC had to advance. One UBCIC paper was a Petition of Demands for the Canadian government and another was for the United Nations. These papers had to be top-notch and had to be written within the framework of the UBCIC Aboriginal Rights Position Paper. UBCIC had to prepare yet another short position paper for Ottawa, which was to be aligned with its opinion for England and the Crown, and still another for the United Nations.

UBCIC was breaking new ground in confronting the Trudeau government's decision to remove protection for Aboriginal Rights and Treaties in an amended 1982 Canadian Constitution. The federal government was in the same boat as no country had ever consulted its Indian tribes on their jurisdiction regarding their place within these countries' constitutions. Trudeau had actually sent some of his staff to investigate how other countries dealt with Indigenous Peoples within their constitutions. Questions, questions, questions. We were at a crossroad. We had to notify the government regarding our dispute over its proposed patriation of the Constitution, but before we could put pen to paper, we needed to decide: Do we want to separate from Canada? Do we want to be absorbed into Canada? Do we want an associated status within Canada?

We really did not have to be in the Constitution to have governing authority. While the government's goal in the amended Constitution was to leave out protection of our Aboriginal Rights and Treaties, the other dangerous amendment was the *Charter of Rights and Freedoms*, and most people did not realize this. In one of the many meetings, George told us the government had declared war on our rights – that in any political and legal struggle, the first rule is “to bring your enemy into your court.” We had been in the prime minister's court and under his control and, because of his powerful position, no one could stop him from excluding Indigenous Peoples from the discussion on the Constitution in the House of Commons. As Indian Peoples we really needed to develop our own court.

In the meantime, Rosalee worked with Marie Smallface Marule and Rudy Rýser, who were well known within international circles. They advised George and Rosalee at the All Chiefs Conference that, if the UBCIC position were nationhood, then we had to do what was unthinkable in Canada – declare ourselves a provisional government. George authorized the plan, and they organized draft documents outlining the articles for a provisional government for UBCIC to take to the NIB All Chiefs Conference.

Although it couldn't be helped, UBCIC was advancing its work outside the Indian communities, and George did not want to get ahead of his constituents. As it was, we were all breaking new ground, and the government was no more educated on that score than anyone else. We had to go back to the communities. For one thing, we had to follow up with the bands to find out if they wanted to go on the train and, if so, how many people they would be sending. Some bands could send one person while others could send fifty.

George always worried about where his people stood on land claims and Aboriginal Rights, but this was different. One amendment to the Canadian Constitution was section 25, which guaranteed that certain rights and freedoms shall not be construed so as to abrogate or derogate from any Aboriginal, Treaty, or other rights or freedoms that pertain to the Aboriginal Peoples of Canada – including any rights or freedoms recognized by the *Royal Proclamation of 7 October 1763*, and any rights or freedoms that might be acquired by the Aboriginal Peoples of Canada by way of land claims settlements. Right off, the Indian leaders said this section was too general in nature and required an addendum to maintain the trust and fiduciary responsibility of the government to Indian Nations. “Besides,” they said, “The *Charter of Rights and Freedoms*

recognized individual rights and we were fighting for collective rights. It would do away with the Indians.”

We were in a fight for our lives because the new Constitution was subtle in nature, and how do you fight something like that? At another briefing session with all the staff, George told us that, for every plan Indian Peoples had, the government had twenty-eight. This was an exaggeration, perhaps, but the government had a huge network of machinery to carry out its goals and what did our people have? We had to recognize what we had to work with. In British Columbia we had 196 mostly small Indian bands, but some of them did not support UBCIC, and there were divisions within provincial and national organizations as well as at the World Council of Indigenous Peoples.

Although the immediate problem was with Trudeau and Canada, the patriation process would leave all treaty agreements in England and bring home the Constitution bare bones of any reference to our rights and treaties. It was very important that Indian Nations tell England that Canada wanted to separate from us while England had always wanted a relationship with us. In fact, England got Canada to administer the *BNA Act* on its behalf. This was the key to our legal argument. It was necessary to keep the Canadian Members of Parliament aware of this fact, but we could not spend all our time on them. We had to ignore Trudeau and MPs and prepare to tackle the House of Lords in England. We felt that England’s political parties would try to get Indian support for the patriation process. Just about the only thing the *Charter of Rights and Freedoms* would do was answer the age-old question of Status and Non-Status – all Natives would be one. Holding to the idea that our political and legal stand had to be in England, the court case filed against the government in Canada was not the important one for us – it was more for the media. The more important case was the one to be presented in the High Court in England.

In developing a three-pronged approach – community political action, legal action in Canada and England, and meeting with the United Nations – Rosalee had the difficult job of lobbying for funds to pay for all of this machinery. She had to hire people out in the field as well as consultants and experts to gear up for the constitutional crisis. As I stated previously, we took up the slack by taking speaking engagements, but there were times when Louise and Rosalee had to travel to other provinces to meet with Chiefs and leaders to join the UBCIC international court actions and to contribute financially.

By 14 November 1980, UBCIC had set in motion a major political action even as the NIB held its ground in London lobbying members of the House of Lords. The Indian Constitution Express planned to depart British Columbia on 24 November to arrive in Ottawa on 28 November in time for the NIB All Chiefs Conference scheduled for 1 and 2 December. Before departure, attempts by Chiefs to meet with various MPs (including Prime Minister Trudeau and Minister of Indian Affairs John Munro) were ignored and dismissed.

The evening of our departure, we met at the Vancouver train station with drummers leading us on board. Once we settled in, a woman who was a nurse helped me to identify those people who had medical experience and could be called on if needed. We had names of the people on the southern train,<sup>1</sup> including couples with very young children and babies. Some families could not take this trip because they had children in school.

As we were leaving British Columbia, Indian people who lived along the rail line waved as we sped by. At one stop, they handed us big pots of soup, sandwiches, and fruit. This brought a lump to my throat.

Bob and Wayne went over the workshop they planned to hold and what they planned to do when we arrived in Ottawa. Bobby's assistant, Isabel Diom, was a great help in conducting the workshops, and other women helped to make sandwiches and serve everyone aboard.

I had to be the first one up each morning and the last one to go to bed each night. At one point I collapsed into a chair when someone pointed out the long banner on the side of the train: INIAN CONSTITUTION EXPRESS. Yes, we had a lot of volunteers at our office, and one of them made up this banner for our trip, misspelling the word "Indian."

I made sure everyone was comfortable because they had to sleep where they sat. On the second day, Bob began his workshop by going over the Constitution issues, emphasizing that we were heading to Ottawa to force the Canadian government to continue to protect our Aboriginal Rights and Treaties. He also emphasized that we were going as nations and not as Indian bands. Wayne took over from him and continued with what UBCIC had to do to stop patriation if Trudeau did not meet our demands. All these years we have been talking about our rights and our lands, and now the talking was over. He said we would lose it all and have nothing left for our future generations. They had to go from car to

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<sup>1</sup> The Constitution Express was comprised of two trains - one took the northern route up through Jasper and Edmonton, and the other took the southern route through Calgary and Regina. They would join up in Winnipeg and carry on to the capital.

car, repeating their workshops. I am sure the other leaders on the train confirmed UBCIC's declaration that our rights were on the line. This is why they were here on behalf of their people.

I did not realize how worried our people were about this action by the government. When I stopped to talk to two Chiefs, they said they were very worried about a change to the Constitution. "What will be there for our future generations?" they asked. All the workshops and information sent to bands expressing the fact that we are nations did the job. By the end of our trip, people were going from car to car, getting signatures on the Indian Constitution Express poster, and they were signing as nations, not as bands.

What this political action did was to invigorate the dreams and beliefs of our people, convincing us that we could recover our nationhood if we set our minds to it. The Indian Constitution Express brought about an inner transformation for our people. This is what George wanted – he wanted members of every tribe who took the Express to come home changed. And they did.



Sign making. *Source:* Photo courtesy of the Union of British Columbia Indian Chiefs.